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HISTORICAL RECORDS  
OF  
AUSTRALIA.

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COMMONWEALTH OF AUSTRALIA.

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HISTORICAL RECORDS

OF

AUSTRALIA.

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SERIES I.

GOVERNORS' DESPATCHES TO AND  
FROM ENGLAND.

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*VOLUME XIX.*

JULY, 1837—JANUARY, 1839.

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1923.



## INTRODUCTION.

SIR GEORGE GIPPS.

SIR GEORGE GIPPS, kt., a major in the royal engineers, was the ninth captain-general and governor-in-chief of the territory of New South Wales. He administered the government for eight years and four and a half months, his term of office being extended beyond the term of six years established by regulation of the colonial office as the duration of office of a governor.

In the history of the colony of New South Wales, there are three outstanding periods of transition. The first period was marked by the inauguration of a partially representative legislature on the 1st of August, 1843; the second by the establishment of responsible government in 1856; and the third by the alteration of the status of the colony from that of a self-governing colony to that of a state in the Commonwealth of Australia in 1901.

The first period, with all its associated difficulties and necessary adjustments, was entirely within the term of the administration of Sir George Gipps; and it was due largely to his energy and ability that the change was effected without excessive friction. The dissatisfaction with the nominee council established under the statute, 9 Geo. IV, c. lxxxiii, had been freely expressed during the administration of Sir Richard Bourke, and was continued during the administration of Sir George Gipps until, in the year 1842, the constitution act, 5 and 6 Vict., c. lxxvi, was passed by the British parliament. By this act, a legislature of one house consisting of thirty-six members was constituted. Twelve of these members were to be nominees of the crown, and twenty-four to be elected by the people. Of the nominee members, it was provided that not more than six could hold any office of emolument under the crown within the colony; and, of the elective members, that six should represent the district of Port Phillip and eighteen the rest of the colony. The qualification for elective members was the possession of an unencumbered freehold estate of the value of £2,000, or of

an annual value of £100; and for electors of an unencumbered freehold estate of the value of £200, or of a dwelling-house of the annual value of £20. Annexed to the constitution act, there were three schedules. The first schedule provided for the annual payment of £33,000 for the salaries of the governor, the judges and the superintendent at Port Phillip, and the administration of justice; the second for the annual payment of £18,600 for the salaries of the colonial secretary, the colonial treasurer, the auditor-general and the clerk of the executive council! with their departments, and for pensions; and the third for the annual payment of £30,000 for public worship. The constitution of the council, the limited franchise, and the annual withdrawal of £81,600 from the ordinary revenue of the colony under the three schedules were the principal reasons for the dissatisfaction of many colonists with the constitution act. Although these provisions were entirely without his personal province, they were probably the principal underlying reasons which created the constant friction between Sir George Gipps and the council during the later years of his administration.\*

The abolition of the assignment of convicts to settlers in 1841 and the cessation of transportation in 1840 were probably of equal importance in the progress of the colony with the establishment of a representative legislature. By the assignment of convicts, the colonists had derived the principal supply of labour; by its abolition, they had to depend entirely on free labour. By the cessation of transportation, the annual influx of criminals from the United Kingdom ceased, and the colony achieved the full status of a free colony.

During the administration of Sir George Gipps, other important events occurred. The district of Port Phillip made wonderful progress, and the problem of the formation of this district into a separate colony first came into practical politics. In the year 1840, the present dominion of New Zealand was formally annexed as a dependency of New South Wales. The annexation imposed additional labours on the executive government and the council, as Sir George Gipps forecasted in his opening address to the council in May, 1840. This forecast was soon realised, when the claims\* of W. C. Wentworth and others to a land monopoly in New Zealand were brought forward. But the jurisdiction of Sir George Gipps

\* See introduction in later volume.

over New Zealand was brief though very important owing to his virtual settlement of the land question; for, in the year 1841, a separate colony was established in the islands of New Zealand.

During this period, the towns of Sydney and Melbourne were incorporated. This action was probably premature; but the principle of local self-government was warmly supported by Sir George Gipps, and on this subject he had considerable previous experience during his service on the commission in Canada. The minimum price for the disposal of crown lands was raised; this policy had far-reaching effects,\* and caused much adverse and unjust criticism of Sir George Gipps, who merely initiated the change by instructions from the secretary of state. Intimately associated with this policy, the mania for speculation, followed by the financial crisis, in the first half of this period must be noted, as it had far-reaching influence on future development. In the year 1841, the first public debt was incurred by the issue of debentures to the value of £65,000, secured on the land revenues, for the payment of bounties on immigration.

During this period, the geographical knowledge of the colony was extended by Ludwig Leichhardt during his journey from Moreton bay to Port Essington; by Sir Thomas Mitchell during his attempt to find an overland route to the gulf of Carpentaria; and by Charles Sturt in central Australia when he discovered Cooper's creek.

The material progress of the colony is shewn by the following figures:—In 1838, the population was 97,912; in 1845, 181,556. In 1838, the land under cultivation was 92,912 acres; in 1845, 163,979 acres. Between the years 1842 and 1845, horses increased from 56,585 to 82,303; horned cattle from 897,219 to 1,348,022; and sheep from 4,804,946 to 6,202,031. In 1838, the expenditure exceeded the revenue by £164,102; in 1845, there was a surplus revenue of £73,918. Prior to the year 1844, the value of the imports was annually much in excess of that of the exports; but, in the year 1844, the value of the exports exceeded that of the imports by £196,855, and, in the year 1845, by £322,132.

Whilst such momentous changes took place in the colony, it is evident that the personality of the man in control had great influence. The colonists were therefore fortunate that an able and

\* See introduction in later volume.

experienced administrator in the person of Sir George Gipps held office as governor. Few reforms can be introduced without opposition from certain sections ; but Sir George Gipps experienced more than the usual share of adverse criticism, some of which was possibly incurred by his own idiosyncracies. The colonial newspapers on several occasions and one historian were specially drastic in their comments ; but this criticism was wholly unjust.

Sir George Gipps was recognised by both friends and enemies as a man of great intellect and superior attainments. He possessed pronounced originality and had a keen perception of right. He had great self-reliance and a firmness to act on his own judgment, and his judgment was seldom at fault ; his self-reliance was accentuated by the ready avowal of any act of his own, whether the consequences were favourable or unfavourable. He had almost a brutal frankness and a biting sarcasm of speech, which were naturally intolerant to an opponent. His enemies stated that he was overbearing in demeanour, arbitrary in disposition, and lacking in finer feelings, and that his manners were rude and repulsive ; but it can easily be realised how such opinions arose about a man with his peculiarities of speech. He was pre-eminent as an orator ; he had a nervous style, tempered with a ready elocution, and rendered forcible by his great powers of sarcasm. His speeches at the unveiling of the statue of Sir Richard Bourke and on the New Zealand land question were masterpieces. When he had determined that a course of action was sound in principle, he endeavoured to secure its consummation whether the time was opportune or not ; and, in doing so, he may have erred on certain occasions. His fearlessness in adopting an unpopular but rational policy was well demonstrated by his policy towards the squatters\* during the last few months of his administration. He governed the colony successfully with such vigour and determination that, when he closed his administration in July, 1846, he left the colony as a man broken in health from the result of his labours.

Sir George Gipps was the eldest son of the Reverend George Gipps, rector of the parish of Ringwold in the county of Kent, and was born at Ringwold in the year 1791. He was educated at the King's school, Canterbury, and afterwards at the military academy, Woolwich. He entered the army as a second-lieutenant

\* See introduction in later volume.

in the royal engineers on the 11th of January, 1809, and attained the rank of first-lieutenant on the 21st of December in the same year. In the month of May, 1811, he was ordered to join the army in the Peninsula. He was present at the siege of Badajoz, and, on the 25th of March, 1812, whilst leading one of the columns of assault on Fort Picurina, he was wounded in the left arm. For his gallant services at Badajoz, he received special mention in the despatches of the duke of Wellington. During the years 1813 and 1814, he was attached to the army of Sir John Murray in Catalonia, and was present at the action at the pass of Biar, at the battle of Castalla, at the capture of Fort Balaguir (for which service he was honourably mentioned in the despatches of Sir John Murray), at the siege of Taragona, and at the blockade of Barcelona. On the 30th of September, 1814, he attained the rank of second captain in the royal engineers. In the month of November, 1814, he was ordered to Flanders, and served with the duke of Wellington's army in the Netherlands and France until July, 1817. He was not present at the battle of Waterloo, as he was detached to put the fortress at Ostend in a state of defence. After the withdrawal of the army of occupation from France, he travelled extensively in Europe on leave. On his return to England, he was employed at Chatham.

In the month of November, 1824, Gipps was sent to the West Indies, and did not return to England until the 18th of December, 1829. During this period, he attained the rank of full captain in the engineers on the 8th of April, 1826. During his service in the West Indies, he demonstrated great capacity for civil administration. He also submitted valuable and important reports on the system of slavery and the problems of the emancipation of the slaves.

After his return to England, Gipps served on two successive commissions, in Ireland and England respectively, which were appointed to consider the proposed boundaries for constituencies under the first parliamentary reform and municipal corporation acts. In the year 1834, he was appointed private secretary to the earl of Auckland, who was then first lord of the admiralty.

In the year 1835, Sir Robert Peel assumed office as prime minister. At this time, Lower Canada was verging on revolt, and Peel decided that immediate action was necessary. The earl of Gosford was appointed governor-general, and a commission of three, the

earl of Gosford, the right hon. Sir Charles Grey and George Gipps, was appointed "for the investigation of grievances affecting His Majesty's subjects in that colony." The commission, although it was not wholly successful, had great influence in inculcating the principles of self-government amongst the colonists. The elaborate and comprehensive report of the commission was drawn up in a very able manner by Gipps, and attracted attention to his abilities. As a result of the commission, resolutions on future Canadian policy were adopted by a large majority in the house of commons on the 6th of March, 1837. After the conclusion of the commission, Gipps travelled in the United States of America and returned to England in April, 1837. For his services, Gipps received the honour of knighthood. On the 10th of January, 1837, he attained also the rank of major in the royal engineers.

In the meantime, Sir Richard Bourke had resigned his commission as governor-in-chief of New South Wales, and the resignation was accepted\* by lord Glenelg on the 3rd of July, 1837. Sir George Gipps was selected to succeed Bourke, and his commission† was dated 5th October, 1837.

Sir George Gipps sailed from England on the 15th of October, 1837, in the ship *Upton Castle*. After a tedious passage of one hundred and thirty-one days, the ship arrived off Port Jackson in the morning of the 23rd of February following, but was unable to enter the harbour owing to adverse winds. When it was learnt that the governor was on board, a steam vessel was sent out, and Gipps landed at 9 o'clock in the evening. On the following day, he took the oaths of office and assumed the administration of the colony.

By the appointment of Sir George Gipps, the colonial office initiated a change in the professional type of the governor. The first four governors had been naval officers; the following four were military officers, who, apart from their status as governors, were senior military officers in the colony by virtue of their commissions in the army. Sir George Gipps, when he arrived in the colony, held only the rank of major in the royal engineers, and was therefore junior in military rank to the successive officers in command of the military stationed in the colony. In the list of staff appointments in the annual "army lists," he was described as

\* See page 4.

† See page 295 *et seq.*



“civil governor” in New South Wales, and, although an officer of the engineers, he was, strictly speaking, the first civilian governor of the colony.

By his commission, the territorial jurisdiction of Sir George Gipps was restricted by the exclusion of the province of South Australia. This province was withdrawn from the jurisdiction of Sir Richard Bourke by the statute, 4-5 Wm. IV, c. xcvi, and, on the issue of the commission to Sir George Gipps, it was finally excluded from the jurisdiction of the governors of New South Wales. Sir George Gipps, by his commission, was deprived of the right to exercise sovereign naval powers and to provide for the trial of officers and seamen of the navy. These powers had been held by his eight predecessors in the government. Otherwise, Sir George Gipps held the same powers and executive authority as his two immediate predecessors, until they were modified\* by the promulgation of the constitution act in 1843.

During his administration, Sir George Gipps acted under several secretaries of state, and he frequently incurred much adverse criticism by the fulfilment of orders from England. His term of office expired in February, 1844, but the colonial office valued his services so highly that the term was extended. This appreciation of his services was only attained at the cost of his health, and it is certain that his strenuous labour as governor was the principal cause of his early death.

During his term of office as governor, Sir George Gipps was promoted to the rank of lieutenant-colonel in the royal engineers on the 23rd of December, 1841.

On the 11th of July, 1846, Sir George Gipps embarked at Circular wharf to proceed on board the merchant vessel *Palestine* for his return voyage to England. Prior to his embarkation, he held a levée at government house, and from thence he proceeded, accompanied by the chief justice and colonial secretary, to the wharf between lines of military. During his embarkation, a salute of nineteen guns was fired from Fort Macquarie and a second and similar salute from H.M. ship *Castor*. The ship *Palestine* then proceeded under her own sail down the harbour accompanied by the steamer *Thistle*, which had been engaged to tow her if necessary.

\* See introduction in later volume.

Like his outward voyage, the return voyage was long and tedious, and Sir George Gipps did not land in England until the 20th of November, 1846. During the voyage, the ship ran short of provisions, whereupon Gipps denied himself many comforts which he sadly needed in his weak state of health.

After his return to England, Sir George Gipps was offered the command of the royal engineer department at the Tower hamlets, which post he accepted. On the 28th of February, 1847, the eve of his departure from his sister's house at Canterbury to assume this command, he retired to rest apparently in his usual health; but, reclining on a sofa, he suddenly expired at the early age of fifty-six, the cause of death being heart disease, aggravated by his strenuous administration in New South Wales. A monument was subsequently erected to his memory in Canterbury cathedral.

In the year 1830, Sir George Gipps married Elizabeth, the second daughter of major-general George Ramsay of the royal engineers, who survived him. He left one son, who afterwards became Sir Reginald Gipps.

Notes on the details of his administration will be found in the introductions to succeeding volumes.

FREDK. WATSON.

*December, 1923.*

DESPATCHES



# HISTORICAL RECORDS

OF

## AUSTRALIA.

### SERIES I.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 57, per ship Thomas Lowry; acknowledged by  
Lord Glenelg, 10th November, 1837.)

My Lord, Government House, 1 July, 1837.

1837.  
1 July.

I have the honor to forward herewith a Memorial addressed to Your Lordship by Mr. John Weston, praying to be allowed a free grant of land in this Colony. Transmission of memorial from J. Weston.

The accompanying correspondence between this Government and Mr. Weston will fully explain the reasons which prevented my acceding to his application when addressed in the first instance to me.

I have, &c.,

RICHD. BOURKE.

[Enclosure No. 1.]

THE Memorial of John Weston, keeper of His Majesty's Gaol at Sydney, New South Wales. Memorial of J. Weston soliciting land grant.

To the Right Honorable Lord Glenelg, His Majesty's Principal Secretary of State for the Colonies, etc., etc.

Most respectfully Sheweth.

That your Lordship's Memorialist arrived in this Colony in the month of February, 1827, and immediately afterwards obtained Government employ, which he has since retained.

That, by the regulations which were then in force, and which solely induced your Memorialist to Emigrate, he was entitled to a Grant of Land commensurate with the capital, which he brought into the Colony; but he then forbore to apply for it, because to the applications for Grants of Land made to the Government by its Officers was invariably returned the answer, "That, so long as they retained a Government situation, they were not entitled to a Grant."

That, in consequence of the wreck of the Ship "Letitia" in 1828 at the Island of St. Jago, whilst bound to this Colony, and on board of which were your Memorialist's wife and family, he incurred a loss of upwards of £400, and, with the exception of them alone, who emigrated here solely at his expense, every other Passenger by that Ship, who arrived either in this Colony or in Van Dieman's Land, was not only forwarded at the expense of Government, but

1837.  
1 July.

Memorial of  
J. Weston  
soliciting  
land grant.

received Grant of Land and gift of Cattle as a compensation for their losses by that Shipwreck, as the annexed statement will shew.

That your Memorialist never received a grant of Land nor other indulgence from the Government, nor any compensation for the loss which he sustained through the Shipwreck of his Wife and family, altho', so early as the month of February, 1829, he applied to the Colonial Government through the Principal Superintendent of Convicts, in whose Department Memorialist then was, for an encrease of Salary to relieve him from the embarrassments occasioned by such loss (having been informed by His Excellency Sir Ralph Darling that his claim for Land for the reason before mentioned could not then be entertained), but which was refused on the grounds "that the Establishment and Salaries of the Convict Department were fixed by orders from home and that they could not again be augmented"; and he further begs leave to state that, ever since he had been in the Service of Government, he has earned the approbation of the Heads of the Department in which he was employed.

Your Memorialist therefore humbly prays that your Lordship will be pleased to take into consideration the prospects, which induced your Memorialist to Emigrate, as well as the losses he sustained by Shipwreck, together with the period of his Employment under Government, now Ten Years, and that you will be pleased to direct that, on your Memorialist's retirement, he may receive a Grant of Land proportionate to the losses, which he has sustained, and to the length of his Services in this Colony, as in the case of Mr. George Miller, late of the Commissariat Department, and many others, and your Lordship's Memorialist as in duty bound will ever pray.

JOHN WESTON.

[Sub-enclosure.]

STATEMENT REFERRED TO.

MR. RICHARD POPHAM in the year 1830 received 640 acres of Land and 4 Bullocks.

Mr. John McNamara received 320 acres of Land, 5 Cows and agricultural Implements.

Mr. John Onge received 640 acres of Land and 4 Oxen.

Mr. William Forster received 1,280 acres of Land and Implements of Husbandry.

[Enclosure No. 2.]

COLONIAL SECRETARY THOMSON TO MR. J. WESTON.

Colonial Secretary's Office,

Sydney, 11th January, 1837.

Sir,

In reply to your Memorial of the 24th ultimo, I am directed by His Excellency the Governor to inform you that, as there is no order from the Secretary of State nor promise of a former Governor upon which to rest your claim to a free Grant of land, it is not within His Excellency's power to make it. He apprehends farther that an application to the Secretary of State will be unsuccessful.

If the Grant be claimed in compensation for losses by the Shipwreck your family suffered in coming to this Colony in 1828, it will be answered that your case ought to have been established at the time the loss was incurred, and that at the expiration of eight years it must be considered obsolete.

If, on the other hand the Grant be claimed as a Government Officer bringing Capital into the Country, it will be said that you

Compensation  
to passengers  
per ship  
*Letitia*.

Refusal of  
land grant  
to J. Weston.

Reasons for  
refusal.

should have made your application and gone before the Lands Board, where your property would have been registered, and a record made of the Governor's proposing to give you a Grant on your retirement from Office. Having failed to do this, and having taken your present employment since 1st July, 1831, when free Grants were abolished, His Excellency thinks your claim will be held invalid.

1837.  
1 July.  
Reasons for refusal.

True Copy :—E. DEAS THOMSON.

I am, &c.  
E. DEAS THOMSON.

[Enclosure No. 3.]

MR. J. WESTON TO COLONIAL SECRETARY THOMSON.

Sir,

Sydney, 23rd May, 1837.

On the 11th of January last, I had the honor of receiving a letter from you regarding my Memorial to His Excellency the Governor, dated 24th December ult., and informing me that His Excellency objected to my Claim for a Grant of Land upon two grounds; 1st. that the plea of Compensation of Loss by the wreck of the "Letitia" was obsolete, and 2nd. that I had not registered my Capital as a Government Officer intending to settle, previous to the period when free Grants were abolished.

Letter acknowledged.

To the 1st objection, I beg respectfully to reply that, on the 7th February, 1829, being at that time Superintendent of Hyde Park Barracks, I applied thro' the medium of my superior officer Mr. Hely for an encrease of Salary, and for the indulgence of being allowed to draw a part thereof in advance to enable me to meet the extraordinary expenses occasioned by my family's arrival, and in consequence of the loss of even their Wearing by the Wreck of the Letitia, this boon being refused. I was unfortunately not aware of any other shape in which the Government could give Compensation, as I did not know till long afterwards that a Bounty of Land and Cattle was given to all the other sufferers by the Letitia.

Claim for compensation for losses in wreck of ship Letitia.

To the 2nd Objection, viz., that I did not register my Capital before free grants were abolished, I beg humbly to represent that the loss of my Property compelling me to remain in Government employ, and seeing that applications for Grants were unavailing to occupants of such Situations, I deferred all idea of settling till the arrival of Capital, which I daily expected, and which would enable me to resign my appointment and execute my original intention of benefiting by the bounty held out by the Home Government of a Grant of Land, and which alone induced me to leave my Native Country.

Reasons for delay in application for land grant.

This amount of Capital I could not Command within the period of making Grants; but I respectfully urge that the aggregate of circumstances above mentioned, together with Ten Years of faithful service with the Government, will constitute for me a claim at least equal to that of Mr. George Miller and others, whose only grounds of right were an honorable discharge of their public duty.

I trust that the above explanation will induce you to bring my case before His Excellency, whose favorable reconsideration of it is humbly requested, and that if the indulgence I seek cannot consistently be granted here, His Excellency will forward the enclosed Memorial to the Right Honorable the Secretary of State for the Colonies accompanied by such a recommendation from His Excellency as he may deem my case deserves.

I have, &c.,

JOHN WESTON.

1837.  
2 July.

SIR RICHARD BOURKE TO LORD GLENELG.  
(Despatch No. 58, per ship Thomas Lowry.)

My Lord, Government House, 2 July, 1837.

Receipt of  
French  
judiciary act.

Having complied with the Instruction contained in Your Lordship's Despatch of the 20th September last, No. 212, by causing the Document, therewith transmitted from the Consul General of France, to be delivered to Mr. and Mrs. Pike, I have the honor to enclose the acknowledgement which has been obtained of its receipt.

Error in name  
of recipient.

In the document received from Your Lordship the name is spelt "Piake," but the maiden name of Mrs. Pike therein and in the enclosed receipt mentioned places the identity of the parties beyond doubt.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this paper is not available.]

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 335, per ship James Pattison; acknowledged by Sir Richard Bourke, 3rd December, 1837.)

3 July.  
Despatch  
acknowledged.

Sir, Downing Street, 3 July, 1837.

I have the honor to acknowledge your despatch No. 8 of the 30th Jany. last.

Acceptance of  
resignation of  
Sir R. Bourke.

I have received with sincere concern the announcement which it conveys of your determination to resign the Government of New South Wales; but, adverting to the decided terms in which that resolution is expressed, I felt that I had no alternative but to lay your despatch before Her Majesty who has commanded me to state that She accepts your resignation of the Office of Governor of New South Wales.

I will make the necessary arrangements for relieving you from your Command with all practicable expedition, and I trust that your Successor may reach the Colony by the close of the present Year.

Commendation  
of services of  
Sir R. Bourke.

I cannot let this occasion pass without expressing the high sense which Her Majesty's Government entertain of the zeal, energy and enlightened views, which have distinguished your administration; and it is a matter of sincere regret that the growing interests of the important Colony of New South Wales will be deprived of the benefit of your talents and experience.

I have, &c.,

GLENELG.



LORD GLENELG TO SIR RICHARD BOURKE.  
(Despatch No. 336, per ship James Pattison.)

1837.  
4 July.

Sir, Downing Street, 4 July, 1837.

I have already had the honor of calling your attention to the expediency of making some provision for the passages of Schoolmasters to New South Wales.

In order to prevent the delay, which would necessarily be incurred by waiting a further communication on this subject from the Colony, I have intimated my readiness to direct an allowance of Sixty pounds to be made to a limited number of Schoolmasters who have been carefully selected by the Glasgow Educational Society in communication with the Committee of the General Assembly of the Church of Scotland on Colonial Churches, and who, there is every reason to suppose, will prove well fitted to convey elementary instruction to that class who stand so peculiarly in need of it.

Allowance for passage money for schoolmasters.

The number is at present limited to sixteen, and they will proceed in the first instance to New South Wales, when a due proportion of them will be transferred to Van Diemen's Land. The allowance for their passages will be paid by the Colonial Agent in the first instance from the Funds in his hands arising from the Revenues of New South Wales, and a corresponding repayment will be made by the Government of Van Diemen's Land on account of the passages of such of these persons as may be transferred to that Colony.

I enclose for your information a copy of a letter from the Secretary to the Glasgow Educational Society enclosing the personal undertaking of Fifteen of these persons, whose names are thereto attached, to refund the amount advanced for their passage in the event of their failing to enter on the discharge of the duty for which they have been chosen. The name of Mr. Adam has since been added.

Money to be refunded on failure to act as schoolmasters.

In the event, which however I cannot anticipate, of the Council hesitating to vote the Funds necessary for this purpose, you are authorised to charge the amount on the Funds applicable to emigration.

I have, &c.,  
GLENELG.

[Enclosure.]

MR. D. STOW TO ———.

Glasgow, 26 June, /37.

I HAVE the honor to transmit to the R. Honble. H.M.'s Principal Secretary of State for the Colonies the undertaking of the 14 Schoolmasters bound for Australia to refund the Sum advanced to them for outfit and passage money by H.M. Govt. in the case of their failing to enter on the profession for which they have been chosen; as also a request of a ———\* of the Educational Society to

Transmission of undertaking from schoolmasters.

\* Blank in original.

1837.  
4 July.

include Mr. Mather Adam among the number of the School-Masters. Mr. Adam has entered into an undertaking similar to the above with the Revd. Dr. Burns who has been in correspondence on the subject with H.M. Govt.

Request for  
payment of  
allowances.

As all these 15 Gentlemen have secured their places for the Colonies, I have most respectfully to request that you will be pleased to transmit to me an order for the payment of £60 for each, being the amount stated in the Communication we have lately had the honour of receiving from you.

DAVID STOW.

Secy. to Glasgow Educ'l Soc.

[Sub-enclosure.]

UNDERTAKING BY SCHOOLMASTERS.

Undertaking  
given by  
schoolmasters.

WE, whose names are undersigned, having been selected by the Glasgow Educational Society, with a view to our being recommended to the Rt. Hon. H.M. Principal Secy. of State for the Colonies as Schoolmasters in connection with the Presbyterian Church in the Australian Colonies, and having been informed that H.M. Govt. have been graciously pleased to grant an allowance of £60 each as passage money for Schoolmasters emigrating to these Colonies, do hereby bind and oblige ourselves to act in the capacity for which we have been thus nominated on our arrival in the Colony, or to refund the sum advanced to us for passage money by H.M. Govt.

THOS. W. ROBINSON.	ROBERT MACEACHERN.
PETER STEEL.	JAMES HENRY.
JOHN WHITELAW.	JOHN GOODEWIN.
JOSEPH ANDREWS.	JOSEPH SPROUL.
JAMES MCEACHERN.	ALEX. FRASER.
GEORGE WALKER.	ROBERT CAMPBELL.
MALCOLM COLQUHOUN.	JOHN BALMAIN.

Glasgow, 20 June, 1837.

Guarantee by  
Rev. J. D.  
Lang.

I HEREBY guarantee the fulfilment of the engagement hereby entered into by the teachers about to emigrate to the Australian Colonies, in so far as my personal exertions, in co-operation with my brethren of the Colonial Presbytery, can ensure such fulfilment.

Glasgow, 20 June, 1837.

JOHN DUNMORE LANG.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 337, per ship James Pattison; acknowledged by Sir Richard Bourke, 7th November, 1837.)

5 July.

Appointment of  
matron and  
steward for  
female factory.

Sir, Downing Street, 5 July, 1837

With reference to my dispatch No. 311 of the 11th May last, I have the honor to acquaint you that I have appointed Mrs. Leach to the office of Matron in the Female Factory at Parramatta and Mr. John Clapham to act in the capacity of House Steward. Mr. Clapham's wife, who accompanies him, will also be employed in instructing the Female Convicts in the Factory.

Mrs. Leach is probably already known to you, her late husband having, as I am informed, been employed in instructing the convicts in Norfolk Island; and, from the high testimonials which I have received in her favor and the experience which she has acquired in the management of female prisoners in this country, I have no doubt that she will prove well qualified to maintain the good order and discipline of the Establishment.

1837.  
5 July.  
Testimony in favour of matron;

Mr. Clapham has been for some years acting in the capacity of Turnkey in the Cold Bath Fields Prison, where he appears to have performed the duties entrusted to him to the entire satisfaction of the visiting Magistrates and others under whose superintendance he acted.

and of steward.

I propose that the responsibility of the charge of the prisoners should rest with the Matron, and that Mr. Clapham should have the general superintendance of the Buildings and the charge of the stores.

Duties of matron and steward.

The Establishment will then be as follows:—

1 Matron (Mrs. Leach)	.. .. .	£130
1 House Steward and Storekeeper (Mr. Clapham)		150
3 Turnkeys (Male) at £60 each	.. .. .	180
4 Turnkeys (Female) at £50 each.	.. .. .	200
1 Clerk	.. .. .	120
1 Midwife	.. .. .	50
1 Chaplain	.. .. .	50
1 Roman Catholic Do.	.. .. .	50
1 School-mistress (Mrs. Clapham)	.. .. .	70

Establishment for female factory.

£1,000

This arrangement will not involve any addition to the amount of permanent expenditure sanctioned by my dispatch of the 11th May last. As the Salaries of these newly appointed officers will not commence until they actually relieve those who are at present employed in the Factory, I have, with the concurrence of the Lords Commissioners of the Treasury, directed the Colonial Agent to issue to them moderate allowances for their outfit and passage

Allowances for passage money.

£100 to Mrs. Leach and £150 to Mr. Clapham and his wife.

As this expenditure will I trust materially tend to the permanent improvement of the condition of the Factory, I feel convinced that the Legislative Council will readily vote these allowances.

I have, &c.,

GLENELG.

1837.  
6 July.

LORD GLENELG TO SIR RICHARD BOURKE.  
(Despatch No. 338, per ship James Pattison.)

Sir,

Downing Street, 6 July, 1837.

I have the honor to transmit to you a copy of a letter which has been addressed to my Under Secretary by the Revd. Dr. Lang, soliciting aid from Government in conveying to New South Wales three German Missionaries of the Lutheran Church to be employed in a Mission for the Religious instruction of the aborigines.

Allowance for  
passage money  
to Lutheran  
missionaries.

Attaching as I do much importance to the object contemplated by such a Mission, I have, with the concurrence of the Lords Commissioners of the Treasury, directed the Colonial Agent to issue an allowance of £150 to each of the three Missionaries named by Dr. Lang, on account of their outfit and passage, in the full assurance that no difficulty will be experienced in obtaining the sanction of the local Legislature to that expenditure, and on the distinct understanding that the grant of such assistance is not to be considered as pledging the Government to contribute in any degree to the future support of the Mission.

I have, &c.,

GLENELG.

[Enclosure.]

REV. J. D. LANG TO SIR GEORGE GREY.

Sir,

London, 12th May, 1837.

With reference to a paragraph of my Letter of the 23rd January last, soliciting information as to whether His Majesty's Government would grant assistance from the Colonial Revenue of New South Wales for the establishment and maintenance of a Mission to the aborigines of that Colony, undertaken by the Presbyterian Church, I have the honor to state that, in consequence of the present demand for Ministers of that communion for the white population of the Colony, it has been deemed inexpedient to send out any Presbyterian Minister at present as a Missionary to the aborigines, as the probability is that, on his arrival in the Colony, he would be solicited to become the Pastor of a congregation of Europeans and be induced to forego his proper work and office as a Missionary to the heathen.

Inability to  
provide  
Presbyterian  
missionaries  
to natives.

With the view therefore of ensuring the permanency and success of a Mission to the Aborigines of New South Wales, to be established under the auspices and management of the Colonial Presbyterian Communion, acting in concert with the Church of Scotland and the Synod of Ulster, it has been deemed expedient at the outset to solicit the aid and co-operation of the Evangelical portion of the Lutheran Church of the Continent; which you are aware approximates so closely, in its doctrines, discipline, and forms of worship, to the Church of Scotland as in certain of the States of Germany, as in Prussia for example, to coalesce entirely with the reformed or Presbyterian Communion. I have accordingly been enabled on

Assistance  
sought from  
Lutheran  
church.

behalf of the Presbyterians of New South Wales and Van Diemen's Land, with whose sentiments on this subject I am well acquainted, to engage for the establishment of a Mission to the Aborigines at Moreton Bay the three following Missionaries of the Lutheran Communion, all of whom have expressed their entire willingness to submit themselves in all matters of discipline, as well as in everything relating to the general management of the proposed Mission, to the Ecclesiastical jurisdiction of the Colonial Presbyterian Church, viz.:

1837.  
6 July.

Lutherans engaged for mission to natives at Moreton bay.

Messrs. Christopher Eippes and Gottlob Schreiner, both natives of the Kingdom of Wirtemberg educated at the Missionary College in Basle, and to be ordained on the recommendation of the Heads of that institution by the Revd. Dr. Steinkopf and other Lutheran Ministers in London; also candidate (or Licentiate) Schmidt, a native of Prussia, educated for the Lutheran Church at the Universities of Halle and Berlin and strongly recommended by the Revd. J. Gossner, Pastor of the Bohemian Church and Superintendent of an Institution for the education of Missionaries in Berlin, a Man of apostolic zeal and acknowledged eminence on the continent of Europe. Together with these Missionaries, it is proposed also to send out the following persons as Missionary assistants, to be employed under their superintendence and direction for the general purposes of the Mission, viz., Frederic Franz, Peter Nigue, Gottfried Hausman, Joachim Holzhaufen, August Rhode, Ludaire Doge, August Olbrecht, Moritz Schneider, Gottlieb Hartenstein and Gottfried Wagner, all of whom, although originally of the class of operatives or mechanics, have for a considerable time past been under training in the Revd. Mr. Gossner's Institution, and are desirous of being employed in any capacity for the welfare of the Heathen.

Assistants proposed to missionaries.

As a Mission to the Aborigines of N. S. Wales established on so broad a basis holds forth a fair promise of permanence and success, agreeably to the conditions required by His Majesty's Government in your Letter of the 29th January, and as the establishment of that Mission will necessarily imply a very considerable expense, I beg most respectfully to request that my Lord Glenelg would be graciously pleased in so far to anticipate any measures for its future support, which the Colonial Govt. might deem expedient, to grant an allowance for outfit and passage money for the three regularly educated missionaries above mentioned, as I have already ascertained that the Religious Public at home will defray the requisite expense for the whole of the others; it being distinctly understood however, in the event of his Lordship's compliance with this request, that the allowance of passage money is not to be interpreted as a pledge of future support.

Request for allowance for passage money to missionaries.

As the only Missionary stations at present occupied in the Colony are Lake Macquarrie on the Coast about fifty miles Northward of Sydney, Wellington Valley in the interior, and very recently Port Philip, I beg most respectfully to submit to your attentive consideration the extreme importance of Moreton Bay as an additional station, as well as of endeavouring, by a comparatively extensive and well directed Missionary agency, to make a strong impression on the Tribes to the Northward. While the Natives are comparatively numerous in the vicinity of Moreton Bay, the frequency of Shipwrecks on the reefs to the Northward of that settlement is

Missionary stations established.

Necessity for station at Moreton bay.

ever and anon exposing the hapless Europeans, who survive these disasters, to the savage brutality of the Tribes on the Coast; and it is only by extending Missionary operations from Moreton Bay as the point of departure, along the coast to the Northward, that these Tribes can be subjected to the humanizing influences of Christian civilization. My own Father and other twelve persons were lost in a small vessel on the Coast seven years ago, and may possibly be still alive and in the hands of the savages. But a case of much more recent occurrence will I trust induce the Right Honorable the Secretary of State for the Colonies to grant the need of assistance towards the establishment of the proposed mission at Moreton Bay, which I have done myself the honor to solicit. The Stirling Castle, a vessel in which I made a voyage to the Colony and carried out several Ministers of Religion and Instructors of Youth, has recently been wrecked on a reef off the Coast, and the Captain and first officer and several of the crew barbarously murdered by the Black Natives to the Northward of that Settlement, after escaping safely in their Boats to the shore.

I have, &c.

JOHN DUNMORE LANG.

LORD GLENELG TO SIR RICHARD BOURKE.  
(Despatch No. 339, per ship James Pattison.)

7 July.

Sir,

Downing Street, 7 July, 1837.

I transmit to you herewith, for your information and guidance, copies of a correspondence which has passed between my Under Secretary and the Secretary to the Society for the Propagation of the Gospel, relative to the period at which the Clergymen, who are about to proceed to Australia, will commence to receive their Salary.

I have, &c.,

GLENELG.

[Enclosure No. 1.]

REV. A. M. CAMPBELL TO SIR GEORGE GREY.

Sir,

Trafalgar Square, 5 July, 1837.

The Secretary for the Propagation of the Gospel will be much obliged to you if you will inform them from what date the Salaries of the Clergymen about to proceed as Chaplains to New South Wales will be paid.

I have, &c.,

A. M. CAMPBELL.

[Enclosure No. 2.]

SIR GEORGE GREY TO REV. A. M. CAMPBELL.

Sir,

Downing Street, July, 1837.

Having laid before Ld. Glenelg your letter of the 5th Inst. I am directed to acquaint you in reply that Ld. Glenelg apprehends under the recent arrangement that the Salaries of the Clergymen about to proceed to Australia will commence on their entering on the discharge of their duties in the Colonies.

I have, &c.

GEO. GREY.

1837.  
6 July.  
Necessity for  
station at  
Moreton bay.

Correspondence  
re salaries of  
chaplains.

Date of  
commencement  
of salaries  
of clergy.

SIR RICHARD BOURKE TO LORD GLENELG.

1837.  
7 July.

(Despatch No. 59, per ship Thomas Lowry; acknowledged by lord Glenelg, 29th March, 1838.)

My Lord, Government House, 7 July, 1837.

In my Despatch of the 10 April last, No. 19, I informed Your Lordship of the measures which had up to that time been adopted by this Government in consequence of the arrival of the Emigrant Ship "Lady Macnaghten" with a contagious fever on board, and stating my intention to cause enquiry into the origin and progress of the malady as soon as the necessary witnesses should be released from Quarantine. I have now the honor to submit for your Lordship's perusal the Report of the Board appointed for the purpose, together with the Evidence taken before them, and a Copy of the Letter appointing them and defining the objects of their enquiry.

Transmission of report re fever on ship *Lady Macnaghten*.

It will be useless to give here any abstract of the Report, which is itself an abstract of the Evidence. I will therefore confine myself to requesting your Lordship's particular attention to the conclusion in which the prevalence of disease is attributed by the Board to the concurrence of four causes, vizt.:

Causes of outbreak of fever.

1. Want of Naval Experience in the Surgeon.

2. Excess of Cargo. In this particular, your Lordship will find, as in the previous case of the Duchess of Northumberland, a melancholy instance of public interests sacrificed to the cupidity of an Individual, and a fresh proof of the impolicy of leaving arrangements of this nature in the hands of any one whose particular advantage is opposed to that of the Emigrants.

3. A neglect in the Examination of the passengers by competent medical officers, before admission on board, with the view of excluding any existing contagious disease.

and 4. An insufficient supply of Medicines and Medical comforts.

I am happy to be able to inform your Lordship that no death has occurred among the Emigrants since my last Report. None now remain at the charge of the Government, and those, who engaged themselves under the directions of the local Committee, found a ready demand for their services at high wages.

Disposal of immigrants.

I ought not to conclude this Despatch without adverting to the Expences incurred on account of the Quarantine, amounting to about £5,000. I shall have occasion to enter more into detail respecting them in another communication; but, though a trifling consideration when compared with loss of life, I cannot avoid observing that these are heavy charges upon the fund set apart

Expenditure on quarantine of ship *Lady Macnaghten*.

1837.  
7 July.

for the encouragement of Emigration to these Colonies and are mainly attributable to the mismanagement (to give it no harsher term) of the agents employed in superintending the outfit and embarkation of the Emigrants.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

Report by board *re* outbreak of fever and complaints by passengers on ship *Lady Macnaghten*.

REPORT of the Board appointed by His Excellency Sir Richard Bourke to Inquire into, and Report on, the causes which have occasioned so great a loss of human life among the Emigrants embarked at Cork in November, 1836, in the Ship "Lady Macnaghten," which arrived in the Port of Sydney on the 26th of February last, and was placed in Quarantine in consequence of the highly contagious Fever then prevailing on board; And Also to Inquire into, and Report on, Certain Complaints, publicly made by several of the Passengers by that Ship, of the Treatment experienced by them during the Voyage.

Witnesses examined.

THE Board have the honor to Report, for the information of His Excellency the Governor that, having proceeded to inquire into the matters submitted for their investigation, as detailed in the Colonial Secretary's Letter dated 17th April last, a Copy of which will be found in the Appendix to this Report, they have Examined Alexander Aberdeen, Farquhar Aberdeen, Jeremiah Ledsam, Edward Mullins, John Smith, Daniel Kennedy, Roger Meehan, Jane Ladd, Sarah Bennett, Hannah Kane, and Margaret Donovan, Steerage Passengers by the "Lady Macnaghten," Henry Bingham and Henry Price, Cabin Passengers, and Charles Bolton, an intermediate Cabin Passenger; Also, George Hustwick, Master of that Vessel, Andrew Cummings, third Mate, and John Bowler, Esqr., Assistant Surgeon of His Majesty's Ship "Rattlesnake," sent by Captain Hobson, Commander of that Vessel, on board the "Lady Macnaghten" on the 23rd of February last, on his falling in with her at Sea off the Coast of New South Wales, and learning that her Surgeon was ill, and that extensive Sickness prevailed on board. Copies of the respective Statements of the Persons above named, who have been Examined on Oath, duly administered to them by Charles Windeyer, Esqr., Second Police Magistrate of Sydney, one of the Members of the Board, are appended to this Report, to which are also annexed Copies of the following documents.

Papers submitted.

1st. The Charter Party of the Ship "Lady Macnaghten" between Mr. John Marshall affreighter, and Mr. George Hustwick, managing Owner and Master of that Vessel, dated 1st August, 1836.

2. Instructions to the Surgeon Superintendent, J. A. Hawkins, Esqr., from the Emigration Committee, dated at Downing Street, 31st October, 1836, signed by J. A. Pinnock, Esqr., along with an accompanying Letter from Mr. Pinnock to Mr. Hawkins, dated at Cork, 3rd November, 1836.

3. A Certificate by Mr. George Hustwick, Master of the Lady Macnaghten, of the quantity and particulars of the Stores, Medical comforts, and supplies, put on board that Vessel for the use of the Emigrants by Mr. John Marshall, dated at Cork, 1st November, 1836.

4. A List of the Male's Berths, shewing their sizes, and the names of the Individuals to whom they were allotted, furnished to Mr. Hawkins by Lieutenant Friend, at Cork.

5. A similar List of the Female's Berths.



6. The Journal of the late Surgeon Superintendent, Mr. Hawkins, commencing 2nd November, 1836, and ending 21st February, 1837, produced by the Master, Mr. Hustwick, and sworn to by him, to be "in the Surgeon's own handwriting."

1837.  
7 July.

Report by board *re* outbreak of fever and complaints by passengers on ship *Lady Macnaghten*.

7. A List of the Bedding put on board by Mr. Marshall for the use of the Emigrants.

8. An Abstract shewing the entire Quantities of Provisions and Medical Comforts, put on board the *Lady Macnaghten* for the use of the Emigrants by Mr. Marshall, the quantities issued in each week, from the 14th October, 1836, to the 28th of February, 1837, including Also some small issues up to the 11th of March. And the quantities remaining unused on the Ship's arrival in Port Jackson, and the commencement of the furnishing the Supplies for the use of the Emigrants by the Colonial Government.

9. A Copy of the Daily Issue-Book of Provisions during the same period, kept by the third Mate, and Certified by Mr. Hustwick as being a true Copy of the Original Book.

10. A Similar Copy of the Daily Issue-Book of Medical Comforts.

11. Scheme of victualling for Emigrants on the Voyage from London to the Australian Colonies; a printed Paper signed "John Marshall."

12. Statement of a claim made by Daniel Kennedy, one of the Passengers, against the Chief Officer of the *Lady Macnaghten* for the value of a Box and its contents, which he alleges he was not allowed to take on board the Ship, when embarking, but obliged to leave in the Steamer.

13. A List of the Emigrants, Passengers by the *Lady Macnaghten*, signed by Dr. Charles Inches, and made by him with the assistance of Jeremiah Ledsam, who acted as School Master on board, while residing at the Quarantine Station, in compliance with the request of the Colonial Secretary; shewing the number of Emigrants on board when the Ship sailed from Cork to have been Four hundred and twelve.

14. Letter from Doctor Alick Osborne to the Colonial Secretary, dated at Cork, 2nd November, 1836.

15. Letter from Assistant Surgeon John William Bowler, of His Majesty's Ship *Rattlesnake* to the Colonial Secretary, dated on board the *Lady Macnaghten*, 26th February, 1837.

16. Joint Letter from Assistant Surgeons Bowler and Stuart to the Colonial Secretary, dated 28th February, 1837.

17. Letter from Jeremiah Ledsam to the Minister of the Independent Chapel, in Sydney, dated 6th March, 1837.

18. Letter from Assistant Surgeon Bowler to the Colonial Secretary, dated 13th March, 1837.

19. Letter from Doctor Charles Inches to the Colonial Secretary, dated 13th March, 1837.

20. The Sydney Monitor, dated 20th March, 1837, containing a letter\* addressed to the Editor of that Paper, complaining of ill treatment by Alexander Aberdeen, James O'Connell, and Eight other Passengers.

The Board having deliberately considered the several documents above enumerated, and the Evidence given by the Witnesses examined, with reference to the various points submitted for their consideration and report, are of opinion as follows, viz.:—

Findings by board.

1st. In respect to the condition of the Vessel and the sufficiency of her equipment at the time of sailing, It appears in Evidence that

\* Note 1.

1837.  
7 July.

Report by  
board *re*  
outbreak of  
fever and  
complaints by  
passengers on  
ship *Lady*  
*Macnaghten*.

the *Lady Macnaghten* sailed from Cork on the 5th of November, 1836, and arrived in Port Jackson on the 26th of February last, performing the passage in one hundred and thirteen days; and, there being nothing on record to shew to the contrary, the Board are of opinion that there is no reason to doubt her good condition, and the sufficiency of her equipments, but on the contrary; and some of the Members of the Board, who have examined this Vessel, consider her as being a very superior one of her class, and remarkably well suited for the conveyance of Emigrants.

2. The height between the Upper Deck and the Under Deck, or Platform as it is called in the recent Act of Parliament regulating the Carriage of Passengers in Merchant Vessels, 5 and 6 Gul. IV, Cap. 53, has been stated by several Witnesses to be above six feet, and sufficient for a Man to walk upright easily.

Arrangement  
of berths.

There were two Tiers of Berths, which is in accordance with the provisions of the Act. They are represented to have been fitted up under the directions of Mr. Marshall. Captain Hustwick states that he thinks the space left between the floors of the lower Berths and the Under Deck, or Platform did not exceed three inches instead of six, as required by the Act, in consequence of which and of the floors being nailed down and immovable, the deck below them could not be properly cleaned, and there was a great accumulation of filth, until, on the suggestion of the Master to the Surgeon Superintendent as shewn by his Journal, they were cut and made moveable by the Ship's Carpenter about the latter end of December.

The number of Berths in the Male's Apartment, as shewn by the Berth List, was fifty, which, if all had been of the size intended for two Adults, that is to say, six feet by three feet, would have been sufficient to accommodate one hundred Adult Men. On reference to the Berth List, it will be perceived that some of the Berths were of a larger size, and some of a smaller, so that, even if the allotted space for two individuals is deemed sufficiently large, which the Board are inclined to think it hardly is, it is probable the Berths were too much crowded by the individuals to whom they were allotted, consisting of Seventy eight Adult Men, Thirty eight Boys under fourteen and above seven years of Age, and Six Boys under seven years, who were entitled to the space sufficient for the Accommodation of Ninety nine Adults, calculating the Thirty eight elder Boys as equal to nineteen Adults, and the six younger Boys as equal to two Men, which is in accordance with the provisions of the Act of Parliament. The number of Berths in the Female's Apartment was one hundred and twelve, of which six were required for the Hospital, and Eight were below the Average size and Suitable only for one Adult and one Child; these and the ninety-eight full sized or double Berths were adapted for the accommodation of Two hundred and four adult Females, allowing them as much room as Males, which appears to be intended by the Act; the number to be provided for were One hundred and forty five Adult Women, Forty Girls under fourteen and above seven years of Age, who, calculated according to the Act, required accommodation for One hundred and ninety seven Adults.

The general size of the Berths is shewn by the Lists of them to have been six feet by three feet for the use of two Adults, or an Adult and two Children; some of the Berths were larger, and an Additional Child was put into these, where necessary, in order to keep the families together. Several of the Persons examined have

stated that they considered the Ship as too much crowded; and, taking into consideration the large proportion of very young Children, who, to permit of proper attention to that cleanliness which is absolutely necessary for the preservation of their health, require nearly as much room as Adults, the Board are of opinion that, even if proper regulations had been established and attended to for the preservation of Order, cleanliness and ventilation, the number of Emigrants on board would have been greater than could be comfortably accommodated without being too much crowded. It may here, for the sake of connexion, be mentioned, although more properly in answer to the seventh Question, that the number of Persons shipped on board the Lady Macnaghten rather exceeded the number of three persons for every five Tons of her Registered Burthen, including her Master and Crew, as prescribed by the Act of Parliament. Her Registered Burthen, as stated in the Charter Party and in the Master's Evidence to be Five hundred and fifty eight Tons, which, at the rate of three Persons for every Five Tons, would give three hundred and thirty four Adult persons, as the number she is entitled to carry. The Total number of Emigrant Passengers embarked on board the Lady Macnaghten is shewn, by the List above referred to, to have been Four hundred and twelve, which, calculated according to the Rules of the Act of Parliament, gives the number of Adult Passengers as Three hundred and four

four .....	304
exclusive of the Surgeon Superintendent and Mrs. Hustwick,	
the Wife of the Master .....	2
And also of the Crew, the number of whom is stated by	
Master to be Thirty .....	30

1837.  
7 July.

Report by board re outbreak of fever and complaints by passengers on ship Lady Macnaghten.  
Excess in number of passengers.

Making the Total Number of Adult Persons on board  
Three hundred and thirty six .....

336 which exceeds the number allowed by the Act by two Persons. It is proper to mention however, that in the year 1835 the same Vessel brought out three hundred Male Convicts, exclusive of the Military Guard and Crew;\* but among these, there were very few young Children, And the Board remain of the opinion, previously expressed, that the number of Emigrants embarked, considering the number of very young Children and other circumstances above mentioned, was too great, even if proper regulations had been established and enforced.

The crowded state of the Ship should have induced the most scrupulous attention to every possible means of ventilation: but it has been stated by many of the persons examined that the free circulation of air was not only greatly obstructed by a Lattice work round each of the Hatchways from the Upper to the Under deck, but also that none of the Side Ports of the Ship were ever opened during the whole Voyage, although the Bulls-eyes in them occasionally were so. It also appears in Evidence that the Hatchway Ladders, as well as many parts of the Workmanship of the Berths, were much too slight and of insufficient workmanship.

Want of ventilation.

3. In answer to the inquiry respecting the quantity and quality of the Provisions, and the Scale of Ration actually issued, it may be answered that there are no complaints of any deficiency of Provisions, except for the first three weeks, when, partly from the want of Order and proper regulation of the Messes, and partly from

Quantity and quality of provisions and scale of ration.

\* Marginal note.—The number of Convicts, Guard and Crew were, it is believed, as follows:—Convicts, 300; Guard, 49; Crew, 37—386.

1837.  
7 July.

Report by  
board re  
outbreak of  
fever and  
complaints by  
passengers on  
ship *Lady  
Macnaghten*.

Quantity and  
quality of  
provisions  
and scale  
of ration.

a deficient issue of Potatoes, there appears to have been sufficient cause of complaint. After that time, the supply of the principal Articles is admitted to have been adequate to the wants of the Emigrants, and in general of good quality, although a bad Cask of Biscuit or Flour was occasionally brought out; but these were generally exchanged for good ones by the Captain's Order except on one occasion, when, it is said, a Cask of bad Flour was not so exchanged.

In regard to the Scale of Rations actually issued, it appears in Evidence that a Printed Scale, signed by Mr. Marshall, was furnished to several of the Emigrants, as containing the Rules by which the issues would be made. One of these Printed Scales has been produced by Mr. Henry Bingham, a Cabin Passenger, and a Copy of it will be found in the Appendix. No correct List of the Emigrants embarked appears to have been furnished either to Dr. Hawkins or Captain Hustwick; at any rate none such has been found or produced.

By a List made out by Dr. Inches, while in charge of the Emigrants when under Quarantine, with the assistance of Jeremiah Ledsam, one of the Passengers, who acted as School Master on board, it appears that the total number of Emigrants, who embarked on board the *Lady Macnaghten*, was four hundred and twelve. This number is exclusive of the Surgeon Superintendent, Mrs. Hustwick, Wife of the Master, and the Master and Crew. A Copy of this List will be found in the Appendix.

The Printed Scale, above referred to, differs from the Act of Parliament in respect to the age at which Persons are to be esteemed Adults; the Act appointing persons of fourteen years and upwards to be so considered, the Printed Scale persons of fifteen years and upwards. By the Act also, two Children of the Age of from seven to fourteen years and three Children of the age of from one to seven years are considered as equal to one Adult, but the Printed Scale allows two-thirds of an Adult's ration to a Child\* of the Age of from one to seven years. Adopting the Printed Scale as the proper rule on this occasion in respect to the issue of Provisions, and taking the Ages of the Emigrants from the List prepared by Doctor Inches above referred to, they may be classed as follows, viz. :—

Adult men, of the Age of fifteen years and upwards, entitled to full rations .....			No. of Males.	No. of Rations.
			72	72
Boys, under fifteen and above seven, entitled to two-thirds of a man's ration .....			47	31½
Boys, under Seven, entitled to half a man's ration .....			6	3
			<hr/> 125	<hr/> 106
Adult Women, of the Age of fifteen years and upwards, entitled to two thirds of a Man's ration in respect to Bread; some variation as to other Articles .....	No. of Females.	No. of Men's Rations.		
	144	96		
Girls, under fifteen and above seven, entitled to two thirds of a Woman's ration .....	44	20		
Girls, under Seven including also Some very young Male Infants, entitled to half a Woman's ration .....	99	34		
	<hr/> 287	<hr/> 150	287	150
			<hr/> 412	<hr/> 256½

\* *Marginal note.*—of the age of from seven to fifteen years, one half of an adult's ration to a child.

The Total number of Emigrants, Four hundred and twelve being entitled according to the Printed Scale to receive daily Two hundred and fifty six Men's rations and one third of a Ration.

1837.  
7 July.

On reference to the Evidence of Edward Mullins (who performed the duty of Serving out the rations to the Emigrants during the whole voyage, assisted by Roger Meehan), it appears that the number of Rations issued to the Emigrants daily was thirty six Messes of eight persons, equal to two hundred and eighty eight rations, which are thirty two more than they were strictly entitled to; and this liberal calculation by Messes is borne out by the Book of daily issues of Provisions, where it appears that, while they lasted, the daily issue of Potatoes was with some exceptions four hundred and thirty two pounds, equal to one hundred and forty four pounds of Bread, which, with one hundred and fifty two pounds of Bread, the quantity usually issued daily along with the Potatoes, gives two hundred and ninety six rations of Bread and Potatoes.

Report by board re outbreak of fever and complaints by passengers on ship *Lady Macnaughten*. Quantity and quality of provisions and scale of ration.

With respect to the issue of Potatoes, however, the Board are of opinion that the quantity of them shipped for the use of the Emigrants on this occasion was very greatly too large; They occupied a great portion of the Ship's Hold, to the exclusion of the Emigrants' luggage, which was consequently stowed "Between decks," obstructing ventilation and causing accumulations of filth, to which may be attributed many of the evil consequences which have ensued. The Board think that Potatoes should never form a part of the daily ration, or, if at all allowed, should be so only occasionally. On this occasion, the use of them was continued daily for about half the duration of the Voyage, until they became unfit to be used, to the exclusion of about one fourth of the ration of Bread and the whole ration of Flour.

The Ration of Beef to be served daily agreeably to the Printed Scale, particularly that appointed for the Men, two thirds of a pound, appears to the Board to be small, and that it should be increased to at least three quarters of a pound; but, in accordance with that Scale and Doctor Inches' List, the quantity, to which the Emigrants were entitled daily, was one hundred and eighty four pounds of Beef, instead of which the usual Actual issue was only one hundred and sixty eight pounds. The quantity of Pork, to which they were entitled daily, was One hundred and Seventy two pounds; the usual actual issue was one hundred and fifty six pounds. It is possible, however, and even probable, that differences in the Statements made to Mr. Hawkins and Dr. Inches of the Ages of the Children cause these discrepancies.

It is admitted by all the persons examined that, after the first two or three weeks, there was no reason to complain of any deficiency of Provisions, and that the quality of them was in general good. The Board therefore consider it unnecessary to enter into minute details of the various items, having satisfied themselves by calculation that there were no materially deficient issues of any of the articles. The Quantity of bread or bread stuffs required for the voyage calculated according to the rules of the Act was (51,408 lbs.) Fifty one thousand, four hundred and eight Pounds, which quantity and rather more was actually shipped as noted on the margin.\*

\* Marginal note.—12 Tons Bread=26,880 lbs.; 100 Barrels Flour=20,000 lbs.; 60 Bushels Meal=1,860 lbs.—48,740. 25 Tons Potatoes Weight in lbs. 56,000 equal, at the rate of 7 lbs. Potatoes for 1 lb. of Bread, to 8,000—56,740 lbs.

1837.  
7 July.

Report by  
board *re*  
outbreak of  
fever and  
complaints by  
passengers on  
ship *Lady*  
*Macnaghten*.

Supply of  
water.

4. In respect to the Sufficiency of the Supply of Water, taking into consideration the additional quantity required for washing in consequence of the number of Females and Children, it appears by the Charter Party that the Managing Owner (and Master of the Vessel) Mr. George Hustwick undertook to provide and have on board one hundred and fifty Old Tuns (equal to Thirty seven Thousand eight hundred Gallons) of filtered Water; and the List of Stores produced shews that this quantity was received on board. The number of Adult *Passengers*, Calculated according to the rules of the Act of Parliament, was shewn before to be three hundred and six, for whom, according to the terms of the Act, water must be provided (over and above the quantity necessary for the Crew) at the rate of five Gallons per Week for each Adult Passenger for twenty four Weeks, which gives, as the quantity required, Thirty six Thousand seven hundred and twenty Gallons (36,720 Gallons). No provision of fresh Water for Washing is mentioned either in the Act of Parliament or in the Charter Party, nor does it appear to have been contemplated. No complaints of any deficiency of water have been made. Indeed some of the Emigrants say that they were able occasionally to save a little for washing out of their Allowance.

Supply of  
medicines and  
medical  
comforts.

5. That the Supply both of Medicines and of Medical comforts was very inadequate is stated by all the Persons examined, and is admitted by the late Surgeon Mr. Hawkins in various parts of his Journal So early as the Sixth of December; only one Month after sailing, he mentions that "the Castor Oil is exhausted," And that four times the usual quantity ought to have been laid in on a voyage with so many Females and Children. He also acknowledges his obligations to Captain Hustwick for supplying him from his private Stock, and speaks in very high terms of the conduct of Captain Hustwick and likewise of his Officers. On the 12th of December, he takes blame to himself that a larger Stock of both Medicines and Medical Comforts was not provided, And makes mention of the impossibility of Cooking such of the latter as they had for want of proper culinary Apparatus. At the same place he mentions that the Port wine and Brandy were both very bad. On all of these points the Surgeon's Journal is fully borne out by the Statements of many of the Passengers examined. On the 9th of December, he attributes the great Mortality among the Children to the change of their diet, the deficiency of Medical Comforts for their nourishment, and the insufficiency of the Culinary Apparatus, adding that Sixty or Seventy dozen of Bottled Porter would have been of infinitely more value than the useless Superabundance of Potatoes. On the 10th of December, he mentions that Captain Hustwick offered him the use of his private Stock of Bottled Porter.

Quantity  
of cargo  
shipped.

6. The quantity of Cargo, shipped on board the *Lady Macnaghten*, was such that no part of the Passengers' Luggage but a few small Boxes could be stowed in the hold, until an advanced period of the Voyage; And in the first instance part of the Passengers' Luggage, and even part of the Stores, were stowed on the *Upper Deck*; besides which, the whole of the space "Between Decks" along the Central part of the Ship was filled from Deck to Deck, with exception of a narrow passage about three feet wide round the front of the Berths, and remained so for many weeks after the departure of the Vessel from Cork. Captain Hustwick states that about thirty Tons of the Iron might have been necessary

as ballast, but the remainder of the Iron and the other Articles were certainly not so, and were the cause of the Passengers' luggage not being put in the hold, and being stowed "Between Decks" as above mentioned, obstructing ventilation, and causing accumulations of filth; to which circumstances, the Board are of opinion that the sickness and Mortality, which prevailed, may be very greatly attributed.

7. The Seventh Inquiry, with respect to the proportion of Passengers to the Tonnage with reference to the Act of Parliament and to the general practice in the Transport Service, whether Military or Convict, has been answered by the latter part of the Board's reply to question 2nd. It may however be mentioned that it appears, by the Evidence of the Master Mr. Hustwick, that no Survey of the Condition of the Ship, her Berths, Stores and Water was made by any of the Officers of the Customs as required by the Act, but the Provisions and water were examined by Lieut. Friend, Dr. Alick Osborne, R.N., and Mr. Marshall.

8. It appears by the evidence of nearly all the persons examined that no means were taken to ascertain the health of the Emigrants on embarkation. The Witness Jane Ladd, Matron-in-Charge of the Hospital, says that two Cases of Scarlatina occurred about a week after the Ship left Cork. The Surgeon, in his Journal on the eighth of November, says a boy named Mulcahy, who has been *ill from fever since he embarked*, died this night. The Master says "that there was no Medical examination of the Passengers prior to embarkation; and that a Boy, brought into the Ship on the back of his Mother, died three days after of Scarlet Fever." He adds, "there was, I believe at that time, a bad kind of Scarlet Fever raging at Cork; my opinion is that the Scarlet Fever was brought on board by some of the Emigrants."

9. It appears by the Evidence of Jeremiah Ledsam, Edward Mullins, Daniel Kennedy, Roger Meehan, and all the Persons to whom the question was put, that no examination of the Emigrants' Clothing was made for the purpose of ascertaining its sufficiency or otherwise. Hannah Kaness says, "Many of the Women were very dirty from want of a Change of Clothes. I believe, having partly seen it myself, that some of the Women had not a Second Chemise. There was no general order to enforce their washing their persons, and I believe washing was generally neglected, except on Sunday mornings." Captain Hustwick says, "I believe in one instance there was a female who came on board with only the Clothes she had on. When I learned it, my wife, Mrs. Hustwick, gave her a small supply of her Own."

10. In respect to the behaviour of the Ship's Officers, as represented in the Printed Letter of Aberdeen and others, it appears to the Board that the Statements made in that letter, in respect to the Conduct of the Ship's Officers, have not been substantiated. The Surgeon, in his Journal, December 6th, concludes a long Paragraph speaking in the highest terms of Captain Hustwick, by saying, "from this Gentleman I have at all times received the most cordial support and co-operation; not merely this, but also very many Suggestions of which I have gladly availed myself, and now most gratefully acknowledge. The same Courtesy, Assistance, and exemplary moral and general conduct, I have experienced at all times from the Officers in their respective duties." He continues throughout his Journal to speak of them in similar terms. Jeremiah Ledsam

1837.  
7 July.

Report by board re outbreak of fever and complaints by passengers on ship *Lady Maenaghten*.  
Passengers in proportion to tonnage.

Want of medical examination on embarkation.

Want of clothing.

Conduct of ship's officers.

1837.

7 July.

Report by  
board *re*  
outbreak of  
fever and  
complaints by  
passengers on  
ship *Lady*  
*Macnaghten*.

says, "there was no harsh usage by the Officers towards the Emigrants, that I saw, except that the Chief Mate occasionally used a small rattan to those Women, who hesitated to go down at the required time. I never remember hearing any improper language or Oaths, though the Officers frequently reproached the Women with their want of cleanliness." Mr. Henry Bingham, a Cabin Passenger, however says, "The (young) Women were very much disinclined to go below at five O'Clock on account of the great heat. I believe there was unnecessary harshness in the\* manner of doing it; but I should not be borne out in saying that there was any actual violence used." Mr. Charles Bolton, of the Customs, says, "I never observed any undue harshness on the part of the Captain or any of his Officers towards the Passengers."

11. With respect to the means adopted for ventilation and cleanliness, the Board apprehend that the answers to this Inquiry have been so fully embodied in those made to the previous questions, that it is unnecessary to make a Special reply to it.

12. In reply to the Inquiry as to the Regulations adopted or required generally for preserving order, and the health, comfort, and Character of the Passengers. The Board regret to say that it does not appear from the Evidence that any general regulations for the guidance of the Emigrants, or for the preservation of the very desirable objects above mentioned, were established, with the exception of the Order detailed in Jeremiah Ledsam's Evidence, which regulated that all the Young Unmarried Women were to go below at half past five O'Clock, and one half the married Women, Alternately, at the same hour, the other half being permitted to remain on deck till half past eight or nine O'Clock. If any other regulations were made, they do not appear to have been known, and certainly were not enforced.

In conclusion, the Board beg leave to observe that they are of opinion that the great mortality, which has occurred on board the *Lady Macnaghten*, may be attributed, in a great measure, to the following Causes:—

1st. The improper selection of the Surgeon Superintendent, who, although so far as the Board can learn, a man of very excellent Character and of respectable Acquirements with regard to his Professional knowledge, was quite inexperienced in respect to the duty he undertook, and wholly deficient of the knowledge necessary for the establishment of proper regulations and of the firmness to enforce them; in consequence of which, no proper rules for the preservation of Order, cleanliness and ventilation were laid down; dirt and filth accumulated in every direction, and disease naturally was the consequence.

2. The very improper filling up of the hold of the Ship with Cargo in such a manner as to cause the Stowage of nearly the whole of the Emigrants' luggage between decks, thereby completely obstructing ventilation and preventing the proper cleaning of the decks and berths.

3. The neglect of the very necessary precaution of the examination of the Emigrants by a properly qualified Medical man, previous to their embarkation, for the purpose of ascertaining the state of any that might be found labouring under any contagious disease.

4. The want of a sufficient Supply of Medicines and Medical Comforts, including among the latter such Articles as Sago and

\* *Marginal amendment*.—enforcement of the order by the officers, there was a roughness in the

Want of  
regulations.

Causes of  
mortality.



Arrow-root, none of either of which were on board; and likewise, as Mr. Hawkins' in his Journal Suggests, some bottled Porter, which, considering the number of Women with very young Children embarked, would have been found useful in supporting them, until gradually accustomed to ordinary Ship's fare. To the want of such precautions, the death of many of the Infants is particularly attributed by the late Surgeon Superintendent Mr. Hawkins in his Journal.

WM. MACPIERSON, Clerk of Councils, Pres.  
 CHARLES INCHES, M.D., Surgeon, R.N.  
 CHAS. WINDEYER, 2nd Police Magistrate.  
 W. HUNTER, Captl. and M. Secy.

1837.  
 7 July.

Report by board re outbreak of fever and complaints by passengers on ship *Lady Macnaghten*.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 60, per ship Thomas Lowry; acknowledged by lord Glenelg, 7th June, 1838.)

My Lord, Government House, 7th July, 1837.

In my Despatch of this date, No. 59, I have stated that the expences of the Quarantine, under which it was necessary to place the Ship *Lady Macnaghten*, amounted to £5,000. I have now the honor to transmit an abstract shewing the principal items of this large Expenditure. Your Lordship will please to observe that, in admitting certain claims of the Master, Officers, Crew and Agent of the vessel, I acted under the advice of the Attorney-General, whose opinion on the case laid before him I have the honor to transmit. The charge for demurrage, or, it is termed, converting the Ship into a Lazaret, I have not thought it right to allow, but have informed the Master that it shall be submitted to your Lordship for decision; and, if the claim be allowed, the amount awarded will be paid by the British Treasury in London, and repaid to the Military Chest here.

Expenditure on quarantine of ship *Lady Macnaghten*.

Considering these Expences as connected with Emigration, I have defrayed them from the Revenue of Crown Lands.

I have, &c.,

[Enclosures.] RICHD. BOURKE.

[Copies of these two papers are not available.]

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 61, per ship Thomas Lowry.)

My Lord, Government House, 8 July, 1837.

Having within these few days laid before the Legislative Council the Estimates of Expenditure for 1838, I avail myself of the opportunity of a Ship now sailing for England to forward a Copy, together with my Explanatory Minute, although the Council have not yet entered upon their consideration.

8 July.

Estimates of expenditure.

I have, &c.,

RICHD. BOURKE.

1837.  
8 July.

[Enclosures.]

[Copies of these papers were printed in the "Votes and Proceedings" of the legislative council.]

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LORD GLENELG TO SIR RICHARD BOURKE.  
(Despatch No. 341.)

Downing Street, 10th July, 1837.

[A copy of this despatch will be found in the appendix to this volume.]

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LORD GLENELG TO SIR RICHARD BOURKE.  
(Despatch No. 342, per ship James Pattison.)

11 July.

Sir,

Downing Street, 11 July, 1837.

Petitions  
received from  
graziers at  
Port Phillip.

I have the honor to acquaint you that I have received a letter from Mr. Mackillop of Hobart Town in Van Diemen's Land enclosing Copies of two Petitions which had been addressed to you by the Proprietors of Stock at Port Philip.

If you are not already in possession of these Papers, I have to request that you will call on Mr. Mackillop for copies of them, and that you will transmit them to me with your Report on the Allegations contained in the Petitions and on the claims preferred by the parties who have signed them.

I have, &c.,  
GLENELG.

Report  
required.

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LORD GLENELG TO SIR RICHARD BOURKE.  
(Despatch No. 343, per ship Waterloo.)

14 July.

Sir,

Downing Street, 14 July, 1837.

I have received the Duplicate of your Despatch No. 118 of the 4th Novr. last, relative to the case of Mr. Henry Dangar.

The original of this Despatch, tho' dated on the 4th Novr., 1836, has not yet reached this Department, nor was the Duplicate received until the 19th Ult., and, when so received, it appeared to contain no copy of Mr. Dangar's Memorial on which the whole question referred for my consideration turns. I mention these facts in order to explain why it is that I have not complied, and am for the present unable to comply, with your request for an early decision on the course to be pursued in Mr. Dangar's case.

Individuals neglecting to furnish you with Duplicate copies of representations, which they may desire to have submitted to Her Majesty's Government, are of course liable to experience the inconvenience of the delay which may arise from such neglect.

I have, &c.,  
GLENELG.

Reasons for  
delay in  
decision re  
claims of  
H. Dangar.

LORD GLENELG TO SIR RICHARD BOURKE.

1837.  
14 July.

(Despatch No. 344, per ship Neptune; acknowledged by acting governor Snodgrass, 17th February, 1838.)

Sir, Downing Street, 14 July, 1837.

I have the honour to transmit to you, for your information and guidance, copies of a correspondence which has taken place, shewing the circumstances under which I have given my sanction to the appointment of the four Ministers, whose names are mentioned in the margin,\* to the Presbyterian Church in Australia on the recommendation of the Synod of Ulster.

Appointment of  
Presbyterian  
clergy.

I have, &c.,  
GLENELG.

[Enclosure No. 1.]

SIR GEORGE GREY TO REV. HUGH ROGERS.

Sir, Downing Street, 12 June, 1837.

With reference to my letter of the 1st Ult., I am directed by Ld. Glenelg to transmit to you the enclosed copy of a Communication which has been addressed to me by the Revd. Dr. Macfarlane a Convener of the General Assembly's Committee on Colonial Churches, conveying the decision of the General Assembly on the question submitted to Dr. Macfarlane in my letter of the 29 March, a copy of which is in yr. possession. I am to acquaint you that, in consequence of this communication, Ld. Glenelg will be happy to receive from the Synod of Ulster recommendations of Presbyterian Ministers duly qualified to take the Charge of Churches or Congregations in the Colonies of N. S. Wales and V. D. Land. It will be necessary that such recommendations shd. be forwarded to the Secy. of State by the Moderator of the Synod, accompanied by such testimonials of character and qualifications as may satisfy his Ldship, that it is his duty to sanction the Appointment. On the approval of Lord Glenelg of any Individual for such an appt., he will be authorized, after having engaged a passage, to draw for the usual allowance of £150 for the expences of his passage and outfit.

Clergy to be  
nominated by  
synod of Ulster.

Allowance for  
passage money.

The future Employment of any Clergymen in these Colonies after their arrival must depend on the openings which may exist from time to time for such employment, and on their adaptation for the duties which will devolve upon them. It will of course be indispensable that they shd. conform to the requisition stated in the concluding part of Dr. Macfarlane's letter.

I have, &c.,

GEO. GREY.

[Sub-enclosure.]

REV. DR. MACFARLANE TO SIR GEORGE GREY.

Sir, College Glasgow, 3 June, 1837.

The Committee, of which I am appointed Convener, have recd. from the Genl. Assembly of the Church of Scotland the following Instructions, vizt. :—

Resolution  
by general  
assembly of  
church of  
Scotland.

“To represent to the R. Hon. The Secretary of State for the Colonies that no objection exists on the part of the General

\* *Marginal note.*—Revd. Thos. Dugall, Revd. James Fullerten, Revd. Hugh Gilchrist, Revd. Robert Blair.

1837.  
14 July.  
Resolution  
by general  
assembly of  
church of  
Scotland.

Assembly to Govt., granting to the Ministers and Preachers of the Synod of Ulster emigrating to Australia the same allowances for outfit and passages as are made to those belonging immediately to the Church of Scotland."

"To state as the opinion of this Assembly that such Ministers and Preachers on their arriving in New South Wales or Van Diemen's Land may be taken under the charge of the Presbyterians in connection with this Church, established or to be established in those Colonies, on their adhibiting the subscription and coming under the engagements required of the Ministers of this Church and continuing to observe these engagements, but no longer."

I trust this Communication will be satisfactory to Lord Glenelg.

I have, &c.,

D. MACFARLANE.

[Enclosure No. 2.]

REV. WILLIAM CRAIG TO LORD GLENELG.

My Lord,

Belfast, 1st July, 1837.

Letter  
acknowledged.

Your Lordship's communication of the 12th of June was received by my Predecessor in Office, the Revd. Hugh Walker Rodgers, conveying the gratifying intelligence that your Lordship is now "ready to receive from the Synod of Ulster recommendations of Presbyterian Ministers duly qualified to take the charge of Churches or Congregations in the Colonies of New South Wales or Van Diemen's Land." This communication of your Lordship has induced several Ministers of the Synod to offer themselves for your Lordship's approval with the view to their emigration to these Colonies; and, in accordance with your Lordship's Letter, I am instructed by the Synod of Ulster, at present holding their annual meeting in this Town, to forward the names of the following brethren, Revd. Thos. Dugall, Minister of the Presbyterian Church, Vinecash, County of Armagh; Revd. James Fullerton, Minister of the Presbyterian Church, Benburb, County of Armagh; Revd. Hugh Gilchrist, Minister of the Presbyterian Church, Bally; James Duff, County of Cavan; and Revd. Robt. Blair, Belfast, Licentiate of the Presbytery of Belfast; I am directed to assure your Lordship that the Synod, having taken into their serious and deliberate consideration the applications of the Ministers, whose names I have mentioned, are unanimously of opinion that they are fully qualified to undertake the important duties of Presbyterian Ministers in Australia. They are all men of unblemished life and as Clergymen have been highly useful in their respective spheres of labor. I am further instructed to inform your Lordship that they have all conformed to "the requisition stated in the concluding part of the Revd. Dr. McFarlane's letter." The Law of the Synod of Ulster in reference to subscription to the confession of faith being in all respects the same as that of the Church of Scotland. It is hoped that their testimonials will prove satisfactory to your Lordship, and as the Ministers already named are anxious to accompany the Revd. Dr. Lang in the "Portland," advertized to sail from Greenock on the 10th Instant, you will, at the earliest date possible, authorize them to draw for the usual allowance of £150 each for the expences of Passage and outfit.

I have, &c.,

WILLIAM CRAIG,

Moderator of the general Synod of Ulster.

Clergy  
recommended  
by synod  
of Ulster.

Request for  
allowance of  
passage money.

[Enclosure No. 3.]

TO REV. WILLIAM CRAIG.

1837.  
14 July.

Sir,

Downing Street, 4 July, 1837.

I am directed by Lord Glenelg to acknowledge the receipt of your Letter of the 1st Instant, recommending, on behalf of the Synod of Ulster, the 4 Presbyterian Ministers named in the Margin,\* for appointment to the Ecclesiastical Establishment in Australia. Although, in accordance with the suggestion of Principal Macfarlane referred to in my Letter of the 1st Instant addressed to the Revd. Hugh Rodgers, Lord Glenelg had not intended to sanction an increase in the number of Presbyterian Ministers receiving an allowance from the Government for outfit and passage, without further information from the Colony as to the facilities which might be found for their employment on their arrival, His Lordship is unwilling to refuse his sanction to the appointment of the four Gentlemen, whose names you have now submitted to him, and who appear to have already made their arrangements for proceeding to Australia. Lord Glenelg, however, feels it his duty to remind you that Her Majesty's Government cannot hold themselves responsible for any immediate provision being made for any of these Ministers on their arrival. Their names will be transmitted to the respective Governors of New South Wales and Van Diemen's Land as having been approved by Lord Glenelg, and his Lordship trusts that openings may shortly occur for their employment in one or other of these Colonies.

Letter acknowledged.

Conditional approval of appointment of clergy.

The testimonials referred to in your Letter have not yet been received by Lord Glenelg; but, should they prove satisfactory, as his Lordship has every reason to anticipate, authority will be given for the payment of the usual allowance for their outfit and passage.

Passage money authorised after submission of testimonials.

In drawing for the allowance for outfit and passage, after having engaged their passages, it will be necessary for the Clergymen to use the following form.

[Unsigned.]

LORD GLENELG TO SIR RICHARD BOURKE†.

Sir,

Downing Street, 14 July, 1837.

At the request of the Belgian Minister at this Court I have the honour to introduce to you, and to recommend to your good offices Mr. Jean Baptiste Lacourt and M. Honore Lacourt, who are about to proceed to the East on a Scientific Mission.

Introduction of J. B. and H. Lacourt.

I have, &c.,

GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 345, per ship Asia; acknowledged by Sir George Gipps, 8th November, 1838.)

Sir,

Downing Street, 21 July, 1837.

21 July.

I have the honour to transmit to you a copy of a Resolution of the House of Commons, bearing date the 30th June, 1837; and, in compliance with the terms thereof, I have to request that

Resolution of house of commons.

\* Marginal note.—Revd. Thos. Dugall, Revd. James Fullerten, Revd. Hugh Gilchrist, Revd. Robert Blair.

† Note 2.

1837.  
21 July.  
Return  
required.

you will transmit a "Return of the number of cases in which the punishment of flogging has been inflicted" in the Colony under your Government "from year to year since the 1st January, 1830"; and I should also be glad to receive your opinion on the effects of flogging as a Secondary Punishment. I have, &c.,

GLENELG.

[Enclosure.]

RESOLUTION.

Resolution by  
house of  
commons *re*  
floggings and  
secondary  
punishments.

Resolved,

Veneris, 30<sup>o</sup> die Junii, 1837.

That an humble Address be presented to Her Majesty that She will be graciously pleased to give directions that there be laid before this House.

"Return of the number of cases in which the punishment of Flogging has been inflicted in the Australian Colonies in Criminal Cases, from year to year, since 1st January, 1830; and of the Acts by which authority is given for the infliction of that punishment."

"Also, of any Correspondence which has taken place between the Secretary of State and the Colonial Authorities, since 1st August, 1834, on the subject of Secondary punishments, and especially on the effects of flogging as a Secondary punishment."

Ordered,

That the said Address be presented to Her Majesty by such Members of this House as are of Her Majesty's Most Honorable Privy Council.

J. H. LEY, Cl. Dom. Com.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 347, per ship Asia.)

Sir,

Downing Street, 21 July, 1837.

Transmission of  
reports from  
T. F. Elliott.

I have the honor to transmit to you for your information a Copy of a Report from Mr. Elliot, the Agent General for Emigration, stating the progress of Emigration to New South Wales and Van Diemen's Land since he entered on his duties, together with a copy of a previous Letter from the Agent General referred to in his report.

I am, &c.,

GLENELG.

[Enclosure No. 1.]

MR. T. F. ELLIOT TO UNDER SECRETARY STEPHEN.

Sir,

Colonial Office, 30th June, 1837.

Proposed  
appointment  
of Stewart  
as surgeon  
on ship  
*Midlothian*.

I have the honor to transmit to you for Lord Glenelg's consideration the enclosed correspondence between Dr. Boyter and myself upon the subject of an application from Dr. Stewart, a Surgeon in the Isle of Harris, to be sent to New South Wales in charge of one of the ships proceeding with Emigrants from the *Hidrides*. Dr. Stewart is familiar with the language and habits of these People. His general qualifications are strongly attested by Dr. Boyter. And the employment of him will save the Colony some

Hundreds of Pounds. I am also informed that he is entirely unacquainted with the Sea. Although therefore the selection of a private Surgeon for this duty must necessarily involve a higher responsibility than that of a regular Naval Surgeon, yet, adverting to the considerations I have mentioned in this instance, and seeing moreover that with so many ships as are in course of going out with Emigrants, it must be doubtful whether the list of Naval Surgeons will suffice to meet the demand for all, I would beg leave warmly to recommend the appointment of Dr. Stewart to take charge of the people in the "Midlothian," which is to sail from Skye about the 20th July. And I would further submit that it might be desirable to authorize Dr. Boyter to give notice of any other eligible candidates of the kind whom he may hear of in respect to his subsequent Vessels.

1837.  
21 July.

Proposed appointment of Stewart as surgeon on ship *Midlothian*.

As there is little time to spare in completing the preparations for the "Midlothian," it would be desirable to receive Lord Glenelg's commands on the present question as soon as may not be inconvenient.

I have, &c.,

THOS. ELLIOT.

[Enclosure No. 2.]

MR. T. F. ELLIOT TO UNDER SECRETARY STEPHEN.

Sir,

Colonial Office, 24 June, 1837.

I have the honor to submit to you for Lord Glenelg's consideration the following Report of the grounds, on which I would recommend that measures should be taken for engaging a ship to proceed from Bristol with Emigrants to New South Wales.

Proposal for engagement of ship to sail with emigrants from Bristol.

Having received intelligence of a considerable want of employment and disposition to emigrate in the Parishes of Bisley and Uley in Gloucestershire, I addressed myself personally to Sir George Grey and obtained his concurrence in the propriety of endeavouring to ascertain whether it might be expedient to provide a ship for their conveyance to New South Wales from the Port of Bristol.

I then communicated on the subject with the Poor Law Commissioners, and through their intervention with the Boards of Guardians in the Districts in question, and with the assistant Poor Law Commissioner of the County.

In order also to learn how far any deficiency in the numbers procurable in Gloucestershire could be supplied from other quarters, I applied for information to Colonel A. Court, the Assistant Commissioner for the County of Wilts; and Dr. Rogers, the Surgeon who is to have charge of the next Emigrant Ship from England, has been directed to repair to Dawlish, for the purpose of enquiring into the cases of some eligible applicants who have been heard of there. To all the parties thus addressed, I have distinctly explained the regulations according to which alone Emigrants can be accepted.

In consequence of these different enquiries, the information which has as yet been received is as follows. Active efforts are being made to collect Candidates of the right description at Uley. The Rector and Curate of Bisley (who takes a great interest in the undertaking) have already furnished a List of Thirty three families willing to go from that Parish. And Colonel A. Court has stated the probability of being able to derive a certain number of

1837.  
21 July.

Proposal for  
engagement  
of ship to  
sail with  
emigrants  
from Bristol.

Emigrants if required from the neighbourhood of Fordingbridge. Dr. Rogers has not yet had time to make any report from Dawlish; but the Revd. Mr. Hardinge, a Clergyman resident there, has written to assure me of an extensive desire to emigrate amongst persons of a perfectly eligible description.

The people to be taken from Gloucestershire would probably belong principally to the class of weavers, but accustomed, as it has been represented, to work in the field upon occasions, and capable of turning their hands to any labour. Of course, it will be the duty of the Surgeon Superintendent to test the correctness of these representations, and take care not to admit Candidates who could not make themselves useful in the Colony. The people from around Fordingbridge, should it be found necessary to resort thither, would be of the Agricultural Class. Several able Mechanics are said to be amongst the people desirous to emigrate from Dawlish.

Under these circumstances, seeing the security which appears to exist for bringing together a sufficient number of eligible people at the Port of Bristol, considering also that a selection of Settlers from the West of England is contemplated in one of the latest despatches received from Sir Richard Bourke, and that we have no information at present of any other part of England from which a body of Emigrants could be so readily collected, I venture to recommend that measures should at once be taken for engaging a Ship to sail with passengers from Bristol to New South Wales.

There are many reasons why this, if approved, should be done forthwith. In the first place, the commencement of the Harvest-Season, before the business were completed, would be likely to interfere materially with its success. It is, moreover, always desirable to carry these arrangements into effect as soon as possible after the people may be expected to have adopted their decision. Having become unsettled at home, they are no longer well here; and yet delay gives room for misgivings to come over them, and perhaps a state of irresolution not less painful to themselves than inconvenient to all others concerned.

To this I would only add that, with a view to the convenience of arrival in the Colony, compared with the probable arrival of Emigrant Ships appointed to sail from other quarters, one of the first days in August would be the best time for the departure of the proposed vessel from Bristol. Adverting to all these considerations, the 27th of July is the date, which I would humbly advise to be named for the ship to be at the Port of Embarkation ready to receive her passengers.

Sir Richard Bourke has recommended a Surgeon, who is coming home from New South Wales, specially for the selection of a party of Emigrants from the West of England; and Lord Glenelg will doubtless regret that it is not possible to employ him on the present occasion. But, as Sir Richard Bourke's despatch was only received within the last few days, and it is not supposed that Dr. King has yet even reached England, the reasons for being unable to comply with the Governor's recommendation in this instance will be apparent, while some other suitable opportunity of employing Dr. King would seem very likely to arise soon after his arrival.

I have, &c.,

THOS. F. ELLIOT.



[Enclosure No. 3.]

1837.  
21 July.

MR. T. F. ELLIOT TO UNDER SECRETARY STEPHEN.

Sir,

Colonial Office, 28th June, 1837.

In reference to my Letter of the 24th Inst. recommending the employment of a vessel to take Emigrants from the Port of Bristol to New South Wales, I would take the liberty of suggesting for Lord Glenelg's consideration the expediency of offering a passage by the same opportunity to some of the Clergymen of the Church of England, who I have been informed are about proceeding to the Colony under his Lordship's sanction.

Passages proposed for clergy in emigrant ship from Bristol.

A similar offer was made, in the case of the last emigrant ship that sailed from England, but was declined on account I believe of the shortness of the notice. The advantages that must be expected to result to the Passengers from the presence of a respectable Minister of Religion are too evident to need any mention by me. And the good service, which might be rendered during the voyage, as well as the possibility in some cases that the intercourse on board might lead to a permanent connexion afterwards and form the nucleus of a congregation in the Colony itself would seem to constitute inducements to a zealous Clergyman to give some preference to this mode of conveyance.

In the ships which Dr. Boyter is sending from the Hebrides, it may be presumed that the majority of the Passengers will be Presbyterians, and speak little else but Gaelic. I have been happy to learn therefore that Lord Glenelg has recently had an opportunity of granting a passage to a Presbyterian Preacher, well acquainted with the Gaelic, in the ship which is expected to sail from Skye about the 20th July; and I would humbly submit that it might be useful to add an intimation to the Colonial Committee of General Assembly, that any further applications of the same nature for passages in Emigrant ships going from Scotland would be favorably received.

Presbyterian minister embarked on ship from Skye.

Should Lord Glenelg be pleased to approve of making the offer above suggested to Clergymen going from England, I hope it may not appear trifling to add that some advantage might be derived from mentioning that the Vessel conveying the Emigrants would be a carefully chosen and well appointed ship, inspected by Government Surveyors, and prepared for sea at one of the King's Dock Yards.

The expence of the Clergyman's passage would, I presume, be defrayed from the same sources as at present, and not create an additional charge on the fund from which the conveyance of the Emigrants is paid. Having no accurate knowledge, however, of the existing Regulations respecting the passage of Ministers going to New South Wales, I would request distinct Instructions from my guidance, should any of them accept of accommodation in an Emigrant ship; and in the mean while I have only to suggest that the arrangement should be so framed as to render the advantage of a conveyance by this mode not less than if the Clergyman proceeded by a private opportunity, with the pecuniary allowance granted to him by the Public in that case.

Expense of passage of clergy.

I am, &c.,

T. F. ELLIOT.

[Enclosure No. 4.]

1837.  
21 July.

MR. T. F. ELLIOT TO UNDER SECRETARY STEPHEN.

Sir,

Colonial Office, 10th July, 1837.

Report by  
T. F. Elliot on  
progress of  
emigration.Alterations in  
system of  
emigration.Departure of  
ships *John  
Barry* and  
*Adam Lodge*.Fixed bounties  
for emigrants.Free passages  
substituted.Sailing of ship  
*Augusta  
Jessie*.

I think I have now been sufficiently long in charge of my present office to render it desirable that I should offer you, for Lord Glenelg's information, the following report of the Progress of Emigration to New South Wales and Van Dieman's Land.

You are aware that the practice of employing ships exclusively for the conveyance of females to the Australian Colonies has been discontinued, and the London Emigration Committee, through whose intervention that business used to be carried on, dissolved. The custom of allowing loans to Mechanics and Farm Labourers, to assist them to emigrate, has also ceased. And instead of these plans, which experience is considered to have proved to be on the whole undesirable, it has been determined to encourage the emigration of the same classes by allowing a free conveyance to young married couples of good character, with their families, and to any young unmarried female Relative or Friends, who may accompany them to the Colony with their consent and under their protection. The recommendation of the Legislative Council on which this system is based, together with the measures Sir Richard Bourke has proposed to adopt in pursuance of them, and Lord Glenelg's sanction, are all so recent and so well known as to render it needless to recapitulate them here. They appear at full length in the Series of Papers on Emigration laid before Parliament this year.

My object will now be to state in order of time the proceedings, of which I have had cognizance in execution of these recommendations, and to remark, as they occurred, any alterations of the plans proposed in the Colony.

I found that, previously to my appointment, two ships had been dispatched with Emigrants under the new system. The "*John Barry*" had sailed from Dundee on the 15th of March with 323 free passengers, selected by Dr. Boyter of the Royal Navy and sent out under charge of Dr. Thompson, R.N.; the "*Adam lodge*" had sailed on the same day from Londonderry with 405 passengers, selected and accompanied by Dr. Osborne, R.N.

In respect of these vessels, it was at first intended that, instead of an absolutely free conveyance, a fixed amount of bounty should be allowed to each Emigrant, and the surplus expence, if any, be left to be defrayed by himself; and, in the case of the "*Adam Lodge*," the intention was persevered in, but it has not been adhered to in any of the other vessels. I cannot doubt that it would have thrown great difficulties in the way of the officers employed in the duty of selection. It would have impaired the certainty of their proceedings, have increased the chance of defaulters at the last moment, and in some parts of the Country have checked the disposition of the people generally to go. The present plan of offering simply a free passage will give the Superintendents a greater command over the formation of their party, a wider choice and consequently a more complete responsibility.

The first ship, which has sailed since I entered on my duties, was the "*Augusta Jessie*." She left Portsmouth on the 13th of June with 234 passengers, collected and chosen by Dr. Galloway, R.N., under directions which he received from the Colonial Government upon leaving Sydney last year. These people were principally drawn from the Counties on the South Coast of England,

and a few from Wiltshire. In order to get them together, Dr. Galloway had travelled from Portsmouth over a considerable part of Wiltshire, and the Northern part of Hampshire, had taken a tour through Dorset, and had also visited the Eastern part of Sussex, enquiring into the disposition to emigrate, and personally inspecting Candidates.

1837.  
21 July.

I proceed to state how far it was found advisable in the case of this ship to deviate from the rules recommended by the Colonial Authorities to be observed. First, in respect of the dietary; Sir Richard Bourke had appended to his Instructions to Dr. Galloway a scale of provisions, which was the same, I believe, as had been adopted in the ships sent out by the London Emigration Committee. But some alterations in that scale were made by Dr. Thompson of the "John Barry" under supervision of the Comptroller of victualling the Navy; and it was thought expedient by those conversant with the subject to extend the same to the "Augusta Jessie." The chief differences consist in the withdrawal altogether of the allowance of cheese, as the Admiralty are not in the habit of supplying Ships with that Article; in diminishing the quantity of Pork; in increasing the quantity of Sugar; and in substituting a smaller quantity of chocolate for the allowance of Cocoa. An addition of Oatmeal was made in the case of the "John Barry" in consequence of the number of Scotch Emigrants on board. But the use of it having been found on recent experience to be very beneficial to the sick, and to persons previously accustomed to indifferent food, the same quantity was continued in the "Augusta Jessie," and will probably be provided in most cases hereafter. It is obvious, however, that frequent modifications may become advisable according to the habits of the people to be conveyed, and the whole subject of victualling is one on which it will be necessary to be guided in great measure by the advice of the Naval Departments.

Alterations  
in dietary.

Another matter in which it was found indispensable to relax somewhat the rules proposed by the authorities at Sydney was the limitation of age. The three Surgeons first employed, altho' the scene of their duties lay in such opposite directions, and even in different Kingdoms, were unanimous in their appeals against this regulation. Dr. Boyter and Dr. Galloway reported without qualification that it was impossible to adhere to it, and numerous persons of experience in the Country have confirmed their view.

Extension of  
age limit for  
emigrants.

The age therefore was extended to Thirty Five in the "Augusta Jessie," as well as in the Ships which preceded her, and will not again be restricted to Thirty.

Upon the application of Dr. Galloway he was authorized, in case of being obliged to put into any Foreign Ports for Water or refreshments, to make the necessary purchases and draw Bills for them upon Mr. Barnard, the Colonial Agent. Dr. Boyter has since applied for a similar power to the Surgeon of the next ship to sail from the Highlands. There can be no doubt that cases may arise in which, without it, there would be a serious responsibility for the Lives or Health of the Passengers. I propose therefore, if Lord Glenelg should approve of it, to give a discretionary authority on this point to all future Surgeons, but to warn them that it is not to be had recourse to except in case of actual need, and that they must provide themselves with certificates of the highest authority they can obtain, that the Stores or articles laid in upon such occasions were purchased on the most reasonable terms that the time and place would afford.

Authority for  
purchases by  
surgeons.

1837.  
21 July.  
Ships to sail  
from the  
Hebrides;

The next ship to sail will be one from the Hebrides with the first body of people sent from thence by Dr. Boyter under the authority he has received to select Emigrants from the distressed part of the Isles and Highlands of Scotland. As Dr. Boyter is carrying on this service under Instructions from the Colonial Department, which were transmitted to Sir Richard Bourke in Lord Glenelg's dispatch of the 20th May last. and included with that document in the papers printed for Parliament this year, there is no occasion for entering into a statement of the substance here. A copy of them is annexed for greater facility of reference. The ship now going is the "William Nicoll" of 408 Tons. During the voyage, the people are to be under the charge of Dr. Roberts, R.N.; Dr. Boyter has written to mention, with respect to this vessel, that, in a few cases where he has been obliged to overlook the age of the Father or Mother connected with a great number of the proposed Emigrants, he has made an arrangement by which he allows them their accommodation on board, but provides that they should pay the Master of the Ship for their Rations.

The "Midlothian" of 414 Tons has been engaged at Leith to take another party of Emigrants from the Hebrides, whom Dr. Boyter hoped to dispatch about the 20th of July; but, as the "William Nicoll" has been detained much beyond her time, I am led to fear that the effects of the delay must be felt in the departure of the succeeding Ship. I have already mentioned in my letter of the 30th Ultimo the grounds on which I ventured to recommend the employment in this vessel of a Surgeon taken from the Highlands instead of a regular Naval Surgeon; and I am happy to find that Lord Glenelg has been pleased to approve of the appointment of Dr. Stewart in conformity with that suggestion, and to authorize me to call upon Dr. Boyter to give notice of any other eligible candidates of the same kind, whom he may hear of in respect to future vessels proceeding from the Highlands.

and from  
Bristol.

On the 24th Ultimo, I had the honor to report the reasons for employing a Ship to proceed from Bristol with Emigrants from Bisley in Gloucestershire, and other parts in the West; and, in my letter of the 28th June, I took the liberty of calling attention to the expediency of offering passages in this and in future Emigrant Ships to any Clergymen going to the Colony. Dr. Boyter, R.N., has been sent into Gloucestershire to select the people. The name of the vessel engaged for this service has not yet been reported by the Admiralty.

As the "Midlothian" is expected to sail from Skye about the 20th of July, and another ship had already been decided to be sent from Limerick about the 10th of August, I thought the 1st of August would be the best time to fix for the departure of the one from Bristol. The approach of the Harvest Season was an objection to postponing it till after the emigration from Limerick. But, if the "Midlothian" be delayed, I fear there may be a chance of the arrival of these three vessels within a shorter time of one another than could be wished. On the whole subject of the departure of vessels, it would be my endeavour to devise some plan of providing for greater regularity, and giving the Colonial Government clearer and more certain notice before hand, than has heretofore been the case.

In consequence of repeated enquiries on the subject on behalf of the people at Bisley, I stated that, where families appeared to be

very desirable Settlers on the whole, though their Parents were beyond the prescribed limits of age, I thought the Surgeon Superintendent would be justified in some cases in accepting them, provided the passages of such parents above age were paid for them. I added, however, that an offer to *repay* their passage out of the earnings of the family could not be acceded to. And I distinctly explained that I only expressed a general view, of which the application to particular cases must depend entirely on the Surgeons, £15 is the sum which it seemed to me ought for the present to be the assumed cost of passage for this purpose. Without admitting some such relaxations occasionally, many valuable Settlers might be lost to the Colony, besides prejudicing our proceedings here by the apparent unreasonableness of resisting so equitable an arrangement. It is desirable, however, that the principle should be acted on with caution, and I have instructed Dr. Rogers to that effect, and should not hesitate to stop the practice altogether, if I found it likely to be abused.

In order to keep the Colonial Authorities informed of the views from time to time in this Country and of the manner in which their own very judicious suggestions on emigration are carried into effect or occasionally modified, I have directed the Surgeons on their arrival to produce to the Governor, for his perusal, the several communications and instructions which they may have received from me previously to their departure.

I trust that no prejudice may be felt in the Colony against the intervention of the Poor Law Commission in this undertaking. They have the means of supplying us with a far more comprehensive view, than can be obtained from any other quarter, of the state of employment in different parts of the Country, and the willingness of the people to go abroad. They can refer us to the most active persons in each District, and those most likely to be favorable to our objects. And they have shewn an obliging disposition to allow us to make any enquiries we wish through their Assistant Commissioners. It is necessary to be understood in the Colony that the inclination of the people to emigrate is by no means unlimited as used to be supposed. The improvements, which have been effected in the character and condition of the Agricultural population in England and Wales, have considerably diminished the belief in the existence of a general redundancy of labour, and necessarily affect both the disposition of the people to go, and of others to send them. We must avail ourselves therefore of opportunities as they may occur; and I should be truly sorry that we were to deprive ourselves of the aid for this purpose of the most efficient and best organized agency which the country affords. I have thought it necessary to say this much, knowing the prejudice which may exist against a name, and being aware of the sensitive apprehension which is entertained in the Colonies of an influx of paupers such as unhappily the paupers of England used to be. At any rate, however, it is not to obtain pauper Emigrants that recourse has been had to the Poor Law Commissioners. General information is what they have given us, and the rest remains to be done by officers responsible to the Colony and to the Secretary of State for the Colonies.

The only other Ships now going are two from the South of Ireland; one from Cork to Van Diemen's Land about the 1st of August, the other, from Limerick to New South Wales about the 10th of August. The Emigrants in the former will be under the charge of Dr. Price, R.N.: in the latter under that of Dr. Sproule,

1837.  
21 July.

Relaxations  
of rule *re*  
age of  
emigrants.

Instructions to  
be submitted  
to governor  
by surgeons.

Assistance  
obtained from  
poor law  
commission.

Ships to sail  
from Ireland.

1837.  
21 July.  
Report *re*  
emigrants  
from Ireland.

R.N. The "Bussorah Merchant" is engaged to go from Cork, but the name of the one to sail from Limerick has not yet been communicated by the Admiralty. I have received from Dr. Price and Dr. Sproule very satisfactory accounts of the nature of the applicants who have presented themselves to them. In both these cases, I have made use of the resident Agents for general purposes of emigration at Cork and Limerick to circulate the requisite notices beforehand and collect the applications, so as materially to abridge the labours of the Surgeons Superintendent, altho' to the latter have been left, as has been so wisely provided, the whole ultimate power and responsibility of accepting or rejecting Candidates. It will of course be necessary that any expences incurred by the Agents in this business should be repaid to them by the Surgeons and charged by the latter officers to the Colony; but that there will be a material saving on the whole both of Time and of Money is obvious. In the case of Gloucestershire also, owing to the preparations I was enabled to effect by written correspondence, Dr. Rogers will scarcely be employed a month in the duty of selection. Not one of these three Surgeons will have been employed more than six weeks in the business of selection, as many weeks as the Colony proposed to allow them months, at an allowance of 10s. 6d. per diem. Nor will any of them have received their appointments (from which the full pay commences) more than two months before the time named for their departure. I hope that the arrangements which have enabled me to accomplish this economy of time and expence, without any diminution of efficiency, may meet with approbation.

Expenses of  
agents for  
selection of  
emigrants.

Problems  
*re* system  
of agency.

More perhaps remains to be done in improving the system of agency in the conduct of Emigration to Australia. Whether the employment of Private Surgeons, which has commenced in Scotland as I have reported above, may be cautiously and gradually introduced in other cases, is one question which will require to be borne in mind. The large saving that it would involve is certain. Another important question is the expediency of naming permanent agents in the Three Kingdoms to be always employed in these Countries in visiting and selecting emigrants as they may be required. This measure would also be probably conducive to economy. And the experience, which such officers would enjoy, as well as the extensive acquaintance they would naturally be led to acquire in different parts of the Country, would appear calculated to add materially to their efficiency. At the same time, there can be no doubt that the present practice has advantages peculiar to itself. For some time longer therefore, and until it can be seen whether there would be a sufficiently constant demand for the services of permanent officers, I would propose to adhere to the existing Course of proceeding, merely endeavouring, by all such methods as I have already mentioned, to abridge the labours of the Surgeons employed in selection, and thus reduce the charges on this account previous to departure.

Some enquiries have been set on foot in the County of Norfolk respecting a disposition to emigrate which is said to prevail there; but I think it probable that the Harvest Season may require a certain interval to be allowed before another Ship is sent to New South Wales. Dr. Boyter hopes to be able to despatch one to Van Dieman's Land with Emigrants from the Hebrides in the course of the month of August.

I do not know that I have any thing to add, except that I have annexed a Specimen of the General Instructions which I have

given to the different Surgeons now employed here. The first of the two sets of Instructions relates to the proceedings previously to embarkation, the second to their Conduct during the voyage and upon arrival.

1837.  
21 July.

I have, &c.,

T. F. ELLIOT.

[Sub-enclosure No. 1.]

SIR GEORGE GREY TO DR. BOYTER.

Sir,

Downing Street, 11th April, 1837.

I am directed by Lord Glenelg to inform you that, in consequence of various applications which have been addressed to his Majesty's Government from Parties on the Western Coast of Scotland for assistance towards their Emigration to some of the British Colonies, his Lordship considers that it will be expedient to despatch one or Two Ships from the Clyde to New South Wales in the course of the present Spring with Emigrants of a suitable Class for that Colony. As the experience which you have acquired in the Discharge of the Duty recently intrusted to you of selecting Emigrants for New South Wales in the Eastern Part of Scotland will render your Services highly useful in the Furtherance of the present plan, I am to desire that you will proceed at your earliest convenience to Scotland; that you will communicate forthwith with the respective Chairmen of the Committees now sitting in Edinbro' and Glasgow for the Relief of the Inhabitants of the Highlands of Scotland who have been unhappily reduced to severe Privations; and that, after such communications, you will proceed to the Highlands in order to ascertain whether a sufficient number of married Persons of good Character, and of an Age not exceeding Thirty Five, are to be found who may be willing to avail themselves of a free Passage to New South Wales in a Ship to be taken up for their conveyance. In this case you will, with as little delay as possible, make the requisite arrangements for their Emigration.

Instructions by  
Sir G. Grey to  
D. Boyter for  
selection of  
emigrants  
from Scotland.

In the performance of this Duty, you will consider the Instructions delivered to you in New South Wales by Sir Richard Bourke, and under which you have been recently acting, as your Guide; and you will follow them, so far as Circumstances will allow, both in the selecting of Emigrants and in the arrangements for their conveyance. With respect to the latter Point, Lord Glenelg is of opinion that it will be desirable that the Ship should be engaged at Glasgow or Greenock, and that she should be appointed to sail on a given day from the latter port, to which it will be easy to provide for the Conveyance of the Emigrants from their respective Residences by Steamers or other Means. Too much precaution cannot be observed in engaging the Ship, or in making the requisite arrangements for the Health and Comfort of the Passengers; but on this, as on other matters connected with the Execution of his Duty, Lord Glenelg feels that he may place entire confidence in your judgment and experience, as well as in your Talent and Humanity.

You will be remunerated at the same rate as that at which you have been paid for your Services in the Selection of Emigrants for the "John Barry." You will also keep your accounts in a similar Manner as heretofore; and you will report to me, for Lord Glenelg's information, from time to time the Progress which you make.

A Naval Surgeon will be appointed to take charge of the Emigrants on their passage to the Colony.

I am, &c.,

GEO. GREY.

1837.  
21 July.

[Sub-enclosure No. 2.]

MR. T. F. ELLIOT TO DR. ROGERS.

Sir,

Downing Street, 3rd July, 1837.

Instructions  
to surgeon  
for selection  
of emigrants.

You have already received personally an explanation of the duties on which you are now engaged, and have seen the directions given to other Surgeons employed in the same manner. It appears desirable, however, to provide you with written instructions for your guidance.

With a view to encouraging Emigration to New South Wales and Van Dieman's Land, it has been determined to despatch to them, occasionally from different parts of the Kingdom, Ships in which a free passage shall be offered to persons deemed likely to form eligible Settlers. They must belong to the class either of Mechanics or of persons capable of being useful farm Servants, must be married men with their wives living, and be accompanied by their wives and children to the Colony, the age of neither the husband or wife to exceed Thirty, or at the utmost Thirtyfive years. Every exertion is to be made to procure them of good character, and industrious and respectable habits, for which purpose you will seek information from their Religious Ministers or former employers, or any other source you may find available. It is particularly essential to avoid the selection of persons who have been at all addicted to intemperance, as the temptations to that vice are much greater in New South Wales from the Climate and the cheapness of ardent Spirits.

The class of Mechanics, for whom there appears to be at present the greatest demand in New South Wales, are those who would be required in the erection of buildings of all descriptions in the Colony, such as Carpenters, Joiners, Plasterers, Bricklayers, Stone Masons, and Quarry Men. Country Blacksmiths, who can shoe horses and are generally acquainted with the making and repair of agricultural implements, have also been mentioned as eligible persons. Of the farm servants, those, of course, would be preferable who can plough, sow, reap, mow, and shear. There would also be employment for a few plain working overseers, who understand the management of Cattle and Sheep, and can read, write, and keep plain accounts.

Young women are no longer assisted to emigrate separately as was the practice for a few years past; but, should any unmarried females of good character be relatives or friends of parties enabled to emigrate in the present mode, and be desirous to go out with the consent of the parties, under their charge, and to form a part of their family until they are provided for in the Colony, they may be included in the benefit of the arrangement.

The condition, on which the Emigrants are to be taken, is a free passage for themselves and their families; but they must defray for themselves any expences they find necessary previously to embarkation.

You will likewise ascertain that the Emigrants come provided with a sufficiency of the absolutely necessary clothing or outfit for a voyage, observing that nothing more need be required than the most plain and cheap description. For such persons as could supply themselves with the materials, it might furnish an agreeable employment to have the means of making up clothing on board.



They will be entirely free in the Colony to work for whom they please and on what terms they chuse or can obtain. Every security will be taken for their convenience on first landing, and information given of the demand for employment in different directions, so that the people may know what opportunities are open to them.

I shall take another opportunity of transmitting to you directions for your guidance during the voyage and upon your arrival at your destination.

The ship is to be engaged and victualled by the Admiralty. A request is to be addressed to that Department to let the ship be ready to receive her passengers at Bristol, if possible, on the 27th of July.

It is to be observed that the Passengers Act,\* besides limiting the number of Passengers and Crew combined, to Two persons for every five Tons Register, also requires that the number of Passengers taken on board should not be greater than after the number of one for every fifteen superficial feet of the lower deck, two children between 7 and 14 years of age and three under 7 being reckoned as one passenger. You will bear this Regulation in mind in computing the number of persons you can receive on board.

I shall have occasion to address you again on the means of providing a proper supply of books for the use of the Emigrants.

In order that the Colonial Government may have every information of the views taken here from time to time, and of the progress made in execution of the very judicious schemes which they have laid down, you will be good enough on your arrival to produce to the Governor, for his perusal, the several Instructions and Communications you may have received from me during your service in this country.

It only remains for me to state that the remuneration for your services will consist of the difference between half pay and full pay, to be paid to you by the Colony from the date of the Secretary of State's letter acquainting you with your appointment, and of an allowance of 10s. 6d. per diem to cover all your expences so long as you are engaged in the selection of Emigrants; and that you will further enjoy a gratuity not exceeding £150, which will be accorded to you by the Colonial Government on your arrival, should they be satisfied with your performance of the duty.

The Lords Commissioners of the Admiralty have consented that the time of Naval Surgeons should reckon on this service as if they were employed in Convict Ships. £80 will be allowed to you for the mess on the voyage out, and £100 for the mess and passage home.

I have, &c.,  
T. F. ELLIOT.

[Sub-enclosure No. 3.]

MR. T. F. ELLIOT TO DR. ROGERS.

Sir, Colonial Office, 10th July, 1837.

I propose on the present occasion to furnish you with the directions which it appears advisable you should receive respecting your proceedings during the passage and on your arrival at Sydney.

Previously to your departure, you will supply me with a list of the passengers according to the forms herewith inclosed. You will

1837.  
21 July.  
Instructions  
to surgeon  
for selection  
of emigrants.

Instructions  
to surgeon  
for voyage  
and upon  
arrival in  
Sydney.

\* Note 3.

1837.  
21 July.

Instructions  
to surgeon  
for voyage  
and upon  
arrival in  
Sydney.

keep a journal during the voyage of all matters concerning the condition and conduct of the Passengers, and will avail yourself of every opportunity of sending intelligence of your progress; and, on reaching your destination, you will report by the first ship the fact of your arrival, as well as of any occurrence that may require more immediate notice. You will afterwards make a further report comprising your observations upon the mode in which the victualling and fitting of the ship were executed, on the character and demeanor of the Master and officers, and above all on the conduct, Health and general welfare of the People under your charge. You will mention any faults that you may have remarked in the nature of the arrangements, and will state how you would propose to obviate them hereafter. In case of any deaths on Board, it will be desirable that, in your account of the causes, you should especially point out the extent to which you think the unfortunate event attributable to the voyage, in order that no unnecessary addition may be given from this source to the vague terrors which are apt to be entertained by persons unacquainted with the Sea. To the general report I have thus requested, you will annex an Alphabetical List of the Emigrants, according to the specimen afforded by the enclosed schedule, describing the mode in which they are distributed, at what wages, and in whose employment, taking care to give their Employer's address in such manner that Letters to them by the Post would duly arrive. It is in every point of view important to have the means, which this Return would afford, of satisfying the Inquiries of the Relatives and Friends of Parties who have emigrated.

The preceding Remarks will, I think, suffice to explain the nature of the communications which it is desirable you should hold with this Office. With respect to your conduct during the Voyage, I am aware that your success must mainly depend on your own judgment and zeal, and the discretion with which you may meet special circumstances as they arise. But, as some very judicious Instructions on the subject generally were framed by the London Emigration Committee for the use of the Superintendents whom they employed, and have been pointed out by the Colonial Government at Sydney as worthy of observation, I shall endeavour briefly to introduce here the spirit of so much of them as is applicable to the occasion.

The propriety of treating the Master with a due consideration for the office he fills in the Ship need scarcely be mentioned. Unless a mutual respect be shewn on board by those who have authority, none can be expected from those who have it not. The subordinate officers are also not without appropriate powers and a station of their own, which ought not to be derogated from. And it must further be obvious that, in any arrangements for the good of the Passengers which require the Master's cooperation, there would be a great advantage in having his concurrence as well, so as to enjoy a willing instead of a reluctant aid. Without entering any more into this topic, I may merely mention, by way of illustrating the view which is taken of it, that, in cases where the assistance of the Carpenters or any of the Sailors may be wanted, the expediency has been suggested of always procuring it thro' the intervention of the Commander of the Ship, or the Officers of the Watch.

In the Vessel where you have your charge, there will be no such direct control over the People as in the case of convicts' Ships; it is by moral means of Government therefore that you must hope to preserve order by kindness and justice and a rigid impartiality.

There is nothing in which both the comfort and the good order of the Passengers may depend more than on the judicious assortment of the Messes. The number to be placed in each is a point for your consideration. Eight formed the Mess in the Ships sent out with Females by the London Emigration Committee. But whatever be the number you will not fail to see the importance of as much as possible placing together the persons, whose attainments and grade in Society and previous habits fit them the most to become companions. You will be able to judge how far the appointment of a Head to each Mess would be advantageous. In all the Messes, some individuals will probably be found soon to gain an ascendancy over the rest; and, in cases where it seems to admit of a good direction, it may perhaps be a resource to you to support the influence of such natural leaders and convert it into an agency conducive to your own views.

Cleanliness and ventilation are two requisites which cannot be too scrupulously attended to. Employment in making clothes and nets, if the means exist on board, or in fact any useful employment, should be as much as possible encouraged, both for its conduciveness to health and to order. A sufficient number of Bibles and of Religious and Moral and entertaining Works will be placed in the Ship. Besides occupying their minds, it will of course be important to the health of the people that they should freely take the air on Deck. You will endeavour to settle the best method of their doing so without inconvenient interruption to the business of the ship. You will on all occasions, when the weather permits, read Divine Service to the People upon Sundays, and Prayers upon other days. Independently of the higher motives for this duty, I am sure you will not overlook the variety of the advantages that must result from a daily assemblage of the People for so solemn a purpose.

In case of any emergency, demanding for the health of the Passengers that you should call in at some intermediate Port for Water or refreshments, you will be at liberty to make the requisite purchases, drawing Bills for the same at 30 days' sight on Edward Barnard, Esq., Colonial Agent, No. 2 Parliament Street, London, and sending immediate advice of the same; but you must understand that no such stoppage is to be made except in case of absolute necessity, and that you must provide yourself with the best certificates you can obtain from any resident British Authorities, or, if there be none, from some of the principal Mercantile Houses, that your purchases were made on as reasonable terms as the time and place would afford. But it will be your duty to produce to the Colonial Government, at the first opportunity after your arrival, a statement of your grounds for having had recourse to this measure.

On reaching Sydney you will immediately report your arrival to the Colonial Secretary there, and request Instructions upon the disembarkation and disposal of the Emigrants.

I have, &c.,

THO. F. ELLIOT.

1837.  
21 July.

Instructions  
to surgeon  
for voyage  
and upon  
arrival in  
Sydney.

1837.  
21 July.

Forms for lists  
of emigrants.

THIS paper to be filled up, and one Copy of it transmitted to the Agent General of Emigration previously to departure.

ALPHABETICAL LIST of Emigrants on board the Ship ..... which sailed from ..... on the ..... and arrived in Port Jackson on the ..... Surgeon .....

Number  
Name  
Native place, Parish or Town and County  
Age  
Married or Single  
Children (Male)  
" (Female)  
Religion  
Education read or write  
Place of Occupation  
Character on embarkation and conduct on board  
Remarks.

N.B.—At the end of the List write a Summary of the numbers of the different Trades or Callings embarked after the following manner:—

Agricultural Labourers .....	20
Blacksmiths .....	3
Carpenters .....	5

THIS Paper to be filled up during the Voyage in order to facilitate the distribution of the People on arrival.

LIST of Mechanics, etea., on board the Ship ..... which Sailed from ..... on the ....., and arrived at Port Jackson on the ..... Surgeon, ..... ; Master, ..... Alphabetically arranged under their respective Trades.

	Blacksmiths.	Carpenters.	Agricultural Labourers.
Number .....			
Name .....			
Native place, Parish or Town and County .....			
Age .....			
Married or Single .....			
Children (Male) .....			
" (Female) .....			
Religion .....			
Education, Read or write .....			
Character on embarkation and conduct on board .....			
Relatives in New South Wales .....			
Name .....			
Address .....			
Remarks .....			

SIR RICHARD BOURKE TO LORD GLENELG.  
(Despatch No. 63, per ship Caroline.)

My Lord, Government House, 21 July, 1837.

Referring to my Despatch of the 29 Decr. last, No. 139, I have the honor of reporting to Your Lordship that, according to the expectation I therein expressed, the Legislative Council have consented to include in the Colonial Estimates for 1838 the pay of Assistant Engineers and Military Overseers of Convicts employed on the roads and public works, an expence which is at present borne by the British Government as a Convict charge. This will complete the financial part of the arrangements, which I have proposed in former communications upon the subject of the improved management of the Convict Gangs; and I have

Salaries voted  
by council for  
assistant  
engineers and  
military  
overseers  
of convicts.

much satisfaction in the proof afforded by this unanimous vote of the sense, entertained by the Council, of the superior utility of the new system, with reference to the advantage derived by the Colony from the labor of the Convicts, no less than with reference to their penal discipline.

1837.  
21 July.

Nothing now remains to be considered with regard to these arrangements, except the Colonial allowance which was previously voted by the Council to Major Barney the Commanding Royal Engineer, who is necessarily placed at the head of this important branch of public service. Should the reasons stated in my Despatch of the 12th February last have failed fully to convince your Lordship or the Lords Commissioners of the Treasury of the propriety of this allowance, I trust that, in connexion with the vote of Council I now report, the sanction of His Majesty's Government will no longer be withheld.

Request for approval of allowance voted for G. Barney.

I have, &c.,

RICHD. BOURKE.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 348, per ship Waterloo.)

Sir,

Downing Street, 23 July, 1837.

23 July.

With reference to your despatch No. 133 of the 30th of November last, I am directed by Lord Glenelg to transmit to you, for your information and guidance Copies of a correspondence which has passed between the Director General of Army Hospitals and my Under Secretary relative to the new organization of the Medical Department in New South Wales. I regret to find that Dr. Thompson should have felt reason to complain of vexatious obstruction on the part of any of the Colonial Medical Officers; and I need not, I am confident, impress on you the necessity of affording him every support and assistance in your power in carrying into effect the objects contemplated by the Govt. in Dr. Thompson's Appointment.

Correspondence re medical department.

I have, &c.,

GLENELG.

[Enclosure No. 1.]

SIR JAMES McGRIGOR TO UNDER SECRETARY STEPHEN.

Sir,

Army Medical Dept., 27 June, 1837.

With reference to yr. letter of 20 Decr. last rel. to a New Organization of the Colonial Hospitals in N. S. Wales and to my letter of the 31st of the same month, I beg to submit for the information of Lord Glenelg the following Statement.

I regret much to find by the Correspondence of the Deputy Inspector General of Hospitals that he experiences great difficulty in carrying into Execution the Instructions\* with which he was charged under the order of the Lords Commrs. of the Treasury and of the Secy. at War.

Obstructions encountered by J. V. Thompson.

I am inclined to agree with Mr. Thompson in his statement that, if permitted fully to carry thro' the Instructions and new model

\* Note 4.

1837.  
23 July.

Obstruction  
by colonial  
medical  
officers.

the Medical Dept. in the Colony, a very considerable saving of Public Money wd. be effected.

Mr. Thompson complains that he has met with vexatious obstruction from some of the Colonial Medical officers at the outset; perhaps it is but natural that some of these gentlemen shd. at first feel a new controul irksome, and complain of more duty being imposed upon them than under the old system, so as to interfere with lucrative Private Practice or their avocations as Agriculturists; but I trust that Ld. Glenelg will see the necessity of giving support to the officers sent out, as I feel confident that, if the new system is persevered in, great advantage to the Public with much saving of money will accrue.

Criticism of  
tone adopted  
by  
J. V. Thompson.

I am not prepared in every instance to support the tone of Mr. Thompson's querulous correspondence; and I have so expressed my disapprobation of it that I trust this most zealous and experienced officer in the duty he has undertaken will henceforth be more respectful in all his correspondence with the Governor as well as with the heads of all the Departments of that service; and I am of opinion that henceforth no infirmity of temper will be betrayed by the Deputy Inspector General of Hospitals, for he has been informed, if such shd. appear, that he will be superseded by an officer on whose discretion, prudence and zeal for the service I can fully rely. In justice however to Mr. Thompson, I ought to say that during a long period of service I have ever found him an able and honorable officer, one who has constantly evinced the most indefatigable zeal on every service on which he has been employed, acting with discretion, prudence, and forbearance; I therefore entreat for him the support of Ld. Glenelg in the execution of the important and arduous duties of his Appointment. I ought to state that only 2 of the Colonial Medical officers persevere in their resistance of his orders. I beg particularly to bring under his Lordship's consideration the very great want experienced of a proper Store-house for the Medical Stores with sufficient space for their arrangement. Very much inconvenience and great loss to the Public with much confusion of accounts will ensue, if this be not granted immediately; hitherto none of the regular and periodical Returns of Stores with Accounts of Issues and Disbursements have been received at this office, and the cause assigned is the want of a proper Store room with the aid of two Porters and an Assistant to the Apothecary. I consider this assistance to be absolutely necessary and hope to be pardoned for pressing that Orders may be given on the subject.

Want of  
medical  
store-house.

Storekeeper  
required.

Mr. Croft, Deputy Purveyor to the Forces, who has charge of the Accompt Branch of the Colonial Hospitals, and who is likewise Acting Apothecary to the Forces, requires a qualified person to assist him in the Medical Stores; and I beg leave to recommend that he be allowed such aid at a remuneration of 5s. per Diem with a Ration and Lodging; and that he receive the further assistance of a couple of unpaid Porters from the Convict Barrack.

Travelling  
allowance for  
J. V. Thompson.

In conclusion, I beg to submit my opinion that the Travelling Allowance to the Deputy Inspector Genl. of 5s. a day is quite inadequate, and that, when Inspecting the Hospital Establishments at a distance of ten miles and upwards from Sydney, the allowance should be 21s. a day, the same as is extended at Jamaica and other Foreign Settlements.

I am, &c.,

J. McGRIGOR, Director General.

[Enclosure No. 2.]

1837.  
23 July.

UNDER SECRETARY STEPHEN TO SIR J. MCGRIGOR.

Sir, Downing Street, 24 July, 1837.

I have recd. and laid before Id. Glenelg yr. letter of the 27 Ult. rel. to the New Organization of the Colonial Hospitals in N. S. Wales. Letter acknowledged.

His Lordship directs me to transmit to you for yr. information a copy of a Letter\* from The Secretary to the Treasury bearing date the 6th of February last, copies of which have been sent to the Governor of N. S. Wales and to the Lt. Govr. of V. D. Land for their guidance; and his Ldship, trusts that the necessary measures will in consequence have been taken by the Local Authorities for granting to the Medical officers in both Colonies a fair rate of pecuniary allowance, and also for providing them with proper accommodation and requisite assistance in carrying on the duties of their Departments. Instructions sent to colony.

I am also directed to transmit to you for your information a copy of a Despatch\* from Lt. Genl. Sir R. Bourke, in which he states his concurrence in the recommendation of the Dep. Inspector Genl. of Hospitals as to the Appointment of Assistant Surgeons from the Army Staff Pay List to the charge of the General and Convict Hospitals at a lower rate of Pay than that which is now issued, and adverts to the progress made by Dr. Thompson in carrying into effect the new arrangements. Id. Glenelg attaches considerable importance to an active and judicious Superintendance of this branch of the Public Service in the Colonies of N. S. Wales and V. D. Land. His Ldship, regrets that Dr. Thompson shd. have found reason to complain of vexatious obstruction on the part of the Colonial Medical Officers. Id. Glenelg will, however, transmit a copy of your letter to Sir R. Bourke, altho' he feels confident that that officer is already prepared to afford every assistance in his power to Dr. Thompson, who Id. Glenelg trusts will eventually succeed in overcoming the difficulties inevitably attendant on the position in which he is placed. Proposal for appointment of army surgeons.

I am, &c..

JAMES STEPHEN.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 349. per ship Waterloo.)

Sir, Downing Street, 24 July, 1837. 24 July.

I have received your Despatch No. 122 of the 15th November last, notifying the return of the Surveyor General from his Expedition into the Interior of New Holland, and enclosing the outline of his Route. Despatch acknowledged.

I have much pleasure in acknowledging the importance of the Service rendered by Major Mitchell on this occasion, and the ability and zeal with which it appears to have been discharged. On the subject of his conduct towards the Aborigines, my opinion will be expressed in another Despatch. Approval of services of T. L. Mitchell.

I have, &c.,

GLENELG.

\* Note 5.

1837.  
24 July.

LORD GLENELG TO SIR RICHARD BOURKE.  
(Despatch No. 350, per ship Waterloo.)

Sir,

Downing Street, 24 July, 1837.

Despatch  
acknowledged.

I have received your Despatch No. 125 of the 22d of November last, in answer to the representations of Mr. James Reid that you had neglected to consider certain charges brought by him against Mr. Wighton, a Magistrate of the Colony.

Charges  
against  
J. Wighton.

The injustice of the charges preferred against Mr. Wighton having been established by the Verdict of a Jury in that Gentleman's favour, it appears to me that no advantage could possibly arise from pursuing the discussion any further. In the absence of any Report of the Trial, it is of course impossible for me to ascertain the substantial identity of the charges preferred by Mr. Reid, and of those to which the Verdict have referred; but I rely with entire confidence on your statement of that fact.

Opinion *re*  
charges made  
by J. Reid.

It is impossible to peruse the correspondence between Mr. Reid and the Colonial Secretary, and the Report of the Attorney and Solicitor Genl. of your Govt., without adopting your opinion that the strongest possible presumption arose and might fairly be entertained against the justice of Mr. Reid's charges and the motives in which they originated. As a general rule, however, I am disposed to doubt whether, in the result, it is not usually more convenient to afford an accused Party the opportunity of repelling accusations, however improbable they may be, and however unworthy of respect the Apparent motives of the Accuser, since there will seldom be found any other method of silencing even the most injurious slander.

I have, &c.,  
GLENELG.

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SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 66, per ship Caroline; acknowledged by lord Glenelg, 26th October, 1838.)

My Lord,

Government House, 24 July, 1837.

Having, in accordance with the instruction contained in your Lordship's Despatch of the 5th September last, No. 207, laid before the Legislative Council a Bill for adopting in this Colony the Act of the last Session of Parliament for enabling Persons indicted of Felony to make their defence by Counsel or Attorney, I have the honor to transmit a copy of a Resolution stating certain reasons\* for deferring such adoption until the Establishment of Circuit Courts throughout the Colony. As that resolution contains the general opinion of the Members, and as

Objections  
to act for  
defence of  
felons by  
counsel.

\* Note 6.



the obstacle referred to will probably be speedily removed, Your Lordship will, I trust, approve of my with-drawing the measure for the present without pressing it to a division.

1837.  
24 July.

On the Establishment of Circuit Courts, I do not expect any difficulty in its passing the local Legislature of the day so far as its general principle as applicable to free persons is concerned. But, as there are some questions that may arise in its application to the Convict Population, it would be desirable if, during the interval of delay, Your Lordship's views regarding them were communicated to this Government.

Problems re application of act to convict population.

1. With regard to the summary jurisdiction of the Magistrate over Convicts on the complaint of the Master for misbehaviour, the application of the provisions of the Act will in general be considered objectionable, and I concur in thinking they would be subversive of the control which it is necessary to exercise over the Convict Class. It is also to be observed that, in preferring complaints of this sort, either the Master or an overseer attends personally, professional agents never being employed on such occasions.

2. Taken in another point of view with regard to Convicts, both in the above and all other cases the act might be considered nugatory, since these Persons are not supposed to have the means of paying Counsel, or the fees required for copies of Evidence. It is possible, however, that, when prosecuted for serious offences at Quarter Sessions or in the Supreme Court, their friends would obtain for them the assistance of Counsel, and therefore the right to employ professional agents ought not to be denied to them. For the same reason, they should be allowed to obtain copies of depositions upon paying the regulated fee.

I have no doubt however that, when the measure is again brought forward, it will be a matter of debate whether convicts actually under servitude shall, in any case, be entitled to the benefit of the law. Its entire denial to this class of Persons has been strongly urged in some of the Colonial Newspapers, and I believe many of the present Members of Council would vote this way. It is therefore highly desirable that the view taken of this part of the subject by Your Lordship should be communicated to the local Government before the law is again brought under discussion.

Necessity for instructions.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

*[A copy of this resolution, dated 11th July, 1837, was printed in the "Votes and Proceedings" of the legislative council.]*

1837.  
25 July.

LORD GLENELG TO SIR RICHARD BOURKE.  
(Despatch No. 352, per ship Waterloo.)

Sir,

Downing Street, 25th July, 1837.

Despatch  
acknowledged.

I have had the honour to receive the Duplicate of your Despatch No. 135 of the 2nd Decr. last, in which you suggest the appointment of Mr. Kinchela to the Bench in Van Diemen's Land, or, should circumstances prevent his holding a Judicial Situation, to some Office Connected with Finance.

Regret at  
necessity for  
resignations of  
J. Kinchela.

I cannot advert to the case of Mr. Kinchela without lively regret. It has been my painful duty to call upon that Gentleman to resign the office of Attorney General on account of his deafness, and the same irksome task is now to be performed with reference to the Judicial Office to which Mr. Kinchela has been provisionally advanced.

Inability to  
appoint  
J. Kinchela  
as puisne judge.

Sir Francis Forbes\* having tendered his resignation of the office of Chief Justice, it became necessary to decide whether Mr. Kinchela could be permanently called to the Bench, and it was with deep reluctance that I decided against that measure. The infirmity under which Mr. Kinchela unhappily labours having been found so extreme as entirely to disqualify him for the duties of Attorney General, I felt myself bound to regard it as a disqualification for the Judicial Office also. Indeed the obstacle appeared more serious in the latter than in the former case, especially as a Judge, incapable of distinctly hearing the evidence on Criminal Trials, must be in danger of Committing the most fatal errors. It appears, indeed, from the present Despatch that "Mr. Kinchela's deafness has been proved *not* wholly to disqualify him for the Judicial Office." This report, dictated as it obviously is by the most kind and considerate solicitude for Mr. Kinchela's interests, has confirmed my apprehensions on the subject, and has rendered it impossible for me to assume the responsibility of advising Her Majesty to appoint Mr. Kinchela to the vacant Seat on the Bench. The elevation of Mr. J. Dowling to the Chief place on the Bench raises Mr. J. Burton to the second, and the third will be taken by Mr. Willis whose appointment has been announced to you.

Appointments  
to supreme  
court bench.

You have been misinformed as to an expected Judicial Vacancy in Van Diemen's Land, but the objection to Mr. Kinchela would of course apply with equal force in either Colony. I entirely subscribe to your opinion that if any vacancy should happen in the Financial Depts. adequate to Mr. Kinchela's pretensions, he should be promoted to it. In the meantime he must resume his retired allowance.

Proposed  
financial  
appointment  
for J. Kinchela.

I have, &c.,

GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.

1837.  
26 July.

(Despatch No. 353, per ship Waterloo.)

Sir,

Downing Street, 26 July, 1837.

I have recd. your Despatch of the 25th January, No. 7, enclosing a copy of the proceedings of the Executive Council of New South Wales relative to the attack made on the Black natives by the exploring party under Major Mitchell's orders on the 27th May, 1836.

Despatch  
acknowledged.

In adverting to this very painful subject, I must commence by expressing my cordial approbation of the Thirteenth Article of the Instructions\* which you addressed to the Surveyor General before the Commencement of his Journey, inculcating upon him the duty of conciliating the Natives, of exhibiting towards them the utmost forbearance, even in the event of a hostile demonstration, and of abstaining from the use of Fire-Arms unless the safety of the Party should absolutely require it. I have also observed with much satisfaction the conduct which you pursued on receiving Major Mitchell's Report, suppressing in your publication of it those passages respecting the Aborigines by which the reputation of that officer might have been compromised, and at the same time instituting before the Executive Council a careful enquiry into the real nature of the transaction. It was impossible to combine a more lively solicitude for the welfare of the Aborigines with a more just anxiety to protect Major Mitchell's well-earned reputation.

Approval of  
instructions to  
T. L. Mitchell  
*re* natives;

and of  
procedure  
*re* inquiry.

My thanks are also due to the Members of the Executive Council for the diligence with which they conducted the enquiry; and it is highly gratifying to observe the spirit of enlightened humanity which is exhibited in their deliberations.

Commendation  
of executive  
council.

I can readily enter into the feelings with which you yielded to the necessity of bringing into question the conduct of the Surveyor General, at the very moment when he had completed his third Journey of Discovery. Major Mitchell had performed a service\* of great fatigue with no small hazard to himself and his Party, and had made a very valuable addition to our knowledge of the Geography of the Interior of New Holland. It must, therefore, have been peculiarly irksome to you to act in any manner which might subject you to the misconception of being insensible to the value of such Services, or ill-disposed towards the Author of them. That Major Mitchell himself should have fallen into such misconception is matter perhaps rather of concern than surprize. A very large indulgence must be made for such feelings under such circumstances.

Reluctance of  
Sir R. Bourke  
*re* inquiry.

It appears to me impossible to acquit Major Mitchell of the error of having drawn up his Report, so far as it related to the

1837.  
26 July.

Adverse  
criticism of  
report by  
T. L. Mitchell.

Aborigines, in very injudicious terms. The Evidence of the Witnesses and his own subsequent Explanation shew that the language of his Report did less than justice both to the Conduct which he pursued and to the motives by which he was actuated. I will not follow him or the Council into a particular review of his original language. Without denying that it is fairly susceptible of the favorable construction which he has given it, I am compelled to acknowledge that, unassisted by his explanatory remarks and by the testimony of the Members of his Party, I should have drawn from the original Report the same conclusions as were deduced from it by yourself and by the Members of the Executive Council.

Principles  
suggested for  
policy towards  
natives.

It is happily superfluous for me to impress upon you the general principles to be observed in your conduct towards the Aborigines. I shall soon be enabled to transmit to you the Report of the Committee\* of the House of Commons on this subject made before the close of the present Session, and I have reason to suppose that you will there find the result of much diligent enquiry and reflection. For the present, therefore, I confine myself to remarks, which may perhaps appear to proceed on a less comprehensive view of the subject than under the circumstances I should have thought it right at least to attempt.

Your Commission† as Governor of N. S. Wales asserts H.M.'s Sovereignty over every part of the Continent of New Holland which is not embraced in the Colonies of Western or Southern Australia. Hence I conceive it follows that all the natives inhabiting those Territories must be considered as Subjects of the Queen, and as within H.M.'s Allegiance. To regard them as Aliens with whom a War can exist, and against whom H.M.'s Troops may exercise belligerent right, is to deny that protection to which they derive the highest possible claim from the Sovereignty which has been assumed over the whole of their Ancient Possessions. I am well aware that legal maxims of this kind will not serve for the solution of practical difficulties such as those in which Major Mitchell was involved, and that, in extreme Exigencies of that nature, Public Officers are not to be governed altogether by Ordinary rules. At the same time it appears to me necessary that those rules should be steadily borne in mind in estimating the apology made for an occasional departure from them. If the rights of the Aborigines as British Subjects be fully acknowledged, it will follow that, when any of them comes to his death by the hands of the Queen's Officers, or of persons acting under their Command, an Inquest should be held to ascertain the cause which lead to the Death of the deceased. Such a

\* Note 9.

† Note 10.

proceeding is important not only as a direct protection to Society at large against lawless Outrage, but as it impresses on the Public a just estimate of the value of Human Life. I am of course aware that in such a case as the present it would have been impossible to hold an inquisition before the Coroner. But I am not satisfied that a proceeding identical in principle, and corresponding to a certain extent even in form, might not have been advantageously taken. For example, Such of the Justices of the Peace as hold Commissions extending over the whole Colony might, I apprehend, have been required to hold a public enquiry into the circumstances which occasioned the Deaths of the Aborigines, and to report the result to you. An impressive lesson might, it should seem, have thus been given of the importance attached by the Government to the Life of a Native, and the exculpation of Major Mitchell would have been more satisfactory both to the Public at large and to himself. If it should be objected that such a proceeding would have been in any sense of the term an indignity, I would reply that to be furnished with an opportunity of removing a reproach incurred in the discharge of a public duty is not usually regarded as injurious by any man, either in Civil or Military Life, and that the respect for public opinion by which Our Countrymen are distinguished reconciles them to such investigations, while the prevailing sense of justice affords an ample security on such occasions even against the Current of popular prejudice.

It is perhaps rather with a view to the future than to the past that the preceding suggestions may be useful. I see no reason to dissent from the general conclusions of the Council that Major Mitchell's conduct, if not entirely discreet, was far less open to censure than might have been inferred from his own report of it. Nor am I disposed to doubt that the melancholy destruction of human life in obedience to his orders was occasioned and justified by the necessity which is alleged in its defence. Such, however, is my anxiety to acquit myself of my own duty on this occasion, and to avail myself of all the means which I possess for protecting the Aborigines against future aggressions, that I must instruct you to refer all the documents to your legal advisers, directing them to state whether they find any cause to doubt the lawfulness of Major Mitchell's proceedings, or to regard a further enquiry necessary for vindicating the Authority of the Law. If, contrary to my expectations, they shd. recommend and you shd. see fit to adopt any such ulterior proceeding, it is I know quite unnecessary to impress upon you the propriety of consulting to the utmost possible extent Major Mitchell's feelings and convenience. It would be difficult to

1837.  
26 July.

Principles suggested for policy towards natives.

Approval of conclusions of council re conduct of T. L. Mitchell towards natives.

Papers to be submitted for legal opinion.

1837.  
26 July.

exaggerate the reluctance with which I should adopt any measure apparently at variance with the gratitude, which Her Majesty's Government feel for Major Mitchell's services, and the respect which they entertain for his character.

I have, &c.,  
GLENELG.

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SIR RICHARD BOURKE TO LORD GLENELG.  
(Despatch No. 68, per ship Caroline.)

My Lord, Government House, 26 July, 1837.

Transmission  
of returns of  
expenditure.

I have the honor to forward herewith three Returns of alterations of Expenditure of this Colony defrayed from the Military Chest, and three similar Returns of the Expenditure of the Colonial Treasury, which I regret to find have fallen into arrear. One of the former still remains due, but I have given such instructions as will not fail to lead to its being ready for transmission by the next opportunity.

Instructions  
requested.

In the mean time, however, I beg permission to recal the attention of Your Lordship to the applications, which I have had occasion to make for further instructions regarding these Returns in my Despatches of 9 May, 1835, No. 46, and of the 24th November last, No. 127.

When, in reply to these communications, the intention of His Majesty's Government as to the mode of preparing these documents is fully and finally explained, I trust no further irregularity will occur in their transmission. I have, &c.,

RICHD. BOURKE.

[Enclosures.]

[Copies of these statements have been omitted.]

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SIR RICHARD BOURKE TO LORD GLENELG.  
(Despatch No. 69, per ship Caroline; acknowledged by lord Glenelg, 11th December, 1837.)

27 July.

My Lord, Government House, 27 July, 1837.

Arrival of  
immigrant  
ships *John  
Barry* and  
*Adam Lodge*.

I avail myself of the opportunity of a ship for London to report the arrival of the Emigrant Vessels "*John Barry*" and "*Adam Lodge*" both on the 13th instant.

Ship *John Barry*  
quarantined.

By the accompanying Lists, your Lordship will perceive that several deaths, chiefly of children, occurred on board each of these Ships during the voyage, and I am sorry to add that the contagious nature of a fever, which prevailed in the *John Barry*, rendered it necessary to place her for some days in Quarantine and to land the Emigrants at Spring Cove under a similar

restriction. The Ship having been cleansed and fumigated is now with the Crew and Cabin Passengers released. The Emigrants still continue on the Quarantine Ground; but, no new case of disease having occurred for some days and the number in Hospital consisting of five only, it is probable that all those in health will be set at liberty in a few days.

1837.  
27 July.

Expected  
release of  
immigrants  
from  
quarantine.

No symptoms of infection having appeared on board the "Adam Lodge," she was admitted at once into Port, and nearly all her Passengers are already profitably employed, both for themselves and the Colony.

Employment  
of immigrants  
*ex ship*  
*Adam Lodge.*

Further particulars will be communicated with regard to the disposal of the Emigrants arriving by these vessels as soon as circumstances permit.

I have, &c.,

RICHD. BOURKE.

[Enclosures.]

[Copies of these lists are not available.]

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 354, per ship Waterloo; acknowledged by Sir George Gipps, 2nd March, 1838.)

Sir,

Downing Street, 28 July, 1837.

28 July.

With reference to your Despatch No. 134 of the 1st of December last, relative to the measures to be adopted for supplying the Colonial Agent with Funds in consequence of the discontinuance of the system of permitting Private Individuals to remit Money to the Colony through the Agent, I am directed by Lord Glenelg to transmit to you, for your information and guidance, copies of correspondence which has passed between this Department and the Board of Treasury on the subject; and I have to request that you will take immediate measures for repaying into the Military Chest the Sum of Twenty Thousand Pounds which has been advanced to the Colonial Agent by the Board of Treasury to enable him to meet the demands on him on account of Emigration.

Despatch  
acknowledged.

Advance to be  
refunded to  
military chest.

I have, &c.,

GLENELG.

[Enclosure No. 1.]

UNDER SECRETARY STEPHEN TO MR. A. Y. SPEARMAN.

Sir,

Downing Street, 17 July, 1837.

With reference to former correspondence of the dates specified in the margin, I am directed by Lord Glenelg to transmit to you, to be laid before the Lords Commrs. of the Treasury, the enclosed copy of a Despatch from the Governor of N. S. Wales rel. to the measures to be adopted for supplying the Colonial Agent with funds in consequence of the discontinuance of the system of

System  
proposed by  
Sir R. Bourke  
for providing  
funds for  
colonial agent.

1837.  
28 July.

System  
proposed by  
Sir R. Bourke  
for providing  
funds for  
colonial agent.

permitting Private Individuals to remit Money to the Colony thro' the Agent. And I am to request that you will call the attention of the Lords Commissioners to the suggestion of Sir R. Bourke as to the mode of supplying the Colonial Agent with Funds by advances from the British Treasury, the amount of such advances being repaid, on advice, into the Military Chest in the Colony from the local Treasury.

Adverting to the large and immediate demands which must necessarily from time to time be made on the Colonial Agent to an indefinite amount, on account of Emigration to the Australian Colonies, and the difficulty of supplying the Agent with Funds from the Colony sufficient to meet such demands, Jd. Glenelg conceives that it will be necessary to adopt some such arrangement with reference to those particular Colonies as that which is proposed by Sir R. Bourke.

I am, &c.,  
JAS. STEPHEN.

[Enclosure No. 2.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir,

Treasury Chambers, 21 July, 1837.

I am commanded by the Lords Commrs. of H.M. Treasury to acquaint you, for the information of Lord Glenelg with reference to yr. letter of the 17th inst., transmitting copy of a Despatch from the Gov. of N. S. Wales, rel. to the measures to be adopted for supplying the Colonial Agent with funds in consequence of the discontinuance of the system of permitting private individuals to remit money to the Colony through the Agent, that my Lords, having had under consideration an application from the Agent Genl. for N. S. Wales for an advance of £20,000 on account of the Col'l Govt. to enable him to defray charges for which he had been instructed provide by a letter addressed to him by you on the 12th Inst., I am given directions for such advance; and I am to request that you will move his Lordship to Cause Instructions to be conveyed by the earliest opportunity that may offer to the Gov. of N. S. Wales to let the said Sum of £20,000 be paid over without delay to the Military Chest on the Station from the Emigration or other Colonial Funds, upon which the services the Agent is called upon to defray is chargeable.

I am, &c..  
A. Y. SPEARMAN.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 70. per ship Caroline; acknowledged by lord Glenelg. 30th January, 1838.)

My Lord,

Government House, 28 July, 1837.

As a Ship is now about to sail for London, and as such opportunities for forwarding Despatches do not occur with regularity at this period of the year, I avail myself of the present to transmit Copies of the Appropriation Act of this Colony for the year 1838. The Bill has this day been read a second time and agreed to as printed; and, as by the Rules of Council no alteration of the clauses can take place when the Bill is reading for

Advance by  
English  
treasury to  
colonial agent.

Transmission of  
appropriation  
act for 1838.



the third time, it may now be considered as finally disposed of, though a week must elapse before it be formally passed.

1837.  
28 July.

In the Minute on the Estimates, which I had the honor to forward on the 8th inst., Your Lordship has found a full explanation of the principal items of expenditure, and particularly of any additional or novel charges. The Council have agreed to the estimates nearly as they were presented, being satisfied that it will be as useful to the Colony to accomplish the objects for which a casual expenditure is required, as it is necessary to keep up or augment the existing Establishments. The sum appropriated\* is of extraordinary magnitude for a Colony of such recent date; but the state of the Treasury affords it, and I am happy to say that the Revenue continues to increase. The duties of Customs have in the last six months of this year exceeded considerably the amount of the same period in the last.

Explanation of  
expenditure.

Increase in  
appropriations  
and revenue.

When I state that the present condition of the Treasury affords this large expenditure, I might have added that it actually requires it, and that it is an unfortunate circumstance for the Colony that the want of labor prevents the Government from disposing of its surplus Revenue upon useful objects as fast as it comes in. In my Despatch of the 1st January last, No. 1, I have had the honor to request your Lordship's attention to this matter, and may therefore conclude this subject by expressing my hope that His Majesty's gracious allowance may be obtained for the Bill now transmitted.

Disposal of  
surplus  
revenue  
prevented by  
want of labour.

I beg leave, however, before I conclude my Despatch, to acknowledge the receipt of that of Your Lordship dated the 23 March last, No. 276, intimating a new arrangement for introducing Emigrants from Great Britain to the Colony, upon which it is proposed to expend the whole of the Land Revenue. Such an expenditure would so much diminish the funds available for other Colonial objects as to render it doubtful whether the Colony can accomplish them, and bear at the same time the charge of Police and Gaols, which has been recently transferred to its Treasury upon the assurance that the surplus of the Land Revenue was to be appropriated towards defraying the expence. I purpose to address your Lordship more at length upon this subject hereafter.

Despatch  
acknowledged  
re new system  
of immigration.

Probable  
effects of new  
system.

I have, &c.,

RICHD. BOURKE.

[Enclosures.]

[The act of council was 8 Wm. IV, No. 4; a copy of the minute was printed in the "Votes and Proceedings" of the legislative council.]

\* Note 11.

1837.  
29 July.

LORD GLENELG TO SIR RICHARD BOURKE.  
(Despatch No. 355, per ship Waterloo.)

Sir,

Downing Street, 29 July, 1837.

Proposed  
passage for  
Sir R. Bourke  
in ship of war.

I have the honour to transmit to you, for your information, Copies of a Correspondence which has passed between my Under Secretary and the Secretary to the Admiralty in consequence of an intimation, which I received of your desire to be provided with a Passage from New South Wales in a Ship of War either to this Country or to one of the East India Presidencies; and I shall be happy if arrangements can be made for that purpose without interfering with the movements of the Naval Force on that Station.

I have, &c.,

GLENELG.

[Enclosure No. 1.]

UNDER SECRETARY STEPHEN TO MR. C. WOOD.

Sir,

Downing Street, 18 July, 1837.

Lt. Genl. Sir R. Bourke, who is about to be relieved in the Govt. of N. S. Wales, having expressed a wish to be provided with a Passage together with his Suite on board some one of Her Majesty's Ships of War either to this Country or to one of the East India Presidencies, I am directed to request that you will state to the Lords Commrs. of the Admiralty that Lord Glenelg wd. be glad if such an arrangement cd. be effected without inconvenience to the Public Service. Sir R. Bourke wd. leave N. S. Wales about the termination of the present year.

I am, &c.,

JAS. STEPHEN.

[Enclosure No. 2.]

SIR JOHN BARROW TO UNDER SECRETARY STEPHEN.

Sir,

Admiralty, 19 July, 1837.

In return to your letter of the 18th Inst. rel. to the Passage of Lt. General Sir Richard Bourke from N. S. Wales to this Country or to one of the E.I. Presidencies on board of one of Her Majesty's Ships, I am commanded by my Lords Commrs. of the Admiralty to acquaint you for the information of Lord Glenelg that orders have been given for this passage if any ship shd. be coming home from New South Wales.

I am, &c.,

J. BARROW.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 71, per ship Caroline; acknowledged by lord Glenelg. 6th August, 1838.)

My Lord,

Government House, 29 July, 1837.

Having communicated to Mr. Ryan Brenan the purport of your Lordship's Despatch of the 16th February last, No. 266, in which the supercession of his appointment as Principal Superintendent of Convicts is intimated, I have received from that

Transmission  
of letter from  
R. Brenan.

Gentleman for transmission the accompanying Letter addressed to your Lordship. At his request, I transmit also a copy of the letter of Lord Goderich to which he refers.

1837.  
29 July.

In appointing Mr. Ryan Brennan to the first office of considerable emolument, which fell vacant after the receipt of the letter of Lord Goderich, I conceived that I was fulfilling the instruction of the Secretary of State and am not therefore surprized at finding that Mr. Brennan has suffered a severe disappointment in losing it. I am further bound to observe that Mr. Brennan discharged the duties with intelligence and zeal.

Disappointment  
of R. Brennan.

Some time previous to his nomination as Princl. Supt. of Convicts, I gave Mr. Brennan the appointment of Coroner for Sydney. This office he still holds, as I did not think it would be fit to deprive him of it, unless your Lordship should confirm his nomination as Principal Superintendent of Convicts. The net income, however, of the Coroner's office not exceeding £200 a year, the preferment must be considered as far below what a reasonable interpretation of the instruction from Lord Goderich had led Mr. Brennan to expect.

Employment  
of R. Brennan  
as coroner.

I have, &c.,

RICHD. BOURKE.

[Enclosure No. 1.]

[A copy of this letter is not available.]

[Enclosure No. 2.]

[This was a copy of a letter from Viscount Goderich, dated 1st February, 1833; see page 453, volume XVII.]

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 72, per ship Caroline.)

My Lord,

Government House, 30 July, 1837.

30 July.

I have the honor to inform Your Lordship that instructions have been given by this opportunity to the Colonial Agent General to procure and forward certain quantities and descriptions of Slate, which are required for roofing the public Buildings now erecting in this Colony. As I have reason to believe that this Commission will be best executed by the ordnance Department in London, I have to request Your Lordship will obtain an instruction to the Board to undertake it.

Requisition  
transmitted  
for slate for  
roofing.

I am the more anxious for the careful and speedy discharge of this Commission, as I anticipate considerable benefit to the Colony by the introduction of a more secure lasting and economical description of roofing than the Shingles now in common use. In addition to the danger incurred by roofing with an

Objections to  
shingle roofs.

1837.  
30 July.

Example of  
use of slates by  
government.

Possible  
prohibition  
of timber  
roofing in  
Sydney.

inflammable material, the Shingles generally made use of last but a short time, and great inconvenience is sustained, as well as expence incurred, in frequent repairs which these roofs require. An Example being set by the Government in the use of Slates, it is likely to be followed when the expence is ascertained to be little more (as I am informed will be the case) than that of perishable shingles. As yet, no Slate Quarries have been discovered; and, though Tiles could be and have been made here, they are heavy and in other respects inferior to Slates. It may be advisable before long to prohibit by a legislative enactment the use of Timber in roofing within the Town of Sydney.

I have, &c.,

RICHD. BOURKE.

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LORD GLENELG TO SIR RICHARD BOURKE.  
(Despatch No. 356, per ship Emma Eugenia.)

31 July.

Sir,

Downing Street, 31 July, 1837.

Correspondence  
with Revd.  
J. D. Lang.

I have the honour to transmit to you for your information and guidance Copies of a correspondence, which has taken place between my Under Secretary and the Revd. Dr. Lang, relative to the payment of the Bounty under the Provisions of the Govt. Proclamation\* of the 28th March, 1836, to certain Emigrants proceeding by the ship "Minerva." I am, &c.

GLENELG.

[Enclosure No. 1.]

REVD. J. D. LANG TO SIR GEORGE GREY.

Sir,

Greenock, 22nd July, 1837.

Application  
by Revd.  
J. D. Lang re  
bounty on  
immigrants  
per ship  
*Minerva*.

I have the honour to transmit herewith certificates and Testimonials in favour of two of the three German Missionaries, for whom Her Majesty's Government have authorized† me to draw for outfit and passage money to New South Wales; And as these Missionaries has all arrived in Greenock on their way to the Colony from Berlin and Hamburgh, I have taken the liberty to draw accordingly. In addition to the three educated Missionaries for whom Her Majesty's Government have granted this indulgence, other ten of a humble class in Society, but who have been for some time under training in a Missionary Institution in Berlin, accompany the others as Catechists or Assistant Missionaries, all of whom are to proceed to the Colony by the Ship "Minerva" of Bristol, which has been engaged on behalf of George Rankin, Esqre., a Magistrate of the Territory of New South Wales, who has been authorised by the Colonial Government to import a certain number of Agricultural Labourers and Mechanics into the Colony, on the Government Bounty arising from the Sale of Land. As the owners of the Ship "Minerva," however, entertain scruples about sending their vessel on such a voyage, under the apprehension that, if she should experience some unexpected delay by the way and not arrive in Sydney before the 31st of December next, the time fixed for

\* Note 12.

† Note 13.

the continuance of the bounty by the Colonial Proclamation\* of the 28th October, 1835, that Bounty might not be obtained, I should feel greatly obliged on behalf of the Missionaries, who are all here awaiting the "Minerva," if an intimation could be given in any way by Her Majesty's Government to Messrs. Hillhouse and Co., of Bristol, the owners of that vessel, that, in the event of her sailing before the middle of September, the bounty would nevertheless be allowed, altho' she should not arrive in Sydney until after the 31st of December.

I have the honour also to request that the Certificates of Messrs. Schmidt and Schneider, together with that of Mr. Gipper, transmitted in a former letter, may be returned under cover to me in New South Wales, as it will be necessary to submit them also to the Colonial Presbytery.

I have, &c.,

JOHN DUNMORE LANG.

1837.  
31 July.

Application  
by Revd.  
J. D. Lang re  
bounty on  
immigrants  
per ship  
*Minerva*.

[Enclosure No. 2.]

[A copy† of the reply, dated 31st July, 1837, is not available.]

LORD GLENELG TO SIR RICHARD BOURKE.  
(Despatch No. 357, per ship Waterloo.)

Sir,

Downing Street, 1st August, 1837.

1 Aug.

With reference to my Despatch No. 228 of the 10th of Nov. last, I have the honour to transmit to you, for your information and guidance, copies of a Correspondence which has passed between my Under Secretary and Mr. Walter Raymond, from which you will perceive that I have been induced further to extend the limit of the time allowed to him for taking possession of his Grant for a period of Twelve months from the present date.

Extension of  
time-limit on  
land grant for  
W. Raymond.

I have, &c.,

GLENELG.

[Enclosure No. 1.]

THE Memorial of Walter Raymond of 35 Doddington Grove, Kensington, Master Mariner, humbly sheweth,

THAT, in Oct., 1829, I applied at the Col. office for the conditions on wh. Land cd. be had at N.S.W. and obtained the printed regulations and afterwards a letter signed by Mr. Hay, the then U. Sec. stating that, on presenting that letter to the Gov., Genl. Darling, and proving the amount of Property I had with me, I shd. be entitled to a grant of Land.

Memorial of  
W. Raymond  
soliciting  
confirmation  
of land grant.

That, in Dec. of the same year, I engaged my Passage in the Elizabeth, Collins, for my family, and 2 free Emigrant servants; shipped, in household furniture and merchandize, about £2,300 and 900 Sovereigns on freight, for which I obtained Bills of Lading.

That, in May, 1830, I arrived at Sydney, and rented a house in Upper Pit Street, furnished with the furniture I took out; I then applied for the Land, producing my Bills of Lading, Vouchers and Mr. Hay's letter. To my great surprize I was informed that (altho' I had fully complied with every condition and had satisfactorily proved the amount of my Property) unless I was prepared

\* Note 12.

† Note 14.

1837.

1 Aug.

Memorial of  
W. Raymond  
soliciting  
confirmation  
of land grant.

to give a Bond of £500 to reside in the Colony for three years I did not obtain an Order for the Land then. There were many weighty reasons, which wd. not allow me to bind myself in so serious an amount; also it was a condition never contemplated by the Home Govt. or they wd. in justice have acquainted the Emigrant that he might make his arrangements previous to his leaving England to meet it. Not wishing to make myself a party to the violent attacks agt. the Governor, I waited patiently in the Colony upwards of 6 months, but to no purpose. As the object (I had incurred such heavy expences for and loss of valuable time) was frustrated, I determined to make a sacrifice at once, and return home and humbly submit my situation to the Colonial Secretary.

The amount of my Passage out and home for my family, incidental expences, the loss at Sydney, independent of 20 Months' time, nearly reduced my original Capital.

On my arrival in England, Lord Howick was then in office. I respectfully submitted every circumstance producing the Bills of Lading and Vouchers; also one of the Printed Bonds of £500. His Ldship's answer was that, if my statements were found to be correct and the sole cause of refusal was my not giving the Bond, that, in consideration of my case, the Colonial Secretary wd. order a Grant of Land to be made to me. Full enquiry was made, and every circumstance I stated substantiated. Shortly after I recd. a letter from Ld. Howick containing the condition of my taking personal possession of the Land. I had previously stated my intention to return to the Colony, and therefore I readily acceded to this Condition.

From that period I have struggled agt. numerous trying difficulties to accomplish the new condition on which the Grant was confirmed; and, in June, 1834, was on my passage in command of the Convict Ship Norfolk, when she unfortunately sprung a leak; to save the lives I immediately put back, and, the Ship having been much strained from the defective construction of her rudder, she was prevented proceeding; being owner, I lost all I possessed; this circumstance caused me much trouble and delay; and I was compelled to make applications for an extension of time, and I gratefully acknowledge that I have received much condescending attention.

Having lost so much at the onset for the land, I made up my mind to proceed in conformity to the condition of the Govt.; altho' I was compelled to leave my three Infant daughters, and my wife on the point of Confinement, nevertheless I engaged my passage in the Barque Abel Gower, Henderson (a certificate of which was left in March at the Colonial Office). On the 26th, I embarked at Gravesend; the following day I was seized with violent Dysentery (the medical certificate of which is attached). On the third day obtaining no relief from the medicines I got from the shore, and finding myself getting worse, I was earnestly entreated and advised not to undertake so long a voyage in my precarious state of health, particularly as there was no Medical Man on board. I returned home suffering acutely in mind and body, and was confined to my room for several weeks.

Under all these circes, which are indeed painful to relate, my wife ill in bed with now four infant daughters, I find myself at present unable to comply with the condition exacted in Lord Howick's letter. I have now no alternative but to throw myself

entirely on the humane consideration of your Lordship, venturing to hope that you will be pleased to send an order to confirm the grant to my Agent in my name.

1837.  
1 Aug.

Memorial of  
W. Raymond  
soliciting  
confirmation  
of land grant.

I beg most sincerely to assure your Ldship, that the land has been fully occupied and improvements made thereon by my agent during the last three years; and, having further entered into arrangements with my fellow passenger in the Abel Gower (Mr. Hodgson who will reside with his family on the grant, and to whom on leaving the ship I gave a Power of Attorney to act for me), I trust that the condition, on which Ld. Howick continued the grant to me, will not be considered an insuperable bar to this humble request.

Without venturing to question the propriety of that condition (which at the time it was offered I had no hesitation in thankfully accepting as it entirely accorded with my own intentions evinced by two attempts since 1831 to undertake the Voyage), still I humbly trust yr. Ldship will allow me to point out that the original conditions, by virtue of and in fulfilment of which (according to the principles laid down in the Colonial Office in 1829) my claim to a grant of land became complete, included no stipulation for residence in the Colony; but simply the bona fide importation on my own account of so much property in proportion to the Land to be asked for.

At that time, I was very sanguine of receiving further assistance from my relative to enable me again to take my family out with me, and I therefore stated to Ld. Howick that I wd. return to the Colony; this determination I humbly conceive was partly the cause of the condition being exacted for my taking personal possession of the Land, for I had at the onset fully performed all that was required of me agreeable to the printed regulations of the Colonial office, the terms of which induced me to leave England; and I had not given the slightest offence to the Governor, and had ample capital to secure the Grant of Land.

I venture to hope the foregoing statement will satisfy yr. Ldship, that nothing but unavoidable calamities have prevented me from accomplishing all that has been required of me; and that, considering the great increasing difficulties under which I now labour (having 4 children), which made me despair of speedily acquiring the necessary means, I do hope on their account your Ldship, will be graciously pleased to comply with my humble request, and be pleased to cause instructions to be sent to the Governor of N. S. Wales authorizing him to confirm the Grant in my name to my relation and agent, Mr. James Raymond, the Post Master of the Colony.

And yr. Memt., &c.

WALTER RAYMOND.

[Enclosure No. 2.]

UNDER SECRETARY STEPHEN TO MR. W. RAYMOND.

Sir,

Downing Street, 4 Aug., 1837.

I am directed by Lord Glenelg to acquaint you that he has had under his consideration yr. Memorial without date, in which you pray that the Grant of Land, which was made to you in N. S. Wales on the condition of your fixing your residence on it within a given period, may be confirmed in your name to your relative and agent Mr. James.

Memorial  
acknowledged.

1837.

1 Aug.

Conditions for  
land grant to  
W. Raymond.

Lord Glenelg has found it impossible to read without concern your statement of the misfortunes which have attended you. His Lordship has examined the whole correspondence, which has taken place on the subject of your Grant, and he observes that Lord Stanley in no degree remitted the terms on which Ld. Ripon consented to direct the Grant to be made, but simply fixed a period of three years during which he conceived that you had ample opportunity to make your arrangements for removing to the Colony. Extensions of time have been subsequently solicited and obtained by you. Into the merits of your case generally, Ld. Glenelg does not feel himself called upon to enter. He is prepared to deal with the case as it was left by his Predecessors, and on the principles on which it was treated by them. The only question, then, for his Lordship to consider is whether you have in your Memorial laid the grounds for any and what further degree of indulgence, and, under all the circumstances, Ld. Glenelg is of opinion that a moderate extension of time must be the limit of any fresh concession. His Lordship will direct the Governor to suspend the resumption of the Grant for twelve months from the present time.

Extension of  
time granted.

I am, &amp;c.,

JAS. STEPHEN.

SIR RICHARD BOURKE TO LORD GLENELG.  
(Despatch per ship Sarah and Elizabeth.)

My Lord,

Govt. House, Sydney, 1 August, 1837.

Necessity for  
crown  
prosecutor at  
quarter  
sessions.

In the Finance Minute laid before the Council of this Colony of the 4 ulto., of which a copy\* has been transmitted to your Lordship, I represented the necessity of appointing a Crown Prosecutor for the Qr. Sessions. Your Lordship is aware that all criminal cases brought before the Supreme Court or Courts of Qr. Sessions in this Colony are prosecuted not merely in the name of the King but substantially by a Crown Lawyer. In the S. Court, the Attorney General appears and hitherto the Clerk of the Peace has prosecuted at the Qr. Sessions. For the reasons stated in the Minute, this course can not with respect to the latter Court be continued without injury to the public Service. The cases, which since the abolition of the punishment of death for several offences are now brought before the minor tribunal, are too numerous and important to be conducted by an Officer having other paramount duty to discharge in the same Court. An additional Motive for the appointment of a competent Prosecutor will be found at no distant period in the application of the British law,\* which gives Prisoners the right of defence by Counsel or Attorney.

Proposed  
appointment of  
G. K. Holden.

The Council having authorized in a supplementary estimate the appropriation of £600 a year for the salary of this Officer, I propose on the first of October next to nominate my private Secretary, Mr. G. K. Holden, who is an Attorney of the Supreme

\* Note 15.



Court. I had the honor to bring his name before your Lordship in a late communication, and I have now to request your favorable consideration of this Gentleman's claims for services rendered to me and thro' me to the Colony for a period of nearly four years, and that the nomination I propose to make may be honored by Your Lordship's confirmation.

1837.  
1 Aug.

Request for confirmation of appointment.

I need hardly add that upon being nominated to this Office Mr. Holden vacates his employment as Private Secretary.

I have, &c.,

RICHD. BOURKE.

LORD GLENELG TO SIR RICHARD BOURKE.  
(Despatch No. 358, per ship Waterloo.)

Sir,

Downing Street, 2 August, 1837.

2 Aug.

I have received a Memorial from an Individual named James Smith who carries on the trade of a Tailor in Sydney, praying that he may receive an allowance of £20 on account of the Passage of his Wife from this country; and you will have the goodness to acquaint the Memorialist that, as his wife does not come under the description of persons eligible to receive the Government Bounty, I regret that it is not in my power to comply with his application.

Refusal of passage money for wife of J. Smith.

I have, &c.,

GLENELG.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 74, per ship Sarah and Elizabeth: acknowledged by lord Glenelg. 5th January, 1838.)

My Lord,

Government House, 2 August, 1837.

I have the honor, at the request of Mr. George Wentworth, to transmit a Memorial he has addressed to Your Lordship, praying for a grant of Land to which he established his claim in February, 1831, in the usual manner, according to the Regulations now in force; but which he complains was withheld from him without any legitimate cause.

Application by G. Wentworth for land grant.

Mr. Wentworth is correct in asserting that the Land Board reported in favor of his receiving a maximum grant (2,560 acres), and, from the Papers on the subject in the Colonial Office which I have perused, I cannot assign any sufficient cause for the grant being withheld. I am therefore of opinion that Mr. Wentworth's application is well founded.

Application recommended.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this memorial is not available.]

1837.  
3 Aug.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 75, per ship Sarah and Elizabeth.)

My Lord,

Government House, 3 August, 1837.

Application by  
P. Macarthur  
for land grant.

At the request of Mr. Peter Macarthur, late a Surgeon in the Army, I have the honor to transmit a Memorial in which he prays your Lordship to order him a grant of 2,560 acres without purchase, in fulfilment of expectations held out to him at the Colonial Office in England in 1830. Of this part of his case I am of course wholly ignorant; but, as he seeks to strengthen his claim by a complaint that he has been unable to obtain Land under the existing Regulations as a retired officer, I beg to refer Your Lordship to my Despatch of the 14th August, 1835, No. 81, which will shew the reason of his disappointment to have been his selection of Land which the Regulations would not, in the opinion of the Executive Council, admit of his receiving.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[*A copy of this memorial is not available.*]

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 76, per ship Sarah and Elizabeth; acknowledged by lord Glenelg, 30th December, 1837.)

4 Aug.

My Lord,

Government House, 4 August, 1837.

Transmission of  
memorial from  
S. L. Harris.

I have the honor to transmit herewith a Memorial, which has been addressed to Your Lordship by Mr. S. L. Harris, praying compensation for losses sustained in consequence of the withholding from him for several years of a sum of money that became due to him from this Government during his employment as Colonial Architect in the years 1823 and 1824.

Compensation  
awarded by  
jury to  
S. L. Harris.

The debt in question turned upon a disputed construction of Mr. Harris's agreement with the Government of Sir Thomas Brisbane. After much correspondence, Lord Viscount Goderich, in his Despatch to General Darling of 19 June, 1831, authorised the submission of the case to a Jury, which resulted (as reported in my Despatch of 4 Septr., 1831, No. 78), in a verdict for Mr. Harris of £1,420 4s. 6d., which sum he has received accordingly.

Lord Goderich doubtless intended this as a final proceeding, and I cannot see how it can be regarded in any other light.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

1837.

4 Aug.

Memorial of  
S. L. Harris.

THE Humble Memorial of Standish Lawrence Harris, of Sydney,  
in the Colony of New South Wales, Architect;

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

Humbly Sheweth,

1st. That your Memorialist arrived in the Colony aforesaid in the month of November, 1822, as an Emigrant Settler.

2nd. That, upon your Memorialist's said arrival, the Government, being in urgent need of a competent person to take charge of the Department of Civil Architect, the various Public Buildings throughout the Colony having, for want of proper professional superintendence, fallen into a state of neglect and dilapidation, His Excellency Sir Thomas Brisbane, at that time Governor in Chief, was pleased to offer to your Memorialist, upon being satisfied with his highly respectable testimonials, a salary of One Hundred Pounds per annum in consideration of His devoting his zealous services to the Public Buildings for twelve-months certain, provided they should be required for so long a period; and also to give to your Memorialist, in addition to the said salary, a Commission of Ten per Cent, on the value of all the work done by Government Labourers on the New Gaol,\* when duly allowed by a board of works, to be assembled quarterly for the purpose of investigating the progress of that building (*Vide Appendix A*).

Agreement with  
S. L. Harris  
for services  
as architect.

3rd. That your Memorialist, having accepted the said offer, continued to discharge with fidelity and zeal the important duties thus confided to him, until the month of October, 1824, up to which period he had received from the Colonial Government, from time to time, in pursuance and on account of the Agreement entered into as aforesaid with His Excellency Sir Thomas Brisbane, divers sums of money, amounting in all to about Nine Hundred Pounds, leaving a large balance still owing to your Memorialist.

Payments under  
agreement.

4th. That, from circumstances which your Memorialist presumes it is not necessary to detail to your Lordship, his claim to the said balance, although urged in every possible way by him, was not satisfied during the administration of Sir Thomas Brisbane, nor yet during that of his successor, Sir Ralph Darling; but the matter having been referred, ad interim, to the Right Honorable the Secretary of State for the Colonies, His present Excellency Major General Sir Richard Bourke was pleased to allow the same to be tried in the highest Court of Judicature within the Colony; and it was tried accordingly before the Honorable the Supreme Court and a Special Jury, in the Second Term of the year 1834; when, after a most laborious and impartial investigation of all the facts brought forward in evidence on the part of the Crown and on that of your Memorialist, the Jury found a Verdict for your Memorialist with damages to the amount of One thousand, four Hundred and Twenty Pounds, fourteen shillings and sixpence (£1,420 14s. 6d.), which sum was paid to your Memorialist out of the Colonial Treasury, by order of His Excellency the Governor, on the 26th day of July, 1834.

Balance  
awarded on trial  
in supreme  
court.

5th. That the sum thus proved to have been justly owing to your Memorialist by the Crown having been withheld from him for the long period of *Ten years and nine months*, he was not only deprived of the benefits, which so large an amount, had it been invested as capital in his pursuits as a Settler, would in those days have

Results of  
delay in  
settlement.

\* Note 16.

1837.  
4 Aug.

Memorial of  
S. L. Harris.

Value of  
property seized  
for debt.

realized, but, having embarked in the cultivation and stocking of his Farm, upon the Faith of the debt so due to him, and far beyond his means independently thereof, his affairs became so seriously embarrassed, that all his estates and effects were seized and sold by the Sheriff under successive executions, and *his person at length thrown into prison for debt.*

6th. That the landed Estate alone, of which your Memorialist was dispossessed by legal process, consisting of Three thousand five hundred acres, and situated on one of the most advantageous positions of the River Hunter, could at the present time be worth at least the sum of *Twenty thousand Pounds*; whilst the livestock depastured thereon would be worth not less than *three thousand pounds* in addition thereto.

7th. That, in proof of the serious extent of your Memorialist's said embarrassment, he begs most respectfully to refer your Lordship to the joint affidavit (copy whereof is hereunto annexed) of his Solicitor and himself, made on another occasion, after a search into the records of the Supreme Court (Vide Appendix B).

Legal expenses  
and loss of  
interest.

8th. That, besides the losses thus incurred incidentally, the law expences arising out of your Memorialist's suit against the Crown (the law officers having enforced the right of the Crown to pay no costs) amounted to £239 16s. 4d., which, added to the simple interest upon the principal awarded by the Jury, for Ten years and nine months, at the rate of Eight per Cent. per annum, namely, £1,221 4s., makes a total of £1,451 loss to your Memorialist in direct and immediate consequence of the delays of the local Government (Vide Appendix C).

9th. That your Memorialist humbly trusts it will be apparent to your Lordship, from the foregoing statement, that the bare principal of the Debt Awarded by the Jury as aforesaid, was far, very far, from meeting the justice of his case, and from affording reasonable compensation for the complicated and ruinous losses accruing from the unjust delays of the servants of His Most Gracious Majesty; but, the local Government not feeling authorised to grant further redress without the sanction of your Lordship, Your Memorialist now humbly submits his case to your Lordship's consideration, not doubting that your Lordship will afford to him such full and sufficient compensation as, to your Lordship, his sufferings shall appear to merit.

Request for  
compensation.

Wherefore your Memorialist humbly prays that your Lordship will be pleased to take the premises into your most favourable consideration, and instruct His Excellency the Governor to make any inquiry, which your Lordship may deem proper, into the facts of the foregoing statement, and to Grant to your Memorialist, either in money or in Crown lands at the minimum price, the amount to which he shall thus prove himself to be fairly entitled.

And your Memorialist, as in duty bound, shall ever pray.

S. L. HARRIS.

[Appendix A, referred to in Paragraph 2.]

COLONIAL SECRETARY GOULBURN TO MR. S. L. HARRIS.

Sir,

Colonial Secretary's Office, 6th December, 1822.

Agreement for  
services as  
architect.

In reply to your letter of the 26th of November, I am to acquaint you that the Government feel very unwilling to victual any more Individuals on the King's Store, but will grant you at the rate of One Hundred Pounds (£100) per annum in consideration of your devoting your zealous services to the Public Buildings for a Twelve month certain (provided they may be required for so long a period), and

will give, in addition, ten per Cent. on the value of all the works done by Government labourers on the New Gaol, when duly allowed by a board of works, to be assembled quarterly for the purpose of investigating the progress of that Building.

1837.  
4 Aug.

I am, &c.,  
F. GOULBURN.

[Appendix B, referred to in Paragraph 7.]

AFFIDAVIT BY F. W. UNWIN AND S. L. HARRIS.

FREDERICK WRIGHT UNWIN of Sydney, Gentleman, and STANDISH LAWRENCE HARRIS of Hunter's River, Gentleman, severally make oath and say, and first this deponent, Frederick Wright Unwin, for himself saith that he hath searched the Office of the Supreme Court for Judgments against the said Standish Lawrence Harris from the commencement of the records of Judgments in the said Court up to this date, the first day of January, one thousand, eight hundred and thirty two, and that there are no other Judgments against the said Standish Lawrence Harris than those contained in the schedule hereunder written; and that he hath also searched the office of the Registrar of the said Court, and that there are no encumbrances upon the Estate of Goulbown at Hunter's river than the two several Judgments of Mortgage to James Fox Godsir, Esquire, dated respectively the first day of September, 1827, the 19th day of May, 1831, And the said Standish Lawrence Harris for himself saith that he hath duly paid and satisfied all the Judgments mentioned in the said Schedule with the costs thereon except those of George Bunn for the sum of One Hundred and eighteen Pounds, and Francis Mitchell for the sum of One Hundred and Nineteen Pounds, Ten shillings and five pence, and Thomas Rose for the sum of Sixty six Pounds nineteen shillings and sixpence.

Affidavit re  
judgments  
against  
S. L. Harris.

	The Schedule above referred to.	Judgment signed.
H. D. Owen	22 5 0	April 3rd, 1827.
John Quish	40 15 0	May 15, 1827.
Cooper and Levy	800 0 0	" "
A. B. Bingle	54 13 4	April 15, 1828.
Ebenezer Knox	54 13 4	" "
Raine and Ramsay	25 13 4	October 21, 1828.
John McQueen	850 0 0	October 18th, 1828.
William Williams	20 10 8	March 20th, 1829.
Thomas Rose	66 19 6	July 16th, 1829.
William Carter	31 3 9	" "
James Fox Godsir	200 0 0	March 8th, 1830.
Edward Landwell	74 9 7	" 16th, "
George Allen	35 3 5	" "
George Bunn	118 0 0	September 2, 1830.
Francis Mitchell	119 10 5	January 18th, 1831.

F. W. UNWIN.  
S. L. HARRIS.

Sworn in Open Court this first day of January, One Thousand eight hundred and Thirty Two, signed By the Court.

[Appendix C, referred to in Paragraph 8.]

In the Supreme Court Second Term 1834. Standish Lawrence Harris, Plaintiff,  
of New South Wales. and  
Campbell Drummond Riddell, Defendant.

Legal expenses  
incurred by  
S. L. Harris.

I HEREBY certify that my costs in this cause amounted to the sum of £136 6s. 11d. Dated at Sydney this 23rd day of Nov., 1836. J. NORTON, Plaintiff's Attorney.

I HEREBY certify that my costs in this cause amounted to the sum of £53 9s. 5d. Dated at Sydney this 23rd day of Nov., 1836. F. W. UNWIN, Plaintiff's Attorney.

I HEREBY certify that my costs in this cause amounted to the sum of £20. Dated at Sydney this 23rd day of Nov., 1836. EDWD. HALLEN, Surveyor for Plaintiff.

I HEREBY certify that my Costs in this cause amounted to the Sum of £30. Dated at Sydney this 23rd day of Nov., 1836. JOHN JAMES, Clerk to Plaintiff.

LORD GLENELG TO SIR RICHARD BOURKE.  
(Despatch No. 359, per ship Waterloo.)

Sir, Downing Street, 10 August, 1837.

10 Aug.

I have received a memorial from Surgeon Peter Mac-Arthur dated "Bathurst, New South Wales, 27th March, 1837," soliciting an order for a Grant of Land in that Colony.

Memorial  
received from  
P. Macarthur.

1837.  
10 Aug.  
Reasons for  
refusal of  
application.

I have to desire that you will call upon Mr. MacArthur for a copy of his Memorial, and that you will acquaint him in reply that on enquiry I find that he remained in this country for nearly four years after he obtained Sir George Murray's Authority for a Grant of Land in New South Wales, and that the authority was revoked by Lord Stanley in consequence of that delay, his Lordship substituting for it a recommendation in the ordinary form to the Governor of the Colony. The present application is, therefore, in effect an appeal against Lord Stanley's decision with which I must decline to interfere.

I have, &c.,  
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 361, per ship Waterloo; acknowledged by Sir George Gipps, 2nd June, 1838.)

12 Aug.

Alleged  
fictitious  
bidding at  
public land  
sales.

Sir, Downing Street, 12th August, 1837.

I transmit to you herewith a copy of a Communication which has been addressed to me by Dr. Fowler, M.D., calling my attention to a practice which he states to exist in New South Wales of fictitious biddings at the Public Land Sales.

You will direct immediate enquiry to be made into this subject, and, should the practice complained of appear to prevail to any considerable extent, you will take measures for remedying that abuse.

I am, &c.,  
GLENELG.

[Enclosure.]

DR. FOWLER TO LORD GLENELG.

My Lord,

Bath, 6th Aug., 1837.

I have just returned from a voyage to N. S. Wales undertaken for the restoration of impaired health, and, finding the climate more congenial to my constitution and temporal advancement, wd. wish to return thither with my wife and four children. During a residence of 9 months in the Colony, I find the following serious practical obstacles to my settling there (with but a small capital), and I trust the happiness of a young and increasing family will be sufficient apology for thus troubling yr. Lordship.

Objections to  
system of  
public land  
sales.

On my arrival in the Colony, I may spend some months in the search of Land in which to locate; having at length fixed, I am required by the Govt. to let it be advertized for the space of 3 months. The day of sale arrives, and I then find myself outbid by two classes of bidders but not buyers. The first of these wishing to keep me from settling in their neighbourhood, the others are a set of men (mostly Jews), who throng the Auction Mart, and whose object is to extort a bribe to procure their silence in bidding. Neither of these Parties are bona Fide bidders, and, if the land be knocked down to them, they pay only their deposit which on the day of paying up the whole purchase money is forfeited. Both these

Parties find it answer their ends; the former will have prevented me settling there and the latter makes more money by his frequent bribes than he loses by his few forfeitures of deposits.

1837.  
12 Aug.

I am thus thrown out of my opportunity to settle and must again seek out Land, again give notice of Sale, and again be exposed to the conspiracy of fictitious bidders. There is left then for me the alternative of three evils: To keep my family at a ruinous expence in lodgings till my little means altogether fail me, To submit to use bribery, or to purchase Land at a very high price.

With the greatest diffidence I submit to yr. Ldship's consideration the following remedies for these evils, and beg to assure yr. Ldship, they are the result of much reflexion and after numerous conversations with intelligent and respectable men living in the Colony.

Reforms proposed in system for land sales.

1st. That there be no artificial bounds to the Colony as at present.

2nd. That Settlers of the middling class be allowed the value of Land in the Colony to the amount of their Passage money.

3rd. That, on his arrival, he may be allowed to select one section of Land as a Homestead at the minimum price of 5s. per acre in which he may at once locate himself and family.

4th. That, in any public Sale of Lands, the Purchasers be obliged to deposit half the amount of the Purchase Money. This, which wd. be no impediment to the real bidder, wd. do away with those who from interested motives oppose him.

5th. Or if it might be allowed that Land, having once passed thro' the Public Sale and not bought by any one, or being bought the deposit on it has been forfeited, might be purchased at the Minimum price by the new settler, as is now permitted for retired officers of the Army and Navy.

As the removal of the whole or part of the above named obstacles to the Emigration and settlement in N. S. Wales will induce at least six families of respectability and possessing a little capital to return with me to the Colony, I shall feel grateful for an answer to my enquiries.

D. A. FOWLER, M.D.

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SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 77. per ship Sarah and Elizabeth; acknowledged by lord Glenelg, 11th December, 1837.)

My Lord, Government House, 12 August, 1837.

By my Despatch of the 27th ulto., No. 69, I informed your Lordship of the arrival of the Emigrant vessels "John Barry" and "Adam Lodge," and of the placing the former under Quarantine on account of infectious fever. It is with much pain that I have now to report the disappointment of the hopes I thus expressed of the speedy release of the Emigrants Landed at Spring Cove. Five persons, enumerated in the accompanying List, have since died on the Quarantine Ground. I earnestly hope my next report will be more favorable.

Detention in quarantine of immigrants per ship John Barry.

I take this opportunity of forwarding printed Minutes of Evidence taken before the Committee of the Legislative Council

1837.  
12 Aug.  
Causes of  
disease on  
immigrant  
ships.

now sitting on the subject of Immigration, in which will be found the statements of Doctors Osborne and Thomson as to the causes of disease on board their respective vessels; and I would particularly invite attention to the observations of the latter as to the necessity of providing a more suitable diet for young children and nursing mothers than is usual in Ship's rations.

In transmitting these Minutes, my only present object is to contribute to the immediate improvement of the arrangements for Emigration in England by the experience of the above named Surgeons. The remaining Evidence will more properly come under observation when the report of the Committee is received.

I have, &c.,

RICHD. BOURKE.

[Enclosure No. 1.]

[A copy of this list is not available.]

[Enclosure No. 2.]

[The minutes of evidence were printed in the "Votes and Proceedings" of the legislative council.]

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 79, per ship Sarah and Elizabeth.)

14 Aug.  
Transmission  
of memorial  
from  
W. H. Hovell.

My Lord,

Government House, 14 August, 1837.

At the request of Mr. Hovell, I have the honor to transmit herewith a duplicate of the Memorial addressed to your Lordship by that Gentleman, which accompanied my Despatch of the 29 April last, No. 23, together with a copy of a new edition\* of the Journal of Messrs. Hume and Hovell's Tour therein referred to, just published in the Colony.

I have, &c.,

RICHD. BOURKE.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 363, per ship Waterloo.)

15 Aug.  
Despatch  
acknowledged.

Sir,

Downing Street, 15th August, 1837.

I have received your Despatch No. 126 of the 23d November last, enclosing the Memorial of Mr. Bunker for a Secondary Grant of Land.

Refusal of  
land grant  
for E. Bunker.

After so great an interval of time as has elapsed, I cannot interfere for the relief of the Applicant, especially as the case was brought distinctly under the notice of General Darling in the Year 1827 or 1828; and as it appears that that officer recorded at the time that he was not sufficiently acquainted with the Applicant and his case to be induced to grant his demand;

\* Note 17.



a minute which I can understand only as recording that the applicant had failed to make out his case to General Darling's satisfaction. To construe that Minute as a record of General Darling's neglect of the case would not only be injurious to that officer, but would be opposed to every probability, and would be at variance with the punctual and industrious habits of business by which Genl. Darling and the Colonial Secretary, Mr. McLeay, were both so eminently distinguished.

I have, &c.,

GLENELG.

1837.  
15 Aug.

Minute by  
R. Darling on  
application  
from E. Bunker.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 364, per ship Waterloo.)

Sir,

Downing Street, 17 August, 1837.

17 Aug.

Referring to my Despatch No. 348 of the 14th Ulto., I have the honour to acquaint you that I have received the original of your Despatch of the 4th November last, with Mr. Dangar's Memorial.

Despatch  
acknowledged.

In considering this case as it now presents itself, it appears to me that Mr. Dangar's Memorial is nothing more than an appeal to me against a decision\* pronounced nine years ago by Sir George Murray, and that Mr. Dangar has introduced no new fact of which Sir George Murray was unapprized. He alleges, indeed, that Mr. McIntyre the witness against him has since been tried on a charge of perjury and has been dismissed from the Public Service. It appears, however, that Mr. McIntyre was acquitted on the charge of perjury, and that his removal from the Public Service had no reference to this charge. Mr. Dangar's case appears to have been fully investigated at the time by Sir George Murray; and, as I see no reason to doubt the correctness of the view which he took of it, I do not feel myself at liberty to sanction a departure from the course which was directed by my Predecessor with respect to this case.

Refusal to  
reverse  
decision re  
claims of  
H. Dangar.

I have, &c.,

GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 365, per ship Waterloo; acknowledged by Sir George Gipps, 27th March, 1838.)

Sir,

Downing Street, 19 August, 1837.

19 Aug.

I have the honour to acquaint you that I have received a Memorial from Mr. Richard Lynch, dated "Sydney, 12 September, 1836," setting forth his claim to a Grant of Land in New South Wales.

Memorial  
received from  
R. Lynch.

The Memorialist appears to have emigrated to the Colony in 1828, and, assuming his facts to be correctly stated, to have

\* Note 1S.

1837.  
19 Aug.  
Criticism of  
claim of  
R. Lynch to  
land grant.

acquired a right to a certain quantity of Land under the then existing Regulations. He admits that he failed to make any selections during the prescribed period, and I infer, from the date of the answer to his application to the Local Government, that he did not apply at all for the Land which he claimed until 1832, four years after his arrival and one after the New Regulations had come into operation.

The Memorialist alleges illness as his justification and tenders a Medical Certificate as proof. If he really was prevented by illness from doing an act which he would otherwise have done, and if the cause continued to operate during the whole period of the delay, he ought not, I think, to suffer from it, his claim appearing in that case to be well founded.

The proof, however, of this fact is not satisfactory. It would be impossible on the vague statement of the Medical Certificate, which accompanies Mr. Lynch's Memorial, to assume that, from 1828 to 1831, he was disabled from doing an act which but for a "Lingering and painful illness" would not have been neglected.

On this fact I consider some further enquiry to be essential, and, unless it is clearly substantiated, I see no valid ground for a compliance with the prayer of the Memorial. I have, &c.,

GLENELG.

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LORD GLENELG TO SIR RICHARD BOURKE.  
(Despatch No. 366, per ship Waterloo.)

20 Aug.  
Refusal of  
request of  
J. V. Thompson.

Sir,

Downing Street, 20 August, 1837.

I have to request that you will inform Dr. Thompson, Deputy Inspector General of Hospitals, that I have received his letter dated the 4th March last, and that the existing Land Regulations render it impossible for me to comply with his request.

I have, &c.,

GLENELG.

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LORD GLENELG TO SIR RICHARD BOURKE.  
(Despatch No. 367, per ship Waterloo.)

23 Aug.  
Despatch  
acknowledged.

Sir,

Downing Street, 23 August, 1837.

I have the honor to acknowledge the receipt of your despatch No. 4 of the 4th January reporting Mr. McPherson's entrance on his duty as Clerk of the Councils, and the union of the Office of Collector of Internal Revenue with that of Treasurer.

Offices for  
treasury and  
internal  
revenue.

I have to convey to you the sanction of Her Majesty's Government to the arrangements which you adopted for obtaining accommodation for the joint Establishments of the Treasury and the Internal Revenue Office.

Her Majesty's Government will defer any observations respecting the suggested Building for Public Offices, until some distinct Report on the subject shall have been received from the Colony.

1837.  
23 Aug.

I have, &c.,  
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.  
(Despatch No. 368, per ship Waterloo.)

Sir, Downing Street, 25 August, 1837. 25 Aug.

I have the honour to transmit to you a copy of an Act which has been passed to continue until the 31st of Decr., 1838, and from thence to the end of the then next ensuing Session of Parlt., an Act\* of the ninth year of H.M. King George the Fourth for the administration of Justice in New South Wales and Van Diemen's Land.

Act to continue act for government of colony.

You are aware that it was the intention of H.M. Govt. to propose to Parliament during the present year a new Bill for this purpose, and with this view they had bestowed much attention on the subject.

The highly important enquiries, which engaged the Select Committee† of the House of Commons during the last Session with reference to the moral effect of the system of Transportation as well on the Criminal himself as on the Colonial Society into which he is thrown, seemed to render it desirable that the adoption of any new act of Legislation for the Australian Colonies should not be pressed on the consideration of Parliament, sooner than was indispensably necessary pending those enquiries; and, the Session being suddenly terminated by the Demise of the Crown, the only course remaining for H.M. Govt. was to propose the continuance of the existing Act, which has accordingly been carried into effect.

Reasons for delay in passing new bill.

I am, &c.,  
GLENELG.

[Enclosure.]

[This was a copy of the statute, 1 Vic., c. xlii.]

LORD GLENELG TO SIR RICHARD BOURKE.  
(Despatch No. 369, per ship Emma Eugenia.)

Sir, Downing Street, 28 August, 1837. 28 Aug.

It has been represented to me that urgent private affairs will render it necessary that Mr. Burton, Assistant Judge of the Supreme Court of your Government, should return to this Country. I, therefore, authorize you to grant to Mr. Burton two years' Leave of Absence.

Leave of absence for W. W. Burton.

I have, &c.,  
GLENELG.

\* Note 19.

† Note 20.

1837.  
29 Aug.

LORD GLENELG TO SIR RICHARD BOURKE.  
(Despatch No. 370, per ship Waterloo.)

Sir,

Downing Street, 29 August, 1837.

Despatch  
acknowledged.

I have the honour to acknowledge the receipt of your despatch No. 100 of the 14 September last transmitting twelve Acts passed by the Governor and Council of New South Wales.

A Schedule of their numbers and Titles is annexed to this Despatch.

Confirmation  
of acts of  
council.

Her Majesty has been graciously pleased to allow and confirm all these Acts.

Opinion to be  
transmitted *re*  
charges for  
police.

In my Despatch No. 307 of the 30th April last, I acknowledged the receipt of the Acts Nos. 3 and 5, the first for promoting the Building of Churches, etc., and for the maintenance of Clergymen, the other for the appropriation of the Revenue. I then stated my views on the former subject. With respect to the latter, I have only to add that the Lords Commissioners of the Treasury, in conveying their sanction to the expenditure contemplated in Act No. 3, have signified their intention of taking an early opportunity of communicating to this Department their opinion on the proposals relating to the charges for the Police Establishments.

Act to restrain  
unauthorised  
occupation of  
crown lands.

The act No. 4 relates to a subject on which I am well aware of the difficulty of legislating impartially and efficiently, though it is one on which the greatest vigilance is necessary in order to prevent those evils which must arise from an unauthorized occupation of Lands belonging to the Crown. From the attention which you have bestowed on this subject, I have no reason to doubt that the present Act, if strictly enforced, will prove highly beneficial. I entertain, however, some doubt whether the penalties are sufficiently high to check the temptation to the unlicensed occupation of Land by the Wealthier Class of Settlers. A short experience will probably enable you to form a more correct judgment on this and on some other of the provisions of this Act, and, if it should fail of its purpose, I trust that no time will be lost in proposing the requisite amendments.

Confirmation  
of Union  
assurance  
company's act.

The Private Act relating to the Union Assurance Company of Sydney was confirmed and allowed by my Despatch No. 319 of the 19th May. You also received Instructions on this subject in my separate despatch of the same date.

I have, &c.,

GLENELG.

[Enclosures.]

[*These were copies of the acts of council, Nos. 15 to 18 and Nos. 1 to 8.*]

LORD GLENELG TO SIR GEORGE GIPPS.

1837.  
31 Aug.

(A circular despatch per ship Emma Eugenia.)

Sir,

Downing Street, 31 August, 1837.

I have the honor to transmit for your information and guidance, the copy of an Order of Her Majesty in Council, stating the alterations\* which it has become necessary to make in the Royal Arms, in consequence of the Demise of the Crown, the German Dominions of His late Most Sacred Majesty having thereupon devolved upon His Royal Highness the Duke of Cumberland, now Ernest Augustus King of Hanover.

Order-in-council *re* alteration in royal arms.

I have, &c.,

GLENELG.

[Enclosure.]

[A copy of this order† is not available.]

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 81, per ship City of Edinburgh: acknowledged by lord Glenelg, 6th February, 1838.)

My Lord,

Government House, 1 Sepr., 1837.

1 Sept.

Since the arrival of the Revd. Irvine Hetherington and the Revd. James Allan, whose appointments as Presbyterian Ministers in this Colony were announced to me by yr. Lordship's Despatches of the 22 Febr. and 9 March last, some correspondence has passed between this Government, the Presbytery of N. S. Wales, and these Gentlemen upon the subject of their stipends. It appears that Under Secretary of State Sir George Grey in his letter of the 10th March last to Principal Macfarlane stated that your Lordship trusted Salaries to the extent of £200 would be assigned to these Ministers on their arrival in New South Wales. Upon this intimation, they claim the stipend of £200 a year each without reference to the provisions of the Church Bill of the Colony, 7 Wm. 4, No. 3, which regulates the amount and the conditions under which Stipends are to be obtained by the Ministers of Religion in New South Wales. Being aware that congregations had not been formed or places of Worship Established for the Ministry of these Gentlemen, I caused them to be informed immediately after their arrival that they were as speedily as possible to place themselves in a condition for receiving stipends from Government under the provisions of the Act, and that, to prevent their being subjected to any personal inconvenience whilst these matters were arranging, there would be issued to them from the Colonial Treasury for one year an allowance of £150, but which at the expiration of that period would cease altogether, unless they became entitled to stipends

Stipends claimed by Presbyterian clergy.

Stipends authorised for Revds. I. Hetherington and J. Allan.

\* Note 21.

† Note 14.

1837.  
1 Sept.

Objections  
to proposed  
stipends.

Inability to  
alter decision.

Necessity  
for rigid  
adherence  
to rule.

Appropriation  
for stipends  
in estimates.

pursuant to the Act. The allowance was fixed at £150, as being the highest stipend issued to those Presbyterian Ministers (with the exception of Dr. Lang), who do not claim under the Church Act, their stipends having taken place prior to its enactment.

To this arrangement, the Presbytery and the Reverend Gentlemen, who are mainly affected by it, have demurred, but I cannot according to my view of the case permit any departure from it. If Clergymen are to come out and receive stipends from Government without reference to the provisions of the act, it had better not have been passed. To permit its violation in any one case would lead to its soon becoming a dead letter, and the precedent of the Presbyterians would be claimed as a rule by the Church of England and the Roman Catholics. I trust therefore that Your Lordship will think fit to confirm the decision I have pronounced.

This matter has appeared to me of the greater importance from the fact of Dr. Lang having declared his intention of procuring the introduction into the Colony of a large number of Presbyterian Ministers, to whom he holds out the inducement of adequate provision. I do not, however, perceive how they are at present to be provided for unless as burdens on the Treasury. The three Ministers,\* to whom I have referred as appointed before the passing of the Church Act, and who reside in populous Districts, have not been able to form Congregations to entitle them to the maximum Salary allowed by the Act; nor am I sanguine in expecting that the two Gentlemen last arrived will succeed in entitling themselves to Stipends from Government otherwise than as Itinerant Ministers.

The expediency of declining to hold out any prospect of Stipends to Clergymen coming out to this Colony without any notification of a provision being made for them under the terms of the Church Act applies, equally with the Presbyterians, to Ministers of the Church of England and of the Church of Rome. But the two latter communions having been more prudent in their invitations to their respective Clergy, no inconvenience has arisen from any proceeding on their parts. The sums, which appeared on the Estimates for the year 1837 (voted in 1836) as appropriated for the stipends of additional Ministers, have been so placed upon its being intimated to Government by the Heads of the respective Churches that it was expected provision would be made by their Communion for the appointment of those Ministers pursuant to the Act. The appropriation gives no claim for stipends under any other terms, having been made to enable the Government to satisfy those only which should be legally demanded.

I have, &c.,

RICHD. BOURKE.

\* Note 22.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 82, per ship City of Edinburgh; acknowledged by lord Glenelg, 9th May, 1838.)

1837.  
5 Sept.

My Lord, Government House, 5 Sept., 1837.

I have the honor to transmit herewith Copies of two letters addressed to the Colonial Secretary by the Collector and Comptroller of Customs at this Port, representing the necessity of fixing the pay of the Clerks in their department according to the scale adopted by the Legislative Council for Clerks, whose salaries are charged on the Colonial Treasury as recommended by a Board, whose Report has been already transmitted to Your Lordship, and of which another copy is sent herewith. I also transmit a copy of the Letter, I caused to be written to the officers of Customs in reply to their first.

Necessity for fixing scale of salaries of customs clerks.

It is certain that the same reasons, which are conclusively urged in the Report for the augmentation of the Salaries of other Clerks, apply to those in the Customs, and I cannot therefore do otherwise than recommend the application to the favorable notice of the Lords of the Treasury. The only point on which I differ from the Collector and Comptroller is in the necessity of appointing a Chief Clerk at a Salary rising from a minimum of £300 to a maximum of £400 a year. I do not consider this necessity to be sufficiently borne out by the reasons given in their second letter. The exigencies of increasing business will be better provided for, as it appears to me, by augmenting, from time to time as required, the number of junior Clerks, than in giving to one person a Salary, which appears to me disproportioned to the duty he has to perform. The Establishment, I would propose, consists of two second class Clerks whose maximum Salary will be £300 a year each, and three of the third Class, with a maximum Salary of £200.

Objections to salary proposed for chief clerk.

Establishment of clerks proposed.

I have, &c.,

RICHD. BOURKE.

[Enclosures.]

[Copies of these papers are not available.]

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 83, per ship City of Edinburgh.)

My Lord, Government House, 6 Sept., 1837.

I have had the honor to receive Your Lordship's Despatch of the 15 Feby. last, No. 265, transmitting for my perusal copies of a correspondence between one of Your Lordship's under secretaries and the Chairman of the Colonization Commissioners for South Australia relating to the disposal of the Crown Lands

6 Sept.

Despatch acknowledged

1837.  
6 Sept.

Problem of  
minimum  
price for  
land.

Discretionary  
power *re*  
minimum  
price of land  
at Port  
Phillip.

in the neighbourhood of Port Phillip, and desiring my opinion as to the policy of raising the upset price of such Lands generally throughout New S. Wales. Your Lordship is also pleased to require me to report how far the discretion of this Government has hitherto been exercised in fixing a higher rate than 5s. per acre as the upset price of lands supposed to be of peculiar value.

Before I proceed to reply to the points Your Lordship has referred to me, I would briefly advert to the observation to be found in the Commencement of Your Lordship's Despatch. My attention is there called to the discretionary power, vested in me by recent instructions,\* of fixing the upset price of Land at Port Phillip at a *lower* rate than elsewhere, but, "for the purpose only," as your Lordship observes, "of enabling me to determine such a minimum as would prevent the inevitable result of fixing it too high, namely, an unauthorised occupation, without purchase, and a consequent dispersion of the Settlers throughout the Territory."

It will long before this have been made known to Your Lordship, by my Despatch dated the 12 November last, No. 121, that I have not found it necessary to avail myself of this discretion, and I am happy to find that your Lordship's further explanation so fully upholds the interpretation placed by the Executive Council upon the previous instructions received upon this subject, and justifies the desire which I have uniformly felt to maintain the present Regulations inviolate both in respect to the upset price and to competition wherever Land is offered to sale by this Government. The Survey at Port Phillip has not yet proceeded so far as to allow of any Land being disposed of out of the Townships of Melbourne and Williams Town, but the  $\frac{1}{2}$  acre allotments sold at these places have realized an average price of £35 19s. each, and I have no apprehension of any difficulty in disposing of Country Sections in the neighbourhood of the Port and Rivers, as fast as they can be measured for sale, at a price at least equal to that at which the waste Lands are disposable in the more ancient Settlements. Such being the case, the South Australian Commissioners will have no further cause for the alarm expressed in the letter of their Chairman lest the land at Port Phillip should be sold at a lower rate than elsewhere in this Colony.

Disposal of  
land at  
Port Phillip.

In reply to your Lordship's enquiries, I proceed to state first, with regard to the discretion, vested in this Government by the terms of Lord Ripon's Despatch of the 10 July, 1831, to fix a higher rate than 5s. an acre on land to which its situation might give a peculiar value, that it has hitherto been but little exercised. Town allotments for building on are always put up at a

\* Note 23.



higher rate, varying according to circumstances, and a higher minimum price has been set upon portions of Land (ranging from five to thirty acres each) on the shores of Port Jackson near Sydney, and in a few other places. I do not, however, consider that, even with regard to these allotments, the augmentation is of any practical importance, competition being always active enough to secure a full price, exceeding in general that which any public officer entrusted with their valuation would be likely to place upon them. To this fact, I would draw Your Lordship's attention as of the highest import in deciding upon the second point referred to me, namely, the policy of raising the minimum price generally throughout the Colony. Upon this matter, I would beg leave to observe that, while the increase of wealth among an active and Commercial People secures the means and the motives of free competition, it is probable that the sale by auction prescribed by the existing regulations applies to each case the surest criterion of value of which it admits, rendering it needless and futile to resort to any speculative reasoning upon the subject. A minimum price in such a state of things will be of little or no importance for the purpose of preventing a sale below the true market value.

1837.  
6 Sept.

Effect of competition on price of land.

Absence of necessity for minimum price.

The actual sale of Crown Lands, at various average rates exceeding 5s. an acre in the several years from 1832 to 1836, may be seen by the accompanying statement\* which will go far to shew that the minimum price does not materially govern the actual sale.

Results experienced at auction sales.

Every day is increasing in this Colony the influence of competition. Bona fide Settlers seeking to purchase land are continually uttering the bitterest complaints against mere speculative buyers, who bid against them at the public auctions and who sometimes endeavour to exact money as the price of their withdrawal. Such persons are popularly stigmatized as Land Sharks and Land Jobbers; and, whatever opinion may be formed of their proceedings, their existence is a pregnant proof of the vigorous spirit of competition prevalent at the Government Sales. Not that I am prepared to assert that unopposed purchasers of land at 5s. would never be induced to give more, had the land been put up at a higher rate. Whatever minimum be fixed, there will be found instances in which land acquired at that price without opposition will prove a cheap bargain. But such is not always the case. Land even of very inferior quality, happening to possess a peculiar value to the individual purchasing it on account of proximity to his other property or similar circumstances, finds a sale solely on this account, and cannot be considered as cheaply obtained even at the minimum price. The

Influence of competition.

\* Note 24.

1837.  
6 Sept.

cases, in which land is sold without opposition from ignorance of its marketable value on the part of the public, or from the secret agreement or friendly forbearance of those otherwise interested in bidding against each other, must diminish yet more and more as the colony advances in wealth and Population. Nor are such cases, even were they more numerous, deserving of much consideration. It is upon tendencies and general results, not upon particular instances and exceptions, that all questions of public policy are to be decided.

Character of  
vacant crown  
lands.

Objections  
to raising  
minimum  
price.

If it be objected that such an effective competition as I have described, arising from increased population and wealth, in itself indicates the necessity of raising the minimum price of 1837 over that of 1831, I would observe that the Crown Lands now in the market form only a surplus, in many cases they may justly be called a refuse, consisting of lands which in past years were not saleable at any price and were not sought after even as free grants. As improvement and population penetrate through the Colony, such lands begin to acquire a value, and there is a stage in this process in which they are saleable at the present minimum price of 5s. By declining in future to dispose of them at this rate, it by no means follows that they will be sold at a higher. The result may be to retain them for an indefinite time unsold. Such a result, as Your Lordship appears fully aware, is the more likely, or rather certain, in consequence of the alternative at the Settlers' command of wandering without authority or restraint with his flocks and herds over the vast tracts of the interior. A facility in acquiring the actual property in land at a low price is the safest check to this practice, and it may here be observed that the unauthorised occupiers of remote Crown Lands do not wholly consist of small Flock-Owners of slender means, but of the agents and shepherds of the wealthiest Colonists, residing within the limits of location, who are continually balancing between the opposite motives presented by the cheapness of unauthorised occupation on the one hand and the desire of adding to their permanent property in land on the other. The extent of their purchases at the Government Sales corresponds with the prevalence of the latter motive, and it is easy to see that its influence must be weakened in proportion to the augmentation of the upset price.

But though I am convinced that in almost every case the present value of Land is obtained by means of the competition excited by public sales, yet it is possible that an augmentation of the minimum price would have the injurious effect of checking the immigration of Persons possessed of small capital desirous of establishing themselves upon Land of their own. There

are very few new comers, who possess sufficient means to purchase at a price much above 5s. the large tract of Land, which in this country is absolutely necessary even for the commencement of an ordinary grazing Establishment. Again, the inducement offered to retired officers to settle in the Colony by obtaining land at the minimum price would be much diminished if that price were raised. These officers both as regards numbers and character are no small acquisition to the rural population of the Colony.

1837.  
6 Sept.

Objections to raising minimum price.

Apprehending therefore that to raise the upset price of Crown Lands would introduce much of the mischief I have represented; believing also that the influence of competition is becoming daily a more certain safeguard against the sale of any land below its just value; considering further the general impolicy of meddling without imperative necessity with any established system affecting so nearly the foundations of property, especially with one which has been found hitherto to operate so advantageously, I am unable to recommend any change in the minimum price at which Crown Lands are, under the present Regulations, offered to sale by public auction in New South Wales.

Reasons for maintenance of existing minimum price.

I have only to add, in reply to the observations contained in the last paragraph of your Lordship's Despatch, that I am not aware of any general relaxation of the Regulation requiring the payment within one month of the whole purchase money of Lands sold by Government. Occasionally payment may have been received a few days later on cause shewn, with the view of avoiding the ungracious proceeding of confiscating the deposit, but such cases have always been rare, and latterly have become more so.

Regulation re payment for lands purchased.

I have, &c.,

RICHD. BOURKE.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 84, per ship City of Edinburgh; acknowledged by lord Glenelg, 18th May, 1838.)

My Lord,

Government House, 7 September, 1837.

7 Sept.

I have the honor to transmit herewith for your Lordship's perusal a copy of a Memorial, which Mr. Thomas Moore, a Justice of the Peace of long standing in this Colony, has addressed to me with a view to obtaining compensation for losses sustained under very peculiar circumstances\* therein detailed, originating in a mistaken assumption of authority by the Governor of New South Wales with the ostensible sanction of the Court of Civil Jurisdiction in the year 1812.

Claim for compensation by T. Moore.

As correct copies of the autograph opinions of this case of the Judges and Attorney General of the Colony are subjoined to the

\* Note 25.

1837.  
7 Sept.

Memorial, it is hardly necessary for me to say more than that I entirely concur in the justice of their observations. The difficulty is to decide in what way the Government can now come forward to Mr. Moore's relief. The case does not appear to me one which I can with propriety submit to the Legislative Council; but I would respectfully suggest that the amount of the loss, which Mr. Moore shall upon full enquiry be found to have sustained from the causes specified, be paid to him out of the Revenue of Crown Lands.

Compensation  
proposed.

I have, &c.,  
RICHD. BOURKE.

[Enclosure.]

[A copy of this memorial is not available.]

SIR RICHARD BOURKE TO LORD GLENELG.  
(Despatch No. 85, per ship City of Edinburgh.)

8 Sept.

My Lord,

Government House, 8 Sept., 1837.

Despatch  
acknowledged.

I have the honor to acknowledge the receipt of your Lordship's Despatch of the 23rd March last No. 276, enclosing the copy of a letter from Mr. Under Secretary Stephen to the Secretary of the Treasury upon the subject of the new arrangements proposed by Your Lordship for the more efficient and systematic scheme of Emigration to these Colonies.

Statement to  
be transmitted  
re funds for  
immigration.

In obedience to the instructions conveyed in the despatch, I will not fail, by the earliest opportunity after the close of this year, to transmit for Your Lordship's information a statement of the balance of the fund applicable to Emigration remaining unexpended at that period, holding two thirds of that sum for your Lordship's disposal, and one third to meet the demands for Bounties under the Government notice\* of the 28th October, 1835, or under any revised notice to a similar effect which may be in force in the next year. That Your Lordship may form some estimate of the amount which may probably be disposable at the end of this year, I have the honor to transmit an abstract of receipt and expenditure of the Revenue arising from Crown Lands to the 30th June last.

Criticism of  
new system.

Upon the proposed arrangement, I deem it my duty to submit the following observations for Your Lordship's consideration.

Transfer of  
charge for  
police and  
gaols to  
colonial  
treasury.

In the despatch of Mr. Secretary Spring Rice of the 15 November, 1834, instructions were given for placing as a charge upon the Colonial Treasury the Expences of Police and Gaols, which had been previously borne by Great Britain. In the letter on this subject addressed to Sir George Grey by the Secretary of

\* Note 26.

the Treasury on the 23rd September, 1834, it is stated that the Lords Commissioners are prepared "to acquiesce in the local Treasury's continuing in the receipt of any surplus of the land Revenues beyond the sums appropriated for the assistance of Emigrants and of the other casual Revenues of the Crown." Accordingly, at the end of each year since the receipt of this instruction, the unexpended balance of these Revenues has been paid over to the Colonial Treasurer in augmentation of the general Revenue of the Colony, and the better to enable that fund to sustain the heavy charges for Police and Gaols. With regard to this branch of the present Colonial Expenditure (Police and Gaols), I have already stated as well in my Despatch of the 18th September, 1835, and in other communications upon the same subject (to which replies have not yet been received) that, without some continued assistance from the British Treasury, it will be found difficult permanently to provide the necessary funds from the present resources of this Government. In expressing this opinion, I did not anticipate the appropriation of the whole proceeds of Crown Lands for the purposes of Emigration; and, should this now be effected, the difficulty will be in proportion greater. Nor is it at all diminished from the circumstance of such an appropriation being generally approved by the Colonists, since, in taking this view of the subject, the consequence of being compelled to provide by new imposts for the necessary annual expenditure of the Colony does not appear to have engaged their attention. Yet this consequence will, I believe, soon present itself, if, on the one hand, the Lords of the Treasury decline to defray a considerable share of the expences of Police and Gaols, while the assistance of the Crown Land Revenue shall, on the other, be wholly withdrawn for the purpose of Immigration. The annual charges of Police and Gaols, it is to be remembered, are considerably higher than was expected by His Majesty's Government. In the letter of the Secretary of the Treasury in 1834 already referred to, they are calculated at about £25,000, whereas, in the estimates which have just passed the Council for the year 1838, they reach the sum of £45,200 13s. 4d., and, within the last two years, above £30,000 have been appropriated towards the expence of new Gaols and Police Buildings.

It should also be observed that many of the peculiar circumstances, which have tended to the accumulation of the Colonial Revenue for some time past, are not likely to continue. The deficiency of labor has led to the retention of large sums, which will immediately be expended when Immigration shall supply the artisans required for prosecuting with effect the public

1837.  
8 Sept.

Transfer of charge for police and gaols to colonial treasury.

Necessity for grant from British treasury.

Effect of appropriation of crown land revenues to immigration.

Expenditure on police and gaols.

Improbability of continued surplus of revenue.

1837.  
8 Sept.

Probable  
necessity for  
increased  
taxation.

Inability  
to reduce  
expenditure  
on public  
works.

works, which are already estimated for, and others that are daily becoming necessary in all parts of the Colony. The causes of Expenditure of the Land and of the ordinary Revenue will thus be simultaneous; and, however the Colony may continue to prosper, there is nothing in its present financial condition to shew that, having reference to the above considerations, it will be able permanently to bear without further taxation, and without any assistance from the balance of Land Revenue, the charges imposed upon it by the Lords of the Treasury in the year 1834, proceeding at the same time with its public works and buildings on their present Scale. If it be proposed to meet the emergency by diminishing the outlay upon public works, I fear that serious inconvenience would be the consequence. Most of the expensive works, already commenced or about to be so, have been required for many years past, the deficiency of labour having prevented their keeping pace with the wants of the public. This erection may thus be regarded in the light of the bringing up of arrears, and the outlay upon them from the accumulated Revenues more as a past than a current Expenditure. In this view of the case, the new works will lose much of their apparent magnitude and expence. In very few of them could any saving be effected, and the greater part of them are essential for the welfare and security of the Colony. This will be made evident by the detail which I have given of some of them in my Despatch of the 13 January, 1835, No. 4, since which comparatively little progress has been made in any of the most important buildings, with the exception of a Lunatic Asylum\* now nearly completed.

Deficiency  
in general  
revenue.

It may perhaps be thought that I have unnecessarily brought this subject under consideration, as the Funds now in the Colonial Treasury will authorise a large expenditure for some time to come. Your Lordship will, however, perceive, by the financial Minute of this year, that, if the actual Balance in the Treasury on the 31st December last, arising chiefly from the unexpended surplus of the Revenues of Crown Lands and the Estimated Balance of those Revenues on the 31st December last, taken at £50,000, were not brought forward as part of the ways and means for the year 1838, the general income would not cover the proposed Expenditure by £40,000.

Committee of  
council *re*  
immigration.

At the time I had the honor to receive Your Lordship's Despatch, a Committee of the Legislative Council was sitting, appointed at the beginning of the present Session for the further consideration of the measures adopted and proposed with respect to Immigration. I caused your Lordship's Despatch and its

\* Note, 27.

enclosures to be added to the documents laid before the Committee, and awaited their report before replying; I have now the honor to forward a printed copy of the Report and Minutes of Evidence. The latter have been already partially brought under Your Lordship's notice in my Despatch of the 12th Ultimo, No. 77.

1837.  
8 Sept.

The principal recommendations of the Committee requiring notice consist of:

Recommendations by committee *re* system of immigration.

A new scale of Bounties rather higher than the one at present adopted, and which they prefer to the promise of a free passage.

The extension of the limitation of age to forty years in the case of married men without reference to the age of their wives.

The granting of half bounty to men or women above that age, who come out with their families as Immigrants to this Colony and who are able to support them in it; and the resumption of the practice of allowing quit rents to be redeemed at ten years' purchase, twenty per cent. being added to the Established Bounty when applied to the liquidation or purchase of quit rents.

Some part of these recommendations may be adopted with advantage, and I propose in consequence to revise the Government notice on Bounties.

I cannot concur with the Committee in their opinion of the expediency of giving any Bounty on the part of Government for the introduction of unmarried men unaccompanied by a corresponding number of single females. If the pressing wants of the Settlers afford so strong a motive as is represented for the introduction of single laborers, it may be left to individuals to bring them to the Colony at their own expence. It would in my opinion be a short sighted policy in the Government to offer any bounty for a measure that would tend to continue the disproportion of the sexes.

Objections to bounty proposed for single men.

The recommendation of the Committee that Immigrants arriving with Capital for the purpose of settling should be allowed a remission in the purchase of land in consideration of the expence of the passage of themselves and their families, but not exceeding £160 in amount, is in principle similar to a proposal which has been before made by the executive Council in a minute transmitted with my Despatch of the 14 August, 1835, No. 81, but to which insuperable objections were expressed in your Lordship's answer dated 10th March, 1836, No. 126.

Proposed remission in purchase of land for expence of passage.

Upon the subject of Indian Laborers,\* the report does not appear to me such as to encourage any prospect of advantage from the introduction of these Persons sufficient to compensate the expence and inconvenience. The attempt would I fear prove

Proposed introduction of Indian labourers.

\* Note 28.

1837.  
8 Sept.

a sacrifice of permanent advantage to temporary expediency. The subject will probably be brought forward again at the next Session of the Colonial Legislature, but I do not propose in the mean time to adopt any proceeding on this branch of the subject.

I have, &c.,

RICHD. BOURKE.

[Enclosures.]

[Copies of these papers were printed in the "Votes and Proceedings" of the legislative council.]

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 86, per ship City of Edinburgh.)

9 Sept.

My Lord,

Government House, 9 Sept., 1837.

Report re  
New Zealand.

While awaiting the long deferred measure, which your Lordship has recently announced an intention of resuming, for the parliamentary regulation of the intercourse between British subjects and New Zealand, it may be proper to lay before His Majesty's Government whatever information I am able to procure upon this difficult question.

Visit of  
W. Hobson to  
New Zealand.

With this view having lately had occasion in consequence of a war breaking out between two Tribes at the Bay of Islands to request Captn. Hobson, commanding H.M.'s Ship Rattlesnake, an experienced and judicious officer, to repair to New Zealand to afford to British subjects resident there and to British Shipping such protection as might be required, I proposed to him to make known to me on his return the opinions, which his observations whilst there might lead him to form upon the present state of New Zealand and the means of securing, with the least possible overt interference, the common interests of the Natives and of the British settled amongst them. This request has been complied with in the letter of which a copy is transmitted, and which appears to me to contain suggestions of great value.

Report by  
W. Hobson.

Proposal for  
establishment  
of factories.

Captn. Hobson proposes the introduction of Commercial Establishments confined within certain limits, upon a plan resembling the Factories of the early trading companies resorting from Europe to India, and within which limits resident British subjects shall be placed under the protection and obligation of their own Laws; Premising as an inflexible condition that nothing whatever be established on the part of the British Government, which is not cheerfully conceded on terms of clear mutual interest by the natives. The details of the proposed measure may be varied to suit whatever circumstances may arise, and this without giving any reasonable cause for jealousy on the part of



other states or exciting alarm in the breasts of those Philanthropists, who so creditably and powerfully advocate the rights of the aborigines all over the world. It is neither possible nor desirable to put a stop to the growing intercourse between the English Colonies in these seas and New Zealand, the extent of which will appear by the accompanying Return. If the British Resident were withdrawn, which I represented in a former Despatch\* to be an alternative preferable to his being left there without adopting some further measures to secure the professed objects of his appointment, the public might indeed be warned that the trade of New Zealand was to be carried on at their own hazard; but it would be difficult for His Majesty's or for this Government to act for any length of time upon the stern principle of absolute non-interference, if the lives or the property of British subjects appeared to be in jeopardy. Any plan therefore, by which intercourse might be sufficiently regulated and usurpation, real or apparent, avoided, providing at the same time for its support without drawing upon the Revenues of this Colony, is well worthy of serious consideration. I confess that I am unable to submit a better arrangement than this, which Captn. Hobson has proposed, and therefore beg leave to recommend his letter to Your Lordship's attention.

With Captn. Hobson's Report, I have the honor to transmit the copy of a letter received by his hands from the Resident, Mr. Busby, describing at considerable length the present condition and character of the New Zealanders, and the manner in which they are affected by the intercourse of Europeans. This letter contains suggestions for the future proceedings of Great Britain towards New Zealand, which are not without value, but which would probably be found difficult to reconcile with some of the peculiar circumstances affecting the matter under consideration. Mr. Busby recommends that Great Britain should undertake the *protection* of New Zealand, and for this purpose should maintain British Troops on the Islands. But, though this undertaking should be commenced with the greatest good faith and purest intentions, it would be open to misinterpretation; and, in a remote country where it is hardly to be expected the law would be very efficiently administered, it might be eventually perverted by British Subjects to selfish purposes.

A part of Mr. Busby's Letter being taken up in the description of the native War to which I have alluded, and which alarmed him for the safety of the European Inhabitants, I am happy to be able to shew, by the copy of a letter since received from him, that peace is now restored. Your Lordship will perceive with pleasure that it has (I believe for the first time in New Zealand)

1837.  
9 Sept.

Inability to prevent intercourse with New Zealand;

or to refuse protection for British subjects.

Approval of plan of W. Hobson.

Report by J. Busby re New Zealand.

Proposal to quarter British troops in New Zealand.

Restoration of peace amongst Maoris.

\* Note 29.

1837.  
9 Sept.

been effected without the loss of human life by way of retaliation or as the price of accommodation, a piece of land being accepted in compensation of an aggression, which had caused the death of a woman belonging to one of the belligerent Tribes.

Visit of C. de  
Thierry to  
Sydney.

I take the present opportunity of stating that the "Baron de Thierry," who was mentioned in Your Lordship's despatch of the 26 August last, is at present in Sydney, where he has arrived on his way to New Zealand to seek possession of a large tract of property, which he claims to have acquired by purchase. He has complained to me that the Spars for the use of the navy to be furnished to H.M.'s Ship Buffalo, now proceeding from hence to New Zealand, are cut on his land; but I have declined interfering in any way in the matter. Nor have I considered it my duty to interpose any obstacle to his proceeding to New Zealand, of which Country he claims to be a Chief by right of his purchases. He denies all intention of prejudicing the interests of Great Britain, and professes a reliance upon moral influence alone for the authority he expects to acquire among the New Zealanders.

Intentions of  
C. de Thierry.

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. 87, per ship Hebe; acknowledged by Lord Glenelg,  
28th February, 1838.)

10 Sept.

My Lord,

Government House, 10 Sept., 1837.

Testimony of  
services of  
officers of  
H.M. ship  
*Rattlesnake*.

His Majesty's Ship Rattlesnake having lately returned to the Indian Station after a year's duty in these seas, I feel myself called upon to bring under Your Lordship's notice the services, which have been rendered to this Colony by her commander Captn. Hobson, and by several of the officers under his orders.

Services of  
W. Hobson at  
Port Phillip.

Captn. Hobson was here at the time I received your Lordship's permission to occupy Port Phillip, and, having proposed to him to take the naval charge of the expedition directed to proceed from hence, he most readily undertook the duty and remained at Port Phillip in constant and active employment, until the most necessary arrangements were made on shore, and he had laid down buoys to facilitate the navigation through some intricate channels, and made considerable progress in a survey of the waters of Port Phillip. Upon a second visit he completed his charts, three in number; a general one of the Coast of Port Phillip, one of the several navigable channels, and a third of Hobson's Bay. These have in the usual course of service been forwarded to the Admiralty Hydrographer; but he has left

duplicates with me, with permission to have them engraved and as many copies taken as the Exigencies of the service may require. He has thus rendered to the trade of this Colony and of Van Diemen's Land a very important benefit.

1837.  
10 Sept.

Having brought this service under Your Lordship's notice, it is my duty, and I know it is Captain Hobson's wish, that I should mention the names of those officers of the Rattlesnake, who were principally engaged in making the survey. A large share of the fatiguing duty of the measurement, and the task of laying all the work down, fell to Mr. Shortland, a Mate of some standing and much respected by his Commander. Lieut. Symonds took the next considerable part of the fatiguing duty in boats, and a part was performed by Lieut. Henry. Observations were made on board by the first Lieutenant Richards and the Master, Pope. I trust Your Lordship will do me the favor to lay the names of these meritorious officers before the Lords of the Admiralty with this brief account of the service they rendered to the Colony, in the hope that it may meet with encouragement and reward.

Officers employed in surveys at Port Phillip.

To Captain Hobson, I am further indebted for the very able Report on the state of New Zealand, a copy of which I had the honor to transmit with my Despatch of the 9th inst. I have every reason to believe that the recent pacification of the Tribes, which I have reported, is in great measure attributable to the exertions made by Captn. Hobson when at New Zealand to effect so desirable an object.

Services of W. Hobson in New Zealand.

I have only to add that, upon every occasion in which the services of the Naval force under his command were required, I obtained from Captn. Hobson the most zealous and efficient assistance.

I have, &c.,

RICHD. BOURKE.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 88, per ship Hebe; acknowledged by Lord Glenelg, 3rd April, 1838.)

My Lord, Government House, 11th September, 1837.

11 Sept.

Since I had the honor of addressing to your Lordship my Despatch of the 13th June last, No. 43, upon the subject of the Civil Establishment required for Port Phillip and the remote Southern Districts of the Colony, I have received a Memorial from a considerable number of Persons, who, removing from Van Diemen's Land, have placed themselves with their Flocks and Herds upon the Western Shore of the Waters of Port Phillip and along the Rivers which flow into that Estuary or into the sea adjacent. The Memorialists represent the want they already experience of some sufficient Civil authority to preserve order

Request by settlers in district of Geelong for establishment of civil authority.

1837.  
11 Sept.

Request by  
settlers in  
district of  
Geelong for  
establishment  
of civil  
authority.

amongst themselves, but more especially to prevent any collision between their scattered population and the Aboriginal Natives, who frequent in rather large numbers the fertile Districts in which the Memorialists are seated. They evince a very laudable anxiety to prevent on their part any aggression upon the Natives, and seem willing to make considerable sacrifices to establish an amicable intercourse with them. This object they state is not likely to be satisfactorily effected unless by the active operation of a Functionary, Clothed with sufficient authority and possessing sufficient force to prevent excesses on either side. The District, which these Settlers occupy and which may be called by the Native name of Geelong, is between 60 and 80 Miles distant from Melbourne and thus too far removed from the Civil Establishment at that Place to derive any effective assistance from it.

Appointment  
of F. Fyans  
as police  
magistrate  
at Geelong.

Under these circumstances, I have thought it right to appoint a Police Magistrate for Geelong with a small Constabulary. I have not directed any Military to be stationed there, relying upon the good disposition of the Settlers to provide the Magistrate with such a force as shall enable him to execute the laws and to preserve peace between them and the Aborigines. To the latter object, the protection and Civilization of the Native Blacks, I have most especially called the Magistrate's attention and have furnished him with instructions and with the necessary means as I hope for accomplishing my wishes. I have appointed Captain Fyans, late of the 4th Regiment, to this Magistracy and place the greatest reliance on his activity, humanity, good temper and considerate disposition.

Necessity for  
appointment of  
lieut.-governor  
or commandant.

This appointment will, I trust, meet with your Lordship's approbation; at the same time, I would beg leave to observe that it is not calculated to obviate the expediency of those proposed for adoption in my Despatch before referred to. The necessity for appointing a Lieutenant Governor or Commandant to control the several subordinate Functionaries placed at so great a distance from the principal seat of Government becomes more apparent as the number of these Functionaries is enlarged. The increasing exigencies of the Southern Districts will speedily require further appointments, nor can they with reason be withheld, as the local Revenue to be derived from Land sales and Customs will no doubt furnish sufficient means for meeting the expence.

A schedule of the appointment now reported is annexed, which I hope Your Lordship will be pleased to confirm.

I have, &c.,

RICHD. BOURKE.

SIR RICHARD BOURKE TO LORD GLENELG.

1837.  
12 Sept.

(Despatch No. 89, per ship Hebe.)

My Lord,

Government House, 12 September, 1837.

In reply to Your Lordship's Despatch of the 10th December last, No. 238, desiring a Report upon the circumstances of the case of Thomas McConnell, who had applied to the Lords of the Treasury to be restored to the Pension List, I have the honor to transmit an Extract from the Report of the Judge, before whom this Individual was convicted in the month of August, 1835, of shooting with intent to kill. By this conviction, his Pension has been forfeited; but the mitigating circumstances mentioned by the Judge, and, in consequence of which the sentence was commuted to a slight imprisonment, may, I hope, justify me, when joined to the proofs of general good character attached to the Memorial addressed to the Lords of the Treasury, in recommending a compliance with its prayer by the restoration of the Pension from the period of its suspension.

Transmission  
of report *re*  
T. McConnell.

Restoration  
of pension  
recommended.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

EXTRACT from Statement of the cases of Prisoners Capitally convicted at a Criminal Sessions of the Supreme Court of New South Wales, holden on the third day of August and following days in the year of Our Lord 1835, before William Westbrook Burton, Esquire, one of the Judges of the said Court.

Statement  
*re* trial of  
T. McConnell.

THOMAS MACCONNELL, Free, convicted of Shooting at Mary Warne with intent to kill.

Sentence of Death recorded.

"The Prisoner was, at the time of committing the Offence of which he has been convicted, a constable on the North Shore; and, on the 9th of May last, having been to Sydney on duty, was waiting at the Slaughter House Point for an opportunity of returning home, and, being very much intoxicated, was set upon by five Women of the Town, who appear to have gathered round him and assailed him in every way calculated to irritate to the utmost a man in his state, and this for so long at least as twenty minutes. He appears to have exercised considerable forbearance for a time, but at last became so infuriated as to discharge a loaded Pistol, which he unfortunately had in his hand at the time, at one of them, and hit her in the forearm, fracturing one of the bones. She has since recovered, having suffered no material injury. The Prisoner received an excellent character from Alexander Berry, Esquire, M.C., and Major Innes, both as to his humanity and respectability, and until latterly as to the general habits of temperance; but, having within the last twelve months lost a daughter on her voyage from Port Macquarie to Sydney, by which he was much affected, his mind

1837.  
12 Sept.

has become much injured by it, and he has since been two or three times seen intoxicated.

“Under all these circumstances, I do not consider his case to require any severity of punishment, and I would recommend his sentence to be commuted to an Imprisonment of not longer than three months’ duration.”

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 90, per ship Hebe.)

13 Sept.

My Lord, Government House, 13th September, 1837.

Referring to my Despatch of the 9th Instant, No. 86, with which I forwarded a Letter from Mr. Busby, the Resident at New Zealand, announcing the discontinuance of the hostilities which had prevailed among the Tribes in his neighbourhood, I think it right to transmit for Your Lordship’s further information a Letter I have since received on the same subject from Mr. McDonnell of Hokianga, who formerly held the appointment of additional British Resident. Your Lordship will perceive that Mr. McDonnell claims for himself the whole merit of negotiating the peace. Whether to be fully entitled to this distinction I have not at present the means of judging. The severe reflections, which he casts upon Mr. Busby and the Church Missionaries, are of course not to be admitted on the sole authority of a Person of such sanguine and hasty temperament as the letter displays; and there might be an injustice in these portions of it being published in the event of papers regarding New Zealand being laid before Parliament.

I have not, however, deemed this a sufficient reason for withholding from Your Lordship’s perusal a communication, which throws an additional and rather interesting light on some features in the state of society in that Country.

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. 91, per ship Hebe: acknowledged by lord Glenelg, 29th May, 1838.)

14 Sept.

My Lord, Government House, 14 September, 1837.

Proposed  
appointment of  
collector of  
customs at  
Melbourne.

I have the honor to transmit the Copy of a letter addressed by the principal officers of Customs at this port to the Colonial Secretary. I coincide in opinion with these gentlemen and beg to recommend the appointment of Mr. Cooper as Collector at Melbourne with the other proposed arrangements. It is, I am

assured, quite necessary to appoint an efficient Establishment for the Customs in a district, where trade has encreased and is encreasing with great rapidity, and in a Colony of which the Chief ordinary Revenue arises from the duties of Customs.

1837.  
14 Sept.

Customs establishment required at Melbourne.

As some inconvenience is now experienced for the want of an office of receipt for monies paid for Crown Lands, Licenses for retailing spirits, and other sources of revenue at Port Phillip, I would recommend that the suggestion be adopted of allowing the Collector of Customs to act as an Under Treasurer to receive monies and pay out on the Governor's warrant, giving security in London for £5,000, and receiving a Salary of £200 a year in addition to that of Collector.

Collector to act as under-treasurer.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this letter is not available.]

SIR RICHARD BOURKE TO LORD GLENELG.  
(Despatch No. 93, per ship Hebe.)

My Lord,

Government House, 19 September, 1837.

19 Sept.

Referring to my Despatches named in the margin,\* in which I informed your Lordship of the contagious fever which had broken out on board the Ship "John Barry," bringing Emigrants from Scotland to this Colony, and that the Passengers had in consequence of the fever been placed in Quarantine on arrival, I have now the honor to report that the greater number of them were released under the advice of the Board of Health on the 8th instant, and having come to Sydney have readily found employment at high wages in their several trades or callings. They appear not to have suffered during the Quarantine and promise to be a useful body of workmen.

Release of immigrants from quarantine.

There still remain twelve Persons in the Lazaretto, either in Hospital or as Convalescents; but I am happy to say that none of the cases in Hospital seem likely to terminate in death. The mortality, however, amongst these Emigrants has been very afflicting, thirty seven persons having fallen victims to the fever or other disease since the Embarkation at Dundee. I transmit a nominal List of the deaths which occurred before and after the Ship's arrival. Of this number, twenty two are children under twelve years of age.

Persons detained in quarantine.

Mortality amongst immigrants.

There are still some of the Emigrants now free from disease detained in Quarantine as a precautionary measure, but who will I trust be released in a few days.

I have, &c.,

RICHD. BOURKE.

\* Marginal note.—The margin is blank in the copy available (see note 30).

1837.  
19 Sept.

SIR GEORGE GIPPS TO LORD GLENELG.  
(Despatch\* marked "Separate.")

My Lord,

London, 19th Sept., 1837.

Criticism of  
instructions to  
matron and  
steward of  
female factory.

Having by your Lordship's desire perused the instructions, which have been drawn up for the guidance of Mrs. Leach and Mr. and Mrs. Clapham, who are now on the point of proceeding to New South Wales for the purpose of introducing an improved system of Discipline into the Female Factory at Parramatta, I think it right to submit to your Lordship that these instructions appear to have been framed on the supposition that each prisoner is confined in a separate Cell, whereas, according to the most authentic information I can obtain, the very reverse of this is the case, the women being simply divided into three classes, and occupying large rooms, in which sometimes even as many as fifty are congregated by night and by day. The necessity of separation in an Establishment of the nature of that at Parramatta is now so fully admitted, that I think it unnecessary to trouble your Lordship with any arguments to prove its advantage; I will therefore simply explain that my reason for addressing your Lordship thus early on the subject (and as it otherwise might appear prematurely) is that I cannot but feel that much of the success to be hoped for from the appointment of Mrs. Leach and Mr. Clapham will depend on their being able at once to enter on the system, which they have been instructed to follow, which however cannot be the case, if the delay is to be encountered of writing to England for an authority to make the alterations in the buildings, that may be absolutely necessary for its adoption. I therefore beg leave to submit to your Lordship, whether it be not expedient that I should, before I quit this country, be provided with authority to incur the necessary expense for making separate Cells, so far at least as the third or penal class of the inmates of the Factory is concerned.

Necessity for  
separate cells in  
female factory.

I have, &c.,

GEO. GIPPS.

LORD GLENELG TO SIR GEORGE GIPPS.

(A circular despatch.†)

20 Sept.

Sir,

Downing Street, 20 September, 1837.

With reference to the rules which have been laid down respecting Requisitions for Supplies for the use of the Colonial Governments, and which rules are specially alluded to at Pages 35, 36 and 37 of the Printed collection of Regulations transmitted to you in April last, my attention has been directed to the fact that a variety of practice prevails in the mode of transmitting home such Requisitions.

Instructions re  
requisitions  
for supplies.

\* Note 31.

† Note 32.



In order to obviate in future the inconvenience which frequently arises from this circumstance, it is the desire of Her Majesty's Government that all Requisitions for Supplies for the use of the Colony under your Government should be transmitted to the Agent through this office, and that the Governor should certify in each case whether such requisitions are made for the current supply of an established and customary service and sanctioned by Her Majesty's Government, or for Articles of an extraordinary nature, or for a service not so sanctioned.

1837.  
20 Sept.

Instructions re  
requisitions for  
supplies.

In the latter case, it is necessary that the Requisitions should be accompanied with all the explanations necessary for the guidance of Her Majesty's Government in determining whether they should or should not be complied with.

In every case the Signature of the Governor should be attached to the end of the List containing the specific articles required.

I have, &c.,  
GLENELG.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 94, per ship Hebe; acknowledged by Lord Glenelg, 27th February, 1838.)

My Lord, Government House, 20 Sept., 1837.

I have the honor to transmit herewith an act which passed the Legislative Council of this Colony on the 13th inst., entitled, "An act to facilitate proceedings by and against the Royal Exchange Co.\* and for other purposes therein mentioned."

Submission of  
Royal exchange  
company's act.

Being a private act, it cannot be in force until confirmed by His Majesty; and I therefore take the earliest opportunity of forwarding it, especially as the objects it has in view are of considerable moment to the Commerce of the Colony.

I have, &c.,  
RICHD. BOURKE.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch† marked "Separate.")

My Lord, London, 20th Sept., 1837.

I beg leave to report to your Lordship that, agreeably to the directions conveyed to me verbally by Sir George Grey, I have perused with attention the Despatch‡ which was addressed to your Lordship, under date of the \_\_\_\_\_ by Sir Richard Bourke on the subject of the Road parties in New South Wales, as well as a memorandum on the same subject attached to that Despatch by Sir George Arthur; I have also given my attention to the evidence recently delivered by different witnesses on the state of the Road parties, before the Transportation Committee

Problems re  
road gangs  
of convicts.

\* Note 33.

† Note 31.

‡ Note 34.

1837.  
20 Sept.

of the House of Commons, and to the opinions\* expressed to the same Committee by Colonel Breton on the employment of Soldiers of the Line as Superintendents of such parties, or in any way that may bring them into immediate contact with the convicts.

Previous  
experience of  
Sir G. Gipps.

Before I proceed further, it may be right for me to explain to your Lordship that the Superintendence of forced labor is a subject† by no means new to me; as I have, in times not very remote, had convicts employed under my own orders, and had a still more extensive control over the labor of slaves in the West Indies.

Proposal for  
employment of  
royal sappers  
and miners with  
road gangs.

It is therefore no less as the result of my own experience, than from an attentive consideration of the papers referred to me by your Lordship, that I venture respectfully to express a very decided opinion that the views of Sir Richard Bourke would be best accomplished, and the objections of Sir George Arthur and Colonel Breton best obviated, by the employment of Soldiers of the Corps of Royal Sappers and Miners, instead of Soldiers of the Line, not only in the Superintendence of Road parties, but of every other description of forced labor, where an adequate number of civil overseers can not be procured.

Reports *re*  
control of  
convicts at  
Bermuda.

It is I believe generally admitted that the place where the labor of the Convicts has been applied to the best advantage is Bermuda; and I hope I shall therefore be excused, if I ask your Lordship's attention to the written opinions which I enclose of two officers, who successively held the post of Commanding Engineer in that Colony.

The first is expressed in a letter from Lieutt. Colonel Blanchard, who was in Bermuda from 1822 to 1830; the second is from Lieut. Colonel Tylden, who succeeded him, and remained there from 1831 to 1836.

A third document, which I take the liberty of enclosing, consists of queries proposed by myself, and answers returned to them by Colonel Tylden, on the subject generally of Convict management at Bermuda. These answers have no immediate reference to the employment of Sappers, but they may serve to shew the degree of experience which Colonel Tylden had in the Colony, the attention which he gave to the subject, and consequently the weight which his opinions ought to carry with them.

Reasons in  
favour of  
employment of  
sappers and  
miners.

In addition to what is stated by these two Officers in favor of the employment of Sappers, I would beg leave to submit to your Lordship the following considerations.

That sappers are just as efficient as any other Soldiers, should their Military services ever be required, and not (as soldiers) more expensive.

\* Note 35.

† Note 36.

That soldiers of the Corps of Sappers and Miners are always under the entire control of the Commanding Engineer, whilst Soldiers of the Line, though employed on Engineer duties, must be imperfectly so; that the latter may be recalled at the discretion of their own commanding officers, and must at any rate be withdrawn when their regiments leave the Colony; and that the employment of soldiers of one Corps under officers of another is, I am sure, what every Military man would wish as much as possible to avoid.

That, being regularly instructed and trained at an Establishment supported for that express purpose at Chatham, Sappers are qualified far beyond any other Soldiers for the superintendence of any sort of labour; that they are even better qualified than the majority of such Civil Overseers, as are likely to be met with in a distant Colony; and that they may be had at a much cheaper rate.

As a proof of the extent to which education has been carried in the Corps of Sappers and of the probability of their being useful in a Country like New South Wales, I would beg leave to remark to your Lordship that a large proportion of the work of the Ordnance Survey of Ireland is performed by them; that there are many Privates, who are capable of carrying on the work, even when absent from their officers; and that a great deal of the Copperplate engraving for the published maps is also performed by them.

It is on their superior education, and on the high character they have always been found anxious to maintain, that their officers would rely for their not being contaminated by their intercourse with Convicts; and on this subject I would particularly request your Lordship's attention to what has been said by Colonel Tylden.

Upon the proposal of Sir Richard Bourke to transfer the Road Gangs to the Commanding Engineer, it is remarked by Sir George Arthur that the duties, with which that officer is already charged, will prevent his personally superintending them, and that he therefore must of necessity delegate this duty to another; this is undoubtedly true; but it is also true that in no extensive department whatsoever can all the duties of detail be conducted by the officer at the head of it; and to whom, I would ask, could the immediate charge of these parties be delegated better than to a Junior officer of Engineers, who would at the same time be responsible (which no civil officer can be) for the discipline of the Sappers?

Sir George Arthur has further remarked that the intervention of the Board of Ordnance will soon follow, if Officers of

1837.  
20 Sept.

Reasons in  
favour of  
employment of  
sappers and  
miners.

Proposed  
transfer of  
road gangs to  
commanding  
engineer.

1837.  
20 Sept.

Possibility of  
clashing  
of orders.

Engineers are employed in the way suggested by Sir Richard Bourke, and that such intervention will have a tendency to clash with orders emanating from the Colonial Office. I am perfectly aware (for I had in the West Indies ample proof of it) that, when about the year 1824 new and very responsible duties were thrown in the Colonies on the officers of the Ordnance, such clashing did occasionally take place; but even then it occurred not so much with Governors in their Civil, as in their Military capacities. Where however the system under which public works are now carried on in the Colonies is well understood, I am convinced that there ought to be no clashing, but that on the contrary the system is one that may be worked easily and economically.

Remuneration  
for convicts.

It appears from Colonel Tylden's paper (No. ) that it was the custom in Bermuda to give some remuneration to the Convicts, as an encouragement for their exertions; this is not, I believe, the custom in New South Wales; though all experience teaches us that, in the absence of extreme severity, it is only by such means that anything approaching to a good day's work can be obtained from a forced laborer.

Sir George Arthur has I think very justly observed that it will be necessary in New South Wales to have some substitute for the Road parties, because some intermediate step is required between a Chain Gang and assigned service; in the same way, it seems very desirable to me that there should be some intermediate state between unrequited labour in the Public Works and a Ticket of Leave; and, though it may be objectionable to open the field of reward to men in the early stages of their punishment, it would I think be highly desirable that they should be accustomed gradually to the use of money, and to the enjoyment which the use of it commands.

Necessity for  
military  
reinforcements.

Lastly, My Lord, I would observe that, as a demand is on the point of being made on the Military force in New South Wales for a detachment to accompany Sir Gordon Bremer to the Northern Coast\* of it, it may be very doubtful whether the strength of the Regiments in the Colony will be sufficient without a reinforcement to carry into effect the measures proposed by Sir Richard Bourke. I will only add that two Companies is the proportion, which, in my opinion, it would be desirable to send out.

With respect to the difficulty that exists in finding proper Civil Overseers in New South Wales, I would beg leave to refer to the evidence† of Mr. James Macarthur, given on the before the Transportation Committee.

I have, &c.,

GEO. GIPPS.

[Enclosures.]

[Copies of these papers are not available.]

\* Note 37.

† Note 35.

SIR RICHARD BOURKE TO LORD GLENELG.

1837.  
22 Sept.

(Despatch No. 95, per ship Hebe; acknowledged by lord Glenelg.  
26th May, 1838.)

My Lord, Government House, 22 Sept., 1837.

I have the honor to transmit a Memorial, which has been addressed to the Right Honble. The Lords of the Treasury by Mr. Neville, who, having been appointed a Landing Waiter in the Customs by my Predecessor in January, 1829, has recently been superseded through the appointment of another person by their Lordships. Having been undisturbed in his office, and fulfilled its duties with diligence and ability for upwards of eight years, his removal without notice at this time is felt by him as a severe disappointment, and I am acquainted with circumstances to which he has not adverted, which render his situation peculiarly painful. I cannot wonder therefore at his applying for some compensation for the loss of office; but, as his case does not come within any Regulation which would authorize compensation from this Government, I can only forward his Memorial for the favorable consideration of the Lords of the Treasury.

Claim by  
C. L. Neville for  
compensation  
for loss of  
office.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this memorial is not available.]

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 371, per ship Emma Eugenia.)

Sir, Downing Street, 23d Sept., 1837.

23 Sept.

I have the honor to acknowledge the receipt of your Despatch No. 23 of the 29th April enclosing a Memorial and other Documents from Mr. Hovell, praying for a Grant of Land in compensation for his former Services in exploring the Interior of New South Wales.

Despatch  
acknowledged.

I concur with you in thinking that Lord Stanley's decision on the case, which is quoted in your Despatch, must be regarded as conclusive. Had any additional argument been required to dissuade the Grant to Mr. Hovell of the Land for which he prays, I should have derived it from the long list of Cases stated in the Appendix to the Memorial in which such Grants have been made in former times. They afford a striking illustration of the improvidence with which the Public Property at New South Wales was alienated when the disposal of it was attended with no immediate and direct charge on the Public.

Previous  
decision  
confirmed *re*  
claims of  
W. H. Hovell.

I am well convinced that the general good of the Colony not only admits but requires that Meritorious public Service should

1837.  
23 Sept.

Rewards for  
public service.

be remunerated with Justice and with Liberality. But I am of opinion that every such remuneration should be made either in the manner contemplated by Lord Stanley, that is, by calling the Party to some office of emolument, for which he may be qualified or by a direct Vote of Money.

Remission to  
W. H. Hovell  
of debt due to  
government.

In the present Case, you report that the former method is impracticable. I will therefore recommend to the Lords of the Treasury to authorize the remission to Mr. Hovell of the debt, which you state has been long owing by him for Services of Convicts in clearing Land. This remission, however, must be regarded by Mr. Hovell as the only compensation which Her Majesty's Govt. will be able to assign to Him. I have, &c.,

GLENELG.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 96, per ship Hebe; acknowledged by lord Glenelg, 7th March, 1838.)

My Lord,

Government House, 23 Sept., 1837.

Request of  
J. Nicholson  
for restoration  
of half pay.

At the request of Mr. John Nicholson, the Harbour Master of this Port and also a Master in the Navy, I have the honor to transmit a Memorial, which he has addressed to the Lords Commissioners of the Admiralty, praying the restoration of a portion of his half-pay which has been deducted since the year 1828 under the circumstances which he details. As I can vouch for the correctness of his statements with respect to the nature of his services and the manner in which his Salary has been fixed in this Colony, and also for his meritorious official conduct and excellent character during six years that I have had charge of this Government, I am induced to request that Your Lordship will transmit his application with a recommendation to the favorable consideration of the Lords of the Admiralty.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this memorial is not available.]

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 372, per ship Waterloo.)

26 Sept.

Memorial  
received from  
H. Dangar.

Sir,

Downing Street, 26 September, 1837.

I have the honor to acquaint you that I have received a Memorial from Mr. Henry Dangar a resident in New South Wales.

I request that you will express to the Memorialist my regret that, by transmitting his statement directly to this office instead

of conforming to the general rule which requires that it should be communicated through the Governor, Mr. Dangar should have subjected himself to the inconvenience and delay inseparable from a reference of the case to the Governor for his report. Without such a Report, it is impossible that Her Majesty's Government could adopt or form any opinion on the claims of the Memorialist.

1837.  
26 Sept.

You will, therefore, apply to Mr. Dangar for a Copy of his Memorial, which you will transmit to me with your opinion on the statements and pretensions advanced in it.

Report  
required on  
memorial.

I think it right, however, in order to prevent any unfounded expectation which might otherwise be excited by this reference, to remark, as Mr. Dangar should be given to understand, that I must decline to review the decisions\* on his claim formed by my Predecessors in Office, except in so far as it can be shown that those decisions proceeded from an erroneous or imperfect statement of facts.

Refusal to  
review former  
decisions.

I have, &c.,

GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 373, per ship Waterloo.)

Sir, Downing Street, 27th September, 1837.

27 Sept.

I have the honor to transmit to you the copy of a letter from the Agent General for Emigration requesting that you may be apprized of the intention to send a Vessel with Emigrants to New South Wales from the East Coast of England about the 1st of November next, and stating the description of Emigrants whom it is proposed to selected for embarkation.

Proposed  
departure of  
ship with  
immigrants.

I remain, &c.,

GLENELG.

[Enclosure.]

MR. T. F. ELLIOT TO UNDER SECRETARY STEPHEN.

Sir, Colonial Office, 24 Sept., 1837.

In reference to the intention to send a vessel with Emigrants to N. S. Wales from the East Coast of England, I have the honor to request that the Colonial Govt. may be apprized that such a ship will sail either from Yarmouth or Harwich about the 1st Novr., and that it is proposed to fill her with as many eligible families of Agricultural Labourers as may be obtained from the Counties of Norfolk and Suffolk, Cambridge and Essex; and that, in case of their numbers falling short of the complement required, the deficiency will probably be supplied with a few Mechanics from London. It may also be added that Mr. John Dobie of the Royal Navy, who was recommended by Sir R. Bourke for employment in the Emigration Service, has been appointed to this Ship.

Type of  
immigrants to  
be selected.

I have, &c.,

T. FRED. ELLIOT.

\* Note 38.

1837.  
28 Sept.

LORD GLENELG TO SIR RICHARD BOURKE.  
(Despatch No. 374, per ship Waterloo.)

Sir, Downing Street, 28 September, 1837.

Despatch  
acknowledged.

I have had the honor to receive your Dispatch No. 12 of 12th February last relative to the emoluments of Captain Barney, Commanding Royal Engineer, for superintending certain Colonial Works in the Colony under your Government.

Approval of  
salary for  
G. Barney.

Having referred the subject to the consideration of the Lords Commissioners of Her Majesty's Treasury, their Lordships are of opinion that, under the circumstances now explained by you, and adverting to the very important nature of the works which Captain Barney is called upon to superintend for the Civil Government of New South Wales, there does not exist any objection to the issue to that Officer of the Salary, provided for by the Legislative Council in the annual Estimates of the Colonial Expenditure.

I have, therefore, to convey to you my authority for issuing to Captain Barney a Salary at the rate of £500 per Annum.

I have, &c.,  
GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.  
(Despatch No. 375, per ship Waterloo.)

29 Sept.

Sir, Downing Street, 29th September, 1837.

I have the honor to transmit, for your information and guidance, the copy of a correspondence between the Director General of the Army Medical Department and this Office on the subject of the Medical Establishments in Australia.

Instructions  
re medical  
establishments.

I see no reason why the management of those establishments in the Australian Colonies should not be conducted under arrangements similar to those observed in the other Colonial Possessions of the Crown. I have therefore to direct that you will carry Sir James McGrigor's views on this subject into effect, unless there should appear to you any conclusive reason for not adopting them.

I have, &c.,  
GLENELG.

[Enclosure No. 1.]

SIR JAMES MCGREGOR TO UNDER SECRETARY STEPHEN.

Sir, Army Medical Department, 17th August, 1837.

In again addressing you for the favorable consideration of Lord Glenelg on the subject of Medical Establishments in Australia, I regret that I should so soon again have to trouble you with this communication, but the recent receipt of Letters from both Van Diemen's Land and New South Wales makes it my duty to bring their contents under the view of the Secretary of State for the Colonies.



It appears to me, from the correspondence alluded to, that inconvenience has been felt and irregularities have taken place in consequence of the mode of communication which has been adopted, as well in regard to the Principal Medical Officer with the Lieutenant Governor as with the Colonial Medical Officers and the principal Medical Officer. Generally speaking the Principal Medical Officer has been directed to send all his communications through the Military or Colonial Secretary; but I am of opinion it would tend much to the furtherance and dispatch of Public business, that this mode of doing the duty be confined to the more ordinary and routine detail of business, while on all other services and important arrangements, which must be still for some time going on, the head of the Medical Department, as is the case on all other Foreign Stations, and as is accorded to the heads of all other Departments, should be indulged with a direct and personal intercourse with the Lieutenant Governor. In regard to the intercourse with the Colonial Medical Staff, I am likewise of opinion that all communications should be made to the Lieutenant Governor through the Deputy Inspectors General, who are appointed the Principal Medical Officers of the Colonies; and not only all communications but all appointments and exchanges should be made through the same channels; irregularities, I fear, have already taken place in regard to this branch, if not in regard to Stores and Hospital Expenditure, for all of which the Principal Medical Officer is held responsible; and therefore it is but natural that he should be armed with an effective control over all Hospital arrangements. He being the most proper person to judge of the qualifications of the Medical Men appointed on the spot, and their fitness for the respective Duties to which they are to be appointed. The advantage of direct personal communication with the Lieutenant Governor in such cases must be highly advantageous to the Public Service, as personal explanations can be asked for and obtained, misconceptions may be removed, and tedious correspondence be thereby avoided. In the same way the irregularities and inconvenience of direct personal applications by Individual Medical Officers to the Lieutenant Governor might be in a great measure obviated, while the principal Medical officer would be in full possession of the state of the Department and be able to meet and check at once the effect of exparte and interested statements from whatever quarter arising, while it would be his duty to forward all the representations and remonstrances which might be submitted to him, with his immediate explanation. I consider such an arrangement (which is in accordance with the formalities observed in India, the West Indies and all our other Colonies) as the above, should it meet with the approval of Lord Glenelg, is perfectly applicable to both the Australian Colonies.

In advertng to the allowance hitherto granted for travelling expences to the Principal Medical Officers at New South Wales, I have received a communication from Mr. Thompson by which he clearly makes out and to my satisfaction that the sum of five shillings a day while on such duty is inadequate to meet his daily expences.

1837.  
29 Sept.  
System proposed for communications with principal medical officer.

Travelling allowances.

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

1837.  
29 Sept.

[Enclosure No. 2.]

UNDER SECRETARY STEPHEN TO SIR JAMES MCGREGOR.

Sir, Downing Street, 6th Sept., 1837.

Approval of  
proposed  
system.

I have received and laid before Lord Glenelg your Letter of the 17th Ultimo on the subject of the Medical Establishments in Australia, and I am directed to acquaint you in reply that his Lordship is not aware that any reasons exist to prevent the management of those Establishments in the Australian Colonies being conducted under arrangements similar to those observed in the other Colonial Possessions of the Crown.

His Lordship cannot doubt that, whenever the Principal Medical Officer of the Colony may have occasion to make any communication to the Governor respecting his Department, which he may consider important, a direct and personal intercourse with the Governor would not be refused. It must at the same time be observed that, if any such personal communication should afterwards require to be acted on, it would be necessary to submit it in a more official form.

Lord Glenelg concurs in your opinion that the intercourse of the Colonial Medical Staff with the Governor should take place through the Principal Medical Officer, and that all appointments and exchanges connected with his Department should be made through the same channel.

His Lordship, therefore, proposes to transmit a Copy of your Letter to the Governors of New South Wales and Van Diemen's Land, with directions to carry your views into effect, unless there should appear any conclusive reason for not adopting them.

I am further to state that, if you will transmit to this Department any communication which you may have received from Dr. Thompson in regard to the inadequacy of his travelling expences, Lord Glenelg will refer the subject to the consideration of the Lords Commissioners of the Treasury.

I have, &c.,

JAS. STEPHEN.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 376, per ship Waterloo.)

Sir, Downing Street, 29th September, 1837.

Memorial  
received from  
J. Batman.

I have the honor to acknowledge the receipt of your despatch No. 22 of the 28th of April, transmitting a Memorial from Mr. Batman praying for a Grant of Land adjoining the Township of Melbourne at Port Phillip.

My despatch No. 341 of the 10th of July last will have removed the doubts which you entertained in this case.

Decision  
on claim  
approved.

I entirely approve your decision on Mr. Batman's claim, and of your having permitted him to occupy the House and garden until further notice.

I have to request that you will inform Mr. Batman that I regret my inability to comply with the prayer of his Memorial.

I have, &c.,

GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 377, per ship Waterloo; acknowledged by Sir George Gipps, 24th August, 1838.)

1837.  
29 Sept.

Sir, Downing Street, 29 Sept., 1837.

I have the honor to transmit to you the copy of a correspondence between this Department and the Board of Treasury respecting the gratuitous admission into the Hospitals at Van Diemen's Land of persons in distressed circumstances.

I entirely concur in the principle which it is proposed to adopt on this subject in New South Wales and Van Diemen's Land; and I have therefore to desire that no person, who is not at the time a convict suffering under the sentence of the law, shall be admitted as a pauper or destitute person into any Hospital maintained at the expense of this Country for the reception of Convicts, unless provision be made for such purpose from the Colonial Funds.

Instructions re admission of pauper patients to hospital.

I have, &c.,

GLENELG.

[Enclosure No. 1.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 4th August, 1837.

I am directed by the Lords Commissioners of Her Majesty's Treasury to transmit herewith copies of a Report of the Commissioners of Audit dated the 10th ulto. and of its enclosures, respecting the gratuitous admission into the Hospitals at Van Diemen's Land of Persons in distressed circumstances; and I am to request that you will submit them to Lord Glenelg for his consideration, and that you will move his Lordship to favor My Lords with his opinion upon the subject to which they relate, at the same time observing that it appears to my Lords to be only reasonable that the Colonial Fund should be charged with the relief of Persons under the circumstances described, who have worked out their legal servitude, and become a part of the free population.

Correspondence re admission of pauper patients to hospitals.

I am, &c.,

A. Y. SPEARMAN.

[Sub-enclosure No. 1.]

COMMISSIONERS OF AUDIT TO LORDS COMMISSIONERS OF TREASURY.

My Lords,

Audit Office, 18th July, 1837.

We beg leave to represent to your Lordships that, in the course of the examination of the Van Diemen's Land's accounts of Depy. Commy. General Moodie, our attention was drawn to certain observations made thereon by the Depy. Asst. Commissary of Accounts relative to the gratuitous admission into the Hospitals of persons in distressed circumstances.

Presuming that these persons formed part of the free population of the Colony, we forwarded a Query to Mr. Moodie, stating our opinion that the charges of their Medical treatment ought not to fall upon the Military Chest, but that, when proper to be allowed at all, it should be made a claim upon the Colonial Fund.

In consequence of this observation, Mr. Moodie referred the question to the Commissary of accounts, requesting him to prepare an account of the sums which, according to our view of the case, should be borne by the Colony, in order that he might make a claim for the amount to be repaid into the Military Chest.

Mr. Darling the Commissary of Accounts having on the arrival of the Deputy Inspector of Hospitals submitted the matter to that Officer, a decision was obtained from the local Government, according to which the Medical treatment of free persons only, arriving as such in the Colony, was to be paid for by the Colonial Government, and the treatment of pauper patients from that class of persons who, although

1837.  
29 Sept.

Correspondence  
re admission of  
pauper patients  
to hospitals.

denominated free, had once been Convicts, or were ticket of leave men, i.e., persons who had obtained the liberty of working for themselves or carried on business on their own account, was to be defrayed from the Military Chest.

In communicating this decision, the Commissary of Accounts expressed his opinion that this arrangement would relieve the Military Chest but little of the expence, which properly should be defrayed by the Colonial Government.

And as the decision involves a question of principle which, so far as we are aware, has not hitherto been brought under the consideration of Her Majesty's Government; and as reasonable doubts may, we apprehend, be entertained whether your Lordships would consider it proper that a party, who may for a long course of years have been a free laborer and of whose labor the Colony has had the benefit, should in consequence of his having once been a convict, when disabled, become a charge on the Extraordinaries of the Army or on the Convict Funds; we have thought it right to submit the case to your Lordships in order that, if you should judge fit, the same may be referred to Her Majesty's Secretary of State for the Colonies for his opinion; and with this view we beg leave to enclose copies of the correspondence transmitted to us by the Commissary of Accounts, vizt., Letter from Dr. Arthur, Deputy Inspector of Hospitals, to the Commissary of Accounts, dated the 13th of December, 1836, with a letter addressed to Dr. Arthur by the Colonial Secretary, dated the 26th August, 1836, accompanied by a Government Notice dated the 26th July, 1834.

In case your Lordships should see fit to forward any directions on this subject, to Van Diemen's Land, we submit whether a similar communication ought not to be made to New South Wales where the like practice may perhaps prevail.

We have, &c.,

F. S. LARPENT.  
H. F. LUTTRELL.  
HENRY ARBUTHNOT.

[Sub-enclosure No. 2.]

DR. ARTHUR TO DEP. ASSIST. COM.-GENL. OF ACCOUNTS.

Sir,

Principal Medical Officer's Office, 13th Decr., 1836.  
In order to afford you the information required in your letter of the 12th Inst., I have the honor to enclose herewith the copy of a letter from the Colonial Secretary with an enclosure on the subject; in conformity with which it has been arranged that two shillings per diem should be paid for all persons, free to the Colony, accommodated in Colonial Hospitals, on accounts to be rendered quarterly by me, commencing the 5th of July the date of my arrival in the Colony; and an account is now making out for the Quarter ending the 5th of October, some delay having occurred in obtaining the necessary information from the different Hospitals.

I have, &c.,

JNO. ARTHUR, M.D.  
Depy. Inspr. Genl. of Hospitals' Principal Medical Officer.

[Sub-enclosure No. 3.]

COLONIAL SECRETARY MONTAGU TO DR. ARTHUR.

Sir,

Colonial Secretary's Office, 26th August, 1836.

I have the honor to acknowledge your letter of the 16th Instant relative to the admission of pauper patients into the Hospitals, and the source from whence the expence attending this measure should be defrayed, and to inform you that this question was some time since brought under the notice of the Government by the Commissary of Accounts, when it was decided that the cost incurred in this manner on account of persons, who, having been convicts, had become free, should be defrayed from the Military Chest, whilst the expence of Emigrant Paupers sent out by the Home Government should be defrayed by the Land Revenue; with regard to the former, this course will be continued; but, as the Land Revenue has now become a Portion of the Colonial Funds, the cost for all free paupers who never have been convicts will be defrayed by the Colony, and an adjustment of this matter will take place at such times as you may think proper to send in your accounts, when Warrants will be prepared for repaying to the Military Chest such amounts, as may in this manner have become due by the Colony.

With regard to your observation that the fact of destitution ought to be attested by a Magistrate or Clergyman, I have the honor to forward for your information copy of a Government order upon this subject published as long ago as the 26th of July, 1834, and which has been invariably acted up to.

I have, &c.,

JNO. MONTAGU.

[Sub-enclosure No. 4.]

GOVERNMENT NOTICE.

Colonial Secretary's Office, 26th July, 1834.

THE expence of the Colonial Hospitals being defrayed by the British Government, it is hereby notified that in no case, for the future, can free persons be gratuitously

received into any of the Colonial Hospitals, unless in cases of extreme poverty, when it will be indispensably necessary to obtain, by a written application to the Colonial Secretary, the express sanction of the Government for the admission of the applicant, who must also transmit a Certificate from a Clergyman or a Magistrate of the Parish, in which he may reside, of his being in a state of destitution and an object of Charity.

By Command, &c.,  
J. BURNETT.

1837.  
29 Sept.

Correspondence  
*re admission of*  
pauper patients  
to hospitals.

[Enclosure No. 2.]

UNDER SECRETARY STEPHEN TO MR. A. Y. SPEARMAN.

Sir, Downing Street, 17th August, 1837.

I have laid before Lord Glenelg your letter of the 4th Instant, transmitting copies of a Report of the Commissioners of Audit and of its enclosures, respecting the gratuitous admission into the Hospitals at V. D. Land of Persons in distressed circumstances. In reply, I am to acquaint you for the information of the Lords Commissioners of the Treasury that Lord Glenelg concurs in the opinion of their Lordship that no person, who is not at the time a Convict suffering under the sentence of the Law, ought to be admitted into the Colonial Hospitals as a Pauper or destitute person, unless provision be made for his maintenance there by the appropriation for that purpose of a sufficient part of the Funds of the Colony; and that, if their Lordships will issue Instructions to that effect to the Commissary General, Lord Glenelg will address corresponding Instructions to the respective Governors of New South Wales and Van Diemen's Land.

I have, &c.,

JAS. STEPHEN

[Enclosure No. 3.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 25th August, 1837.

I am commanded by the Lords Commissioners of Her Majesty's Treasury to acquaint you, for the information of Lord Glenelg, that my Lords have made a communication to the Commissariat Officers in charge of New South Wales and Van Diemen's Land, to the effect suggested in your letter of the 17th Instant, and my Lords request his Lordship will be pleased to give corresponding Instructions to the respective Governors of those Colonies

I am, &c.,

A. Y. SPEARMAN.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 378, per ship Waterloo.)

Sir, Downing Street, 30th September, 1837.

I herewith transmit to you for your information and guidance the Copy of a correspondence between Captain Robison and one of my Under Secretaries respecting the grant of Land which he is desirous of obtaining in New South Wales. Sir George Grey's letter to Captain Robison will fully explain to you the principle on which I think it right that Captain Robison's application should be dealt with.

I have, &c.,

GLENELG.

30 Sept.

Correspondence  
*re claim of*  
R. Robison  
for land grant.

1837.  
30 Sept.

[Enclosure No. 1.]

EXTRACT of a Letter from Captain Robison to Sir George Grey, Bart., dated Dundalk, 24th August, 1837.

Application by  
R. Robison  
for land grant.

" I TRUST you will excuse the liberty I take in addressing my present application to my Lord Glenelg through you, as, from the kind manner you were pleased to interest yourself in my favor the early part of last year, I am emboldened now to make known my present situation.

" About two years ago my wife's impaired state of health made it necessary, by the advice of her Medical Attendants, for her to leave England for a milder Climate, and, an eligible opportunity offering, she rejoined her Family,\* who reside in the Van Diemen's Land and New South Wales Colonies.

" Upon the receipt of your Letter of the 6th June, 1836, in which you informed me that Lord Glenelg had been so good as to place me, as regard my Grants of Land, in the same position as all the other officers of the Veteran Companies, which I had raised and taken to that Colony, I immediately communicated that information to my wife then at Sydney, and I have recently had Letters from her in reply, in the last of which she states that her brother had made an application to the Governor on her behalf, begging to be allowed permission to take up my Grant, and I have the honor to annex the Governor's answer.

" Under these circumstances, and from the fact of my wife being now present in the Colony, and myself most anxious, if it could be at all arranged, for me to join her, I trust that Lord Glenelg will, with the same generous and humane feelings which have upon all occasions guided his decisions in my unfortunate case, that his Lordship will be pleased to allow Mrs. Robison to receive my Grant of Land, and that Instructions to that effect may be forwarded to the Governor."

[Sub-enclosure.]

COLONIAL SECRETARY THOMSON TO MR. STEPHEN.

Colonial Secretary's Office,

Sydney, 22nd February, 1837.

Sir,

Inability  
to grant land  
to wife of  
R. Robison.

I duly received and submitted to the Governor, your letter of the 30th Ultimo, requesting, on behalf of Mrs. Robison, permission to occupy the Grant of Land which it is understood The Secretary of State has authorized for her Husband, Captain Robison, late of the Veteran Companies.

With reference thereto, I am directed by his Excellency to transmit to you the accompanying Copy of a Letter from Sir George Grey to Captain Robison dated 6th June, 1836, by which you will perceive that the Grant is made to depend upon that Officer's being prepared to return to the Colony. It is not, therefore, in the Governor's power conformably to the Instructions of the Secretary of State, to make Captain Robison a Grant until he arrives.

His Excellency can only thus permit Mrs. Robison to make a selection (if she shall desire it) and will direct the Land to be reserved for a year or eighteen months, waiting the reply of the Secretary of State to the application she may make for the Grant. But his Excellency cannot authorize the occupation of the Land as proposed by you, having, in many instances, found it necessary to refuse similar requests.

I am, &c.

E. DEAS THOMSON, Colonial Secretary.

\* Note 39.

[Enclosure No. 2.]

1837.  
30 Sept.

SIR GEORGE GREY TO CAPTAIN ROBISON.

Sir, Downing Street, 8 Sept., 1837.

I am directed by Lord Glenelg to acquaint you, in reply to your letter of 24th Ult., that it was his Lordship's intention to accord to you the same advantage with respect to the Grant of Land to which you refer as was enjoyed by the other officers of the Veteran Companies, altho' he would not consider himself at liberty to extend to you any greater privilege in its acquisition than was conceded to them.

Conditions for  
land grant to  
R. Robison.

It appears by the Regulations then in force that it was stipulated on the part of Military Settlers that they *or their families* should reside on the Land for seven years.

Sir R. Bourke seems not to have acceded to Mrs. Robison's application mainly in consequence of an observation contained in a letter addressed to yourself from this Dept. on the 6th June, 1836. *that, if you were prepared to return to the Colony, a Grant of Land would be made to you.*

That observation was not intended to narrow the claim, which you have advanced as an officer of the Veteran Companies in common with the other officers of that Corps.

Lord Glenelg will therefore instruct Sir R. Bourke to consider the application made to him by Mrs. Robison without reference to the terms of the letter above alluded to.

I have, &c.,

GEO. GREY.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 379, per ship Upton Castle.)

Sir, Downing Street, 30th September, 1837.

I have the honor to acknowledge the receipt of your despatch No. 140 of the 30th of Decr. enclosing an extract from the proceedings of the Executive Council of your Government, shewing the circumstances under which a cargo of wheat had been admitted to entry at Sydney from a Chilian Vessel not navigated strictly according to law.

Despatch  
acknowledged.

I transmit for your information and guidance the copy of a letter which has been addressed to this Department by desire of the Lords of the Treasury with a Report from the Commissioners of Customs, by which you will perceive that the admission of the Cargo of the Chilian Vessel into the Colony is approved.

Approval of  
admission of  
cargo of  
Chilian vessel.

I have, &c.,

GLENELG.

[Enclosure.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 9th September, 1837.

I am commanded by the Lords Commissioners of Her Majesty's Treasury to transmit herewith Copy of a Report of the Commissioners of Customs, dated 22nd Ultimo. on your Letter of

1837.  
30 Sept.

the 27th July last, with enclosures, respecting the admission of a Cargo of Wheat into the Port of Sydney, New South Wales, from a Chilian Vessel not navigated according to Law, and I am to request you will submit the same to Lord Glenelg, and state to His Lordship that My Lords concur in the approval of the admission of the Cargo of the "Esperanza," which has been signified by the Commrs. of Customs to their Officers at Sydney.

I am, &c.,  
A. Y. SPEARMAN.

Approval of  
admission of  
cargo of  
Chilian vessel.

[Sub-enclosure.]

REPORT BY COMMISSIONERS OF CUSTOMS.

Report by  
commissioners  
of customs.

May it please your Lordships,

Your Lordships having referred to us the annexed letter of Mr. James Stephen, transmitting by desire of Lord Glenelg the copy of a Despatch from the Governor of New South Wales, together with an extract from the proceedings of the Executive Council shewing the circumstances under which a Cargo of Wheat had been admitted to Entry at Sydney from a Chilian Vessel not navigated strictly according to Law.

We report,

That, upon the circumstances attending the admission to entry of the Cargo of the "Esperanza," the Vessel, referred to in the Despatch of the Governor of New South Wales, being represented to us by the Collector and Controller of this Revenue at Sydney, we acquainted those Officers that they acted correctly in giving effect to the directions issued by His Excellency the Governor, in consequence of the scarcity of Grain in the Colony, for the admission to entry of the Wheat imported in the "Esperanza," notwithstanding the Vessel was not navigated in strict conformity with the provisions of the 15th Section of the Act 3 and 4 W. 4, Cap. 54.

We further apprised the Collector and Controller that, Chili being a state within the limits of the East India Company's Charter, Vessels belonging to that state were entitled to import the produce thereof into Her Majesty's Settlements of New Holland, under the provisions of His Majesty's Order in Council of the 16th July, 1827.

That, under these circumstances, we would submit whether your Lordships will consider any further directions necessary in this case.

R. B. DEAN.  
H'GE LEGGE.

CULLING CHAS. SMITH.  
H. FREELING.

Custom House, 22nd August, 1837.

LORD GLENELG TO SIR GEORGE GIPPS.

(Received\* in London.)

— Sept.

Sir,

Downing Street, — September, 1837.

Aide-de-camp  
for  
Sir G. Gipps.

I have the honor to acquaint you that, in consequence of your not being entitled, as your Predecessor is, to the services of a Military Aid-de-Camp as Governor of New South Wales, Her Majesty's Government have considered it proper that you

\* Note 32.



should be allowed a Colonial Aid-de-Camp with the same pay and allowance as a Military Officer serving in that capacity, viz., 9s. 6d. per diem and 2s. 6d. a day for forage allowance.

1837.  
— Sept.  
Aide-de-camp  
for  
Sir G. Gipps.

A similar arrangement is observed in Van Diemen's Land.

I have therefore to authorise you to propose to the Legislative Council of New South Wales that necessary provision should be made out of the Colonial Funds for the services of an Aid-de-Camp on your Establishment.

I have, &c.,  
GLENELG.

LORD GLENELG TO SIR GEORGE GIPPS.

(A circular despatch per ship Emma Eugenia.)

Sir, Colonial Office, 30th September, 1837. 30 Sept.

With reference to the Rules and Regulations which I had the honor to transmit to you in April last, and adverting to the correspondence, herewith enclosed, which has passed between this Department and the Lords Commissioners of Her Majesty's Treasury on the subject of the expense of transporting Military Offenders from the Colony under your Government to this Country or to Penal Settlements, I have now to convey to you my authority for adding to Chapter 13, Sec. 2, par. 8 of the Book\* of Rules and Regulations above referred to, the following clause, viz.:

Regulation *re*  
charge for  
removal of  
military  
convicts.

That Her Majesty's Government will provide for the charge of removal to this Country or to the Penal Settlements of such Military Convicts as may be sentenced to Transportation by Military Courts Martial, provided the parties thus sentenced have belonged to the General Establishment of the Army, and not to local Corps raised for the Service of any particular Colony.

I have, &c.,  
GLENELG.

[Enclosure No. 1.]

UNDER SECRETARY STEPHEN TO MR. A. Y. SPEARMAN.

Sir, Downing Street, 10th April, 1837.

With reference to your Letter dated the 31st of January last, signifying that the Lords Commissioners of the Admiralty had withdrawn certain claims for the payment of the expences incurred in the conveyance of Military Convicts from Quebec and Jamaica to this Country; and, as Lord Glenelg concludes that these particular claims have been relinquished on general grounds, and questions of the like nature have arisen elsewhere in the Colonies, his Lordship is desirous to be authorized by the Lords Commissioners to announce to all the Colonial Governments that the expence of transporting Military Convicts will in future be defrayed from the Funds of this Country.

Proposal for  
regulation.

I have, &c.,  
JAS. STEPHEN.

\* Note 40.

1837.  
30 Sept.

[Enclosure No. 2.]

UNDER SECRETARY STEPHEN TO MR. A. Y. SPEARMAN.

Sir, Downing Street, 31st July, 1837.

Request for  
decision.

I am directed by Lord Glenelg to request that you will bring under the consideration of the Lords Commissioners of the Treasury the Letter, which I addressed to you on the 10th of last April, enquiring whether, "as the Lords Commissioners of the Admiralty had withdrawn certain claims for the payment of the expenses incurred in the conveyance of Military Convicts from Quebec and Jamaica to this Country, which Lord Glenelg presumed to have been relinquished on general grounds, the Lords Commissioners of the Treasury would authorize him to announce to all the Colonial Governments that the expence of transporting Military Convicts would in future be defrayed from the Funds of this Country"; and request that their Lordships would signify to Lord Glenelg their early decision on the subject, and enable him to dispose of a question which has lately arisen, regarding the charge of the passage of two Military Convicts from Antigua. I have, &c.,

JAS. STEPHEN.

[Enclosure No. 3.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 21st September, 1837.

Approval of  
regulation.

With reference to your Letters of 10th April and 31st July last, suggesting that the Colonial Governments should be apprized that the expenses of transporting Military Convicts would in future be defrayed from the funds of this country, I am directed by the Lords Commissioners of Her Majesty's Treasury to acquaint you, for the information of Lord Glenelg, that my Lords see no objection to a communication being made by His Lordship to the Colonial Governments to the effect that they will not be required to provide from Colonial funds for the charge of the removal to this country or to the Penal Settlements of such Military Convicts, as may be sentenced to transportation by Military Courts Martial; provided the Parties thus sentenced have belonged to the General Establishment of the Army, and not to local Corps raised for the service of any particular Colony.

I am, &c.,

A. Y. SPEARMAN.

LORD GLENELG TO SIR RICHARD BOURKE.

(Despatch No. 380, per ship Upton Castle.)

Sir, Downing Street, 2nd October, 1837.

2 Oct.

Passage money  
for chaplains.

I have the honor to acquaint you that the Roman Catholic Clergymen, the Revd. John Brady and the Revd. James Goad, having been selected by the Revd. W. Ullathorne to proceed to New South Wales, an allowance has been made to each of them for their outfit and passage.

Revd. J. Brady  
detailed for  
duty at  
Norfolk island.

As Mr. Brady is intended to officiate at Norfolk Island, his Salary of £150 per annum will be paid out of the Convict Funds.

His allowance of £100, which has been advanced by the Agent General, must also be repaid from the same fund.

I have, &c.,

GLENELG.

LORD GLENELG TO SIR RICHARD BOURKE.

1837.  
3 Oct.

(Despatch No. 381, per ship Upton Castle.)

Sir,

Downing Street, 3d October, 1837.

I have the honor to acquaint you, with reference to your despatch No. 117 of the 3d Nov. last, that Her Majesty's Government have sanctioned the Estimates submitted by a Committee of the Legislative Council of your Government for the erection of a New Government House at Sydney.

Approval of estimates for new government house.

I enclose the copy of a correspondence between the Board of Treasury and this Department on the subject. Your particular attention should be directed to the observation of the Lords Commissioners that, as the Committee seem to have paid great attention to the details of the arrangements relating to this work, their Lordships presume that the sufficiency of the amended estimate may be relied on, and they are willing to confide in this respect in the vigilance of the Council.

You will not be at liberty to sanction any further alteration in the Plans of the Building than those already recommended by the Committee of the Legislative Council of your Government.

Alteration of plans prohibited.

I have, &c.,

GLENELG.

[Enclosure No. 1.]

UNDER SECRETARY STEPHEN TO MR. A. Y. SPEARMAN.

Sir,

Downing Street, 27 July, 1837.

Referring to former correspondence relative to the erection of a new Government House in New South Wales, I am directed by Lord Glenelg to transmit to you for the consideration of the Lords Commrs. of H.M. Treasury the enclosed Copy of a Despatch\* from the Governor of N. S. Wales, with a Report of a Committee of the Legislative Council and Minutes of the evidence taken before that Committee on the plan sent out from this Country by the Colonial Agents for the proposed Building.

Submission of plans and estimate for new government house.

The Lords Commissioners will probably receive with some hesitation a proposal that such a sum as £25,000 should be laid out in the erection of a Residence for the Governor of the Colony, especially as it is not proposed that the Building should be undertaken on the credit of any Contractor, who has pledged himself for the completion of it even at that price, but in reliance on estimates which may of course prove fallacious.

Except the magnitude of the proposed expenditure, there is not as Lord Glenelg apprehends any just ground for objection to the present plan of the undertaking.

That plan in every essential respect appears to correspond with that which was sent out to the Governor.

The necessity for a new Government House is indisputable; the resources of the Colony are abundant; the possibility of accomplishing the work with any material reduction of the estimated outlay seems very doubtful; and, considering the growing importance of the Colony, the great embellishment which the Capital

\* Marginal note.—No. 117, 3 Novr., 1836.

1837.  
3 Oct.

would derive from such an edifice and the necessity of maintaining in so remote a dependency of the Empire some of the visible state and splendor which should belong to Her Majesty's Representative, Lord Glenelg is on the whole of opinion that there are sufficient grounds to justify H.M. Govt. in giving their sanction to the proposed expenditure.

I have, &c.,  
JAS. STEPHEN.

[Enclosure No. 2.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 31st August, 1837.

Approval of  
plans and  
estimates for  
new govern-  
ment house.

The Lords Commissioners of Her Majesty's Treasury having had under their consideration the copy of a Dispatch from the Governor of New South Wales concerning the Report of a Committee of the Legislative Council, with Minutes of the Evidence taken before it, on the plan sent from this Country by the Colonial Agent for the erection of a new Government House at Sydney, which were transmitted to their Lordships in your Letter of the 27th Ultimo, signifying the recommendation of Lord Glenelg that the proposal of the Committee should be acquiesced in, for the reasons set forth in your said Letter, notwithstanding the very great expence which would be thereby incurred; I have received the commands of the Lords Commissioners of Her Majesty's Treasury to request you will state to Lord Glenelg that, as the alterations in the Plan for the Government House at Sydney do not appear to be open to any objection, and as the increase in the amount of the Estimate for the Building would appear to be principally occasioned by the differences between the prices and rates of workmanship, at which the calculations of the expence had been made in this Country, and those at which the work can be executed in the Colony, their Lordships, adverting to the circumstances to which reference is made in your Letter, do not deem it necessary to withhold their sanction to the adoption of the recommendation of the Committee of the Colonial Council.

As the Committee seem to have paid great attention to the details of the arrangements relating to this work, their Lordships presume that the sufficiency of the amended estimate may be relied upon; and they are willing to confide in this respect in the vigilance of the Council; but they conceive it will be advisable that the Governor should be informed that he is not at liberty to sanction any further alteration in the plans for the Building than those already recommended by the Committee of the Legislative Council of the Colony.

I have, &c.,  
A. Y. SPEARMAN.

LORD GLENELG TO SIR RICHARD BOURKE.  
(Despatch No. 382, per ship Upton Castle.)

4 Oct.

Sir, Downing Street, 4th October, 1837.

Sailing of ship  
*Brilliant* with  
emigrants.

I have the honor to acquaint you that the Ship "*Brilliant*" has lately sailed for New South Wales with a Party of Highlanders from the Hebrides. The vessel was originally destined for Van Diemen's Land; but, in consequence of the very unfavorable advices received from Sir John Franklin of the

existing prospects for Emigrants in that Colony, her destination has been changed. As two other vessels have so recently proceeded to New South Wales with Emigrants of the same description, it had been determined not to dispatch the "Brilliant" to that Colony; but Sir John Franklin's representations were such as to render it absolutely necessary to give up the original intention of sending her to Van Diemen's Land, while at the same time the undertaking was too far advanced to be entirely abandoned.

1837.  
4 Oct.

Reasons for sailing of ship to Sydney.

Under these circumstances, she has sailed for Sydney. The Colonists will, I have no doubt, be glad to receive the Emigrants who have been selected on this occasion; but I have thought it right to explain the reason of their being dispatched in such apparently rapid succession.

I have, &c.,

GLENELG.

LORD GLENELG TO SIR GEORGE GIPPS.

(Received\* in London; acknowledged by Sir George Gipps, 11th December, 1839.)

Sir, Downing Street, 5th October, 1837.

5 Oct.

I have the honor to transmit to you the copy of a letter which has been addressed to this Department by desire of Lord John Russell respecting the *Musters* of Convicts.

Instructions re general *musters* and returns of convicts.

His Lordship represents that the want of satisfactory information to answer the numerous enquiries made at his office relative to Convicts, who have been transported to New South Wales, has been attended with considerable inconvenience.

I have therefore to desire that you will cause a General *Muster* of Convicts in the Colony to be taken once in three years, and a return of the casualties among the Prisoners by death or otherwise to be transmitted to this country once at least in each year.

I have, &c.,

GLENELG.

[Enclosure.]

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

Sir, Whitehall, 14 August, 1837.

I am directed by Lord John Russell to desire that you will bring under Ld. Glenelg's consideration the question of the General *Musters* of Convicts in the Australian Settlements.

Necessity for general *musters* and returns of convicts.

Some few years since a correspondence took place between this Dept. and the Secy. of State for the Colonies on this subject, and the result was an understanding that Instructions shd. be given to the Governor of N. S. Wales and the Lt. Governor of V. D. Land to cause *Musters* to be taken once in Three Years, and that, annually between those periods, a return of the casualties among the Prisoners by Death or otherwise shd. be transmitted to this country.

The last General *Muster* taken in N. S. Wales was in Decr., 1828; two supplementary *Musters* have also been recd. containing Lists

1837.  
5 Oct.

of such Prisoners as have arrived in that Colony between the last named period and 31 Decr. 1834; but no further account or List of Casualties has been since transmitted to this Office. The Lt. Governor of V. D. Land has regularly transmitted Quarterly Returns of the Casualties in that Island since the last Muster in December, 1835.

Want of  
information  
re convicts.

The want of Satisfactory information to answer the numerous enquiries made at this Department relative to Convicts, who have been transported to N. S. Wales, has been attended with considerable inconvenience. Lord John Russell therefore trusts that Lord Glenelg will give such instructions to the Governor, who has recently been appointed to that Colony, as his Lordship may deem expedient for carrying into effect the arrangement before mentioned.

I have, &c.,

S. M. PHILLIPPS.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch\* marked "Separate.")

9 Oct.

My Lord,

London, 9th Oct., 1837.

With reference to the application which I had the honor to make to your Lordship, on the 19th ulto., on the subject of the Female Factory at Parramatta, and in which I represented how desirable it appeared to me that, before I quitted England, I should be authorized to incur the expence, which may be absolutely necessary in order to adapt the buildings of the Factory to the system of management, which the new Matron (Mrs. Leach) has been instructed to follow, I beg leave now further to submit to your Lordship that, in the event of my proposal being acceded to, a supply should in my opinion be sent from this country of articles required to fit up solitary cells, in the mode recommended by the Inspectors of Prisons for the Home District, and which is now being put in execution in the Millbank Penitentiary under the sanction of Lord John Russell, the articles in question being required for the purposes of ventilation, and for the preservation of cleanliness. I beg to state to your Lordship that I have personally inspected what is going on in the Millbank Penitentiary, and have also conferred upon the subject with Messrs. Crawford and Russell, the Inspectors of prisons for the Home District, both of whom concur with me in thinking that a supply of the articles in question, and particularly the apparatus for waterclosets, should be sent out sufficient for about fifty cells. They are, I understand, supplied to the Millbank penitentiary under a contract by Mr. Good, of 23 White St., Moorfields, and I am authorized by Mr. Crawford and Mr. Russell to say that they will both or either of them readily supply any further information that may be required, respecting the cost, quantity, or quality, of what is required.

I have, &c.,

GEO. GIPPS.

Request for  
fittings for  
separate cells  
in female  
factory.

SIR RICHARD BOURKE TO LORD GLENELG.  
(Despatch No. 97, per ship Enterprize.)

1837.  
10 Oct.

My Lord, Government House, 10th October, 1837.

I have had the honor to receive your Lordship's despatch appointing Mr. Patrick Grant to be Police Magistrate at Maitland in this Colony. The Despatch was delivered by Mr. Grant himself, who is to proceed immediately from hence to Maitland to enter on his official duties. Some little delay occurred in perfecting the arrangement owing to my having nominated in the last year a gentleman to fill the appointment, whom upon Mr. Grant's arrival it became necessary to displace.

Appointment of P. Grant as police magistrate.

The Gentleman I had nominated, Mr. Edwd. Deuny Day, is a retired officer from the 62nd Regiment, having sold out to settle and having married in the Colony. His conduct as a Magistrate and his private character are so highly respected at Maitland as to have procured an application to me signed by the Justices and other persons of property and station in the neighbourhood, requesting that if possible I would permit Mr. Day to remain among them. This being out of my power, I have named him Police Magistrate at Mussel Brook, being one of three new appointments on the list of Police Magistrates authorised by the Council at its last session.

Nomination of E. D. Day by Sir R. Bourke.

Appointment of E. D. Day to Musselbrook.

The number of Police Magistrates provided for by the Council for this year amounts to fifteen; For the next, to eighteen. In appointing Mr. Day to Mussel Brook from the 1st instant, I have in some degree anticipated the appropriation; but, in filling up this appointment and two others of the same description in remote districts of the Colony, I only comply with the repeated and earnest desires of the Settlers.

Police magistrates provided for by vote of council.

Your Lordship will readily conceive the necessity which exists for an immediate nomination by the local Government to vacancies occurring in the Police Magistracy. To leave the office in abeyance and the District without a Magistrate, until an appointment could be made from England, would be productive of much inconvenience and give rise to great discontent. It is, however, generally understood that all nominations by the Governor of the Colony require to be confirmed by the Secretary of State. Yet it would be felt as a great hardship by Individuals nominated to an employment of this kind, if, after establishing themselves and their Families in remote districts, they were suddenly dispossessed. I may add, if such supercession were to be considered probable, it would be difficult, if not impossible, to fill these vacancies by properly qualified Persons. These are not at any time readily found in the Colony; upon which account, I proposed at one time to the Secretary of State that qualified

Objections to appointment of magistrates from England.

1837.  
10 Oct.

Type of  
magistrates  
required.

Persons should be sent from England to succeed to vacancies as they occurred, but not to dispossess actual holders. The low rate of Salaries and the chance of delay in receiving an appointment have probably led to a rejection of that Scheme. Should it be hereafter adopted, I would observe that I do not think it necessary that Persons employed in these offices should invariably be Barristers. Intelligent and active Persons, who will exert themselves as well in apprehending and committing offenders as in hearing summary cases, are of the description most required in the Country Districts.

Number  
of police  
magistrates.

I should add that large as the number of Stipendiary Magistrates for the next year may appear to be, it has not satisfied the Colonists, who in many districts still claim appointments, and that, in addition to eighteen for Country Districts, there are three Stipendiary Justices on the Sydney Bench, and two at Port Phillip, the latter being borne on a separate abstract.

I have, &c.,

RICHD. BOURKE.

SIR RICHARD BOURKE TO LORD GLENELG.  
(Despatch No. 98, per ship Enterprize.)

11 Oct.

My Lord, Government House, 11 October, 1837.

I have the honor to inform Your Lordship that I have found it necessary to make the following appointments, which will I hope obtain Your Lordship's sanction.

Appointment of  
R. Stewart  
as police  
magistrate;

Mr. Gisborne having resigned the office of third Police Magistrate in Sydney, I have appointed in his place Mr. Robert Stewart, who formerly held the same office. Mr. Stewart left it about two years ago to hold the office of Chairman of the Quarter Sessions which he has now resigned.

of W. M.  
Manning as  
chairman of  
quarter  
sessions;

The chairman of the Quarter Sessions is elected annually by the Magistrates under the provisions of a local law passed during the Government of my Predecessor. By a subsequent act vacancies during the year are to be filled by the Governor. I have accordingly named Mr. William Montagu Manning, a Barrister of five years standing and lately arrived in the Colony, to hold the office until the next election.

and of  
G. K. Holden  
as crown  
prosecutor.

I have appointed Mr. George Kenyon Holden, whom I have had the honor to bring under Your Lordship's notice as a Person of Character and talent, to be Crown Prosecutor at the Quarter Sessions. The necessity for creating the office is fully shewn in the Finance Minute of this year, and the Council have attached to it a Salary of £600 from the 1st of July last. The appointment was not made until the 1st inst.



I have appointed Mr. Gisborne to be my Private Secretary in the place of Mr. Holden.

1837.  
11 Oct.

Appointments of private secretary and police magistrates.

I have, in my Despatch of the 10th inst. No. 97, adverted to three additional Police Magistracies for which the Council have appropriated funds, the necessity for these appointments being fully explained in the Finance Minute to which I have referred. To one of these, I have already informed Your Lordship I have appointed Mr. Edwd. Denny Day. To another at Yass, I have appointed Mr. John Richard Hardy, a Gentleman of Education and Experience in the Colony having come out some years ago with recommendations to me from Mr. John Smith.

To the third of these Country Magistracies, I propose with Your Lordship's permission to appoint Captn. Plunkett of the 80th Regt., who is about to retire from the Service and settle with a large family in the Colony.

I have, &c.,

RICHD. BOURKE.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 99, per ship Abel Gower.)

My Lord,

Government House, 12 Octr., 1837.

12 Oct.

The Deputy Inspector General of Hospitals having preferred a Complaint of direct disobedience of orders against Colonial Surgeon James Mitchell,\* I investigated the case, and, finding the charges well founded, I directed Mr. Mitchell's name to be removed from the list of Colonial Surgeons.

Dismissal of J. Mitchell as colonial surgeon.

Mr. Mitchell is of course dissatisfied with this proceeding and intimates by the accompanying letter that he is preparing an appeal to Your Lordship. Upon its reaching my hands, it shall be transmitted with my observations.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

SURGEON MITCHELL TO LORD GLENELG.

My Lord,

Sydney, 6th October, 1837.

My name having been removed from the list of Colonial Surgeons on the 26th of last September by order of Sir Richard Bourke, I conclude that the circumstance will be reported to Your Lordship by one of the vessels now under dispatch.

Statement to be submitted by J. Mitchell.

I respectfully request, therefore, that Your Lordship will suspend Your judgment until the receipt of the Statement in vindication of my conduct, which I am now preparing, but which with the documents in its Support I find it absolutely impossible to complete in time.

I assure you, My Lord, I have not deserved the treatment I have received.

I have, &c.,

J. MITCHELL.

\* Note 41.

1837.  
13 Oct.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 1, per ship Upton Castle.)

Sir, Downing Street, 13th October, 1837.

Transmission of  
commission and  
instructions for  
Sir G. Gipps.

Herewith I transmit to you Her Majesty's Commission appointing you Captain General and Governor in Chief in and over the Territory of New South Wales and of the Island of Van Diemen's Land; together with Instructions, under the Royal Sign Manual, for your guidance in administering the affairs of that Government.

I have, &c.,

GLENELG.

[Enclosures.]

[A copy of the commission will be found on page 295 et seq., and of the instructions in an appendix to a later volume.]

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 2, per ship Upton Castle.)

14 Oct.

Sir, Downing Street, 14 October, 1837.

Letter  
acknowledged.

I have the honor to acknowledge your letter of the 20th Ult. suggesting certain alterations in the Female Factory at Paramatta, with a view of confining each prisoner, or at least a third or the Penal Class of them, in separate cells, and requesting that you may be authorized to incur the necessary expenditure for carrying the proposed alterations into effect.

Approval of  
expenditure  
proposed on  
female factory.

I have to convey to you the sanction of Her Majesty's Government for such expenditure as you may find indispensable for ensuring the separation, which may be required by the improved system of discipline about to be introduced into the Factory.

I have to request that you will make an early report of the measures which you may adopt for carrying on this service, together with a statement of the expenditure which may be incurred.

I have, &c.,

GLENELG.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 3, per ship Upton Castle; acknowledged by Sir George Gipps, 29th August, 1838.)

Sir, Downing Street, 14th October, 1837.

Reorganisation  
of police  
establishment  
at Port  
Macquarie.

I have received Sir Richard Bourke's Despatch No. 115 of the 1st of November last, reporting the arrangements which he had made for placing the Police Establishment at Port Macquarie on a more efficient footing; and, having submitted those arrangements for the consideration of the Lord Commissioners of the Treasury, I have the honor to transmit to you for your information and guidance a copy of a letter, which has been

addressed to my Under Secretary by their Lordships' direction, and to request your attention to that part of it which suggests the apportionment of the charge for the Establishment in question between the Colonial and the Convict Funds.

1837.  
14 Oct.

I have, &c.,  
GLENELG.

[Enclosure.]

MR. A. Y. SPEARMAN TO ———.

Sir,

Treasury Chambers, 7th October, 1837.

With reference to your Letter dated 31st July last, enclosing Copy of a Dispatch from the Governor of New South Wales reporting the arrangements which he has made for placing the Police Establishment at Port Macquarie on a more efficient footing, I am commanded by the Lords Commissioners of Her Majesty's Treasury to request you will state to Lord Glenelg that my Lords are not disposed to object to the arrangements for the increase of the Police Establishment at Port Macquarie reported in the Dispatch from the Governor of New South Wales of 1st Novr., 1836, so far as regards the number or rates of Pay of the Persons employed; but, as he has adverted to the great influx of free Settlers to the fertile country in the neighbourhood of that Penal Station as forming one of the grounds for the increase, it appears to my Lords that the additional expence should not fall entirely on the Funds applicable to Convict Services, but that a large proportion, if not the whole of it, should be defrayed by the Colony.

Approval of police establishment for Port Macquarie.

Apportionment of expenditure.

My Lords, therefore, request that you will suggest to Lord Glenelg that Instructions to this effect should be conveyed to the Governor of New South Wales, and that he should be directed to apportion the charge for the establishment in question between the Colonial and Convict Funds in such manner as the circumstances of the case may appear to him to warrant, and to report, for the information of Lord Glenelg and of this Board, the arrangement he may see occasion to recommend in this respect. I am, &c.,

A. Y. SPEARMAN.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 4, per ship Upton Castle.)

Sir,

Downing Street, 14th October, 1837.

I have the honor to transmit to you, for your information and guidance, a copy of a Letter from the Secretary to the Treasury, enclosing copies of a correspondence between that Department and the Board of Ordnance relative to the repair of the Barracks for the Mounted Police of New South Wales for the present year.

Problem of repairs to barracks for mounted police.

I have, &c.,  
GLENELG.

[Enclosure.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir,

Treasury Chambers, 9 Octr., 1837.

I am commanded by the Lords Commissioners of H.M. Treasury to transmit, in order that they may be laid before Lord

1837.  
14 Oct.  
Problem of  
repairs to  
barracks for  
mounted police.

Glenelg for his information, copy of a letter addressed to this Board by Order of the Master General and Board of Ordnance on 17 April last with an annual estimate of the probable incidental repair of the Mounted Police Barracks in N. S. Wales in the year 1837-8, amounting to £600, together with the copy of the reply which my Lords have directed to be made thereto.

I have, &c.,  
A. Y. SPEARMAN.

[Sub-enclosure No. 1.]

MR. R. BYHAM TO MR. A. Y. SPEARMAN.

Sir,

Office of Ordnance, 17 April, 1837.  
The Master General and Board of Ordnance having had before them the enclosed Report and an accompanying annual Estimate received from Major Barney, Commanding Royal Engineer in N. S. Wales, of the probable incidental expenses of the Repair of the Mounted Police Barracks in that Colony in the Years 1837-8, amounting to £600, and the Master Genl. and Board's attention having been drawn to the enclosed copy of the general order No. 1, of 1st Janry., 1836, by which it appears that the Govr. placed the Police Barracks under the charge of the Ordnance and also to the fact of no provision being made for the Repairs in question in the Ordnance Estimates. I have the honor to communicate the same to you for the information of the Lords Commrs. of H.M. Treasury and to request you will state to their Lordships that, as the greater part (three fourths) of these Police Stations are distinct from the Military Barracks, the Master General and Board are of opinion that the Ordnance cannot take charge of the Buildings and undertake the repairs without a corresponding increase of the Establishment, which (as regards the Engineer Dept.) has already been reported to be wholly inadequate to the proper Superintendence and Inspection duties; but on which further information will now be called for in consequence of the decision of the Lords of the Treasury Communicated in your letter of the 2d February last. Under these circumstances, the Master Genl. and Board request you will submit the enclosed papers to the Lords Commss. that their Lordships may, as they think proper, provide funds for this service.

I have, &c.,  
R. BYHAM.

[Sub-enclosure No. 2.]

MR. A. Y. SPEARMAN TO MR. R. BYHAM.

Sir,

Expenditure on  
repairs to be  
provided by  
colonial funds.

With reference to your letter, dated 17 April last, enclosing a Report and Annual Estimate received from Major Barney, Comg. Rl. Engineers in N. S. Wales, of the probable incidental Expenses of the Repair of the Mounted Police Barracks in that Colony in the year 1837-8 amounting to £600, and conveying the request of the Master General and Board of Ordnance that provision should be made for the outlay, I am commanded by the Lords Comss. of H.M. Treasury to request you will acquaint the Master General and Board that my Lords have recently determined that all expenses connected with the Establishment of the Mounted Police in N. S. Wales except the ordinary Military Pay and Rations of the Officers and Men belonging to Regiments of the Stations, who may be employed therein, are to be provided by the Colonial Govt. from the Colonial Funds, and that it consequently will not be necessary that any particular arrangements should be made in regard to the repairs of the Mounted Police Barracks by the officers of the Ordnance Department.

I am, &c.,  
A. Y. SPEARMAN.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 5, per ship Upton Castle.)

Sir,

Downing Street, 14 October, 1837.

Instructions re  
expenditure  
and payments  
for ordnance  
and convict  
services.

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 relative to the mode of regulating the expenditure and payment of Money for Ordnance and Convict Services in the Colony of New South Wales.

I have, &c.,  
GLENELG.

[Enclosure.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir,

Treasury Chambers, 9th October, 1837.

The Lords Commissioners of Her Majesty's Treasury having had under their consideration the representations and suggestions, submitted to Lord Glenelg in the Despatch of the late Lieutenant Governor of Van Diemen's Land on the subject of Expenditure for Ordnance and Convict Services in that Colony, which was forwarded to them in your letter of 12th April last, together with other communications on the same subject, which have been received from the Commissariat Officer on that Station. I am commanded by their Lordships to acquaint you for the information of Lord Glenelg that, with respect to the general principles upon which the transactions of the Military Chests in the Colonies should in ordinary circumstances be conducted, and the intervention of the principal Civil and Military Authorities regulated, when the Civil Government and Military Command are vested in different Officers, it appears to My Lords sufficient to refer to an Instruction addressed to the officer commanding the Troops in Van Diemen's Land on the 6th Jan'y., 1836 (of which a copy is herewith transmitted), and to a Minute of this Board forwarded to you on the 9th May last, in which they had occasion to observe "that there could be no doubt that the Civil Authority within the Settlement" to which that communication particularly referred "as in all others under the Crown of England must be held to be supreme; that respectful obedience is due by all public Functionaries to that authority, by whomsoever administered; and that personal deference and respect should be at all times shewn towards the officer administering the Government. That, on the other hand, the Civil Governor ought not lightly to interfere with the duties and administrations of those Departments which, altho' placed within the limits of his Government, are not responsible to him for the manner in which those duties are performed, and which act, in conformity with regulations and instructions issued by the superior Departments at home, and are bound to obey and carry into execution such regulations and instructions. Thus, in all matters relating to the receipt into and issue of monies from the Military Chest, or to the rates at which the various Coins are received or issued in payments to the Troops, the Commissariat Officer is responsible to this Board alone, whose peculiar province it is to give such directions as they think fit in that matter. But on the other hand, on subjects affecting the general welfare of the Colony, it is undoubtedly proper that no step should be taken without previous communication with the Civil Governor through the Officer commanding the Troops, who is the immediate superior of the Commissariat officer within the Colony."

The very peculiar nature, however, and large amount of the Expenditure defrayed from the Military Chest in the Australian Penal Settlements for services not Military, altho' conducted by the Commissariat and the Ordnance, as well as the peculiar duties devolving on the officers of both Departments on those stations, obviously renders it necessary, with reference to the recent appointment of Officers in each of those Settlements to take charge of the Civil Government distinct from the Military command, that some more specific regulations should be laid down in regard to

1837.  
14 Oct.Instructions *re*  
expenditure  
and payments  
for ordnance  
and convict  
services.

1837.  
14 Oct.

Instructions re  
expenditure  
and payments  
for ordnance  
and convict  
services.

transactions of those Colonies; and it has appeared to My Lords that the following arrangements will effectually provide for all the peculiar exigencies of the service, at the same time that they are in general accordance with the principles already adverted to.

In raising money for the supply of the Military Chest to whatever purposes such monies are to be applied, and in all that relates to the Custody and appropriation of the Funds under his charge, the Commissary will be guided by his Instructions from My Lords' Board, subject, as observed in the Minute above quoted, to the control of his immediate Military Superior and to communications with the Civil Governor and becoming deference to his opinions and wishes on every subject that may affect the general welfare and interests of the Colony.

The Payments for the Commissariat establishment and Incidents will continue to be made under the regulations, which have been laid down by My Lords' Board; and the issues for the Pay of the Troops and for all usual Military Allowances and Contingent charges, as well as Payments for Provisions or other articles required for the separate use of the Military Departments, procured for the Military on Contracts or Orders relating solely to the Military Force, will be made under the Warrant or other sufficient authority of the Military Officer in Command of the Troops for the time being, under the regulations now existing in that respect, without the intervention of the Civil Governor.

The Advances for the Service of the Ordnance Department and the payment for all Ordnance and Barrack Services,\* which are provided for in the Ordnance Estimates, and carried on under the regulations and upon the responsibility of that Department, will be made, in conformity with the general practice on other stations upon the Drafts of the Ordnance Storekeeper, subject to the notification the respective Officers of that Establishment may receive from the Master General and Board of the Expenditure provided for in the annual estimates of the Department, and to the limits placed upon such issues by the Instructions and Communications from My Lords' Board to the Commissariat officers.

In all matters relating to the Convict Services and Establishments, it is My Lords' intention that the Commissary shall act under the directions of the Civil Governor; and he will accordingly obtain the authority of the Governor for the payment of all persons employed in the superintendence of the Convicts, for all expenditure relating to the maintenance and repairs of Buildings occupied by the Convict Establishments, and for all Contracts and purchases of Stores or Provisions for these Establishments; and he will consider the Colonial Hospitals and Medical Establishments as coming within the same rules. In cases where supplies for both the Military and Convict Branches of the service are comprised in one general contract, it appears to My Lords that, as the amount of the demands for the Convict Branch greatly exceeds that for the Military, it will be most conducive to the Public advantage that the Purchase for this mixed service should be made under the direction and control of the Governor.

It will be desirable that the Commissary should on all occasions be furnished with previous Estimates and information, as will enable him to provide for the demands of all these branches of the service; but it is to be distinctly understood that, should any difficulty in this respect be at any time experienced, the preference is

always to be given to the demands for pay of the Troops and for the other regular Military payments.

The repairs or construction of Convicts' Buildings, altho' defrayed from the grants for Convict expenditure, will be effected by the Ordnance officers, and those officers will also take charge of all Barracks, Stores, Clothing, or Articles of that description, supplied from this Country, or purchased in the Colony for the Convict Establishments. All transactions relating to the services will be carried on in conformity with the Ordnance regulations; but the Expenditure must be authorized and directed by the Civil Governor and the Accounts relating to it kept distinct from the accounts relating to the Ordinary Ordnance Services, which have been already adverted to, and must be submitted to and examined by the Commissary of Accounts upon the same principle and in the same manner, as the Commissariat Expenditure for this service is to be authorized and directed by the Civil Governor, and the accounts of that Expenditure submitted for the examination of the Commissary of accounts.

In making this communication to Lord Glenelg, My Lords deem it necessary further to observe, with reference to the representations in Sir George Arthur's Despatch respecting the mode of making payments for supplies purchased by the Ordnance Store Department for the use and on the account of the Colonial Government, and to the directions given to the Ordnance Officers to afford all practicable assistance in carrying on the Colonial Service, that they conceive it will be advisable, as those Officers act in this respect under the directions of the Colonial authorities, that the payments for Stores purchased or contracted for on account of the Colony should in all be made by the Colonial Treasurer, and not by the Commissary from the Military Chest, upon the Storekeeper's Draft upon Estimates to be previously sanctioned, or in such other manner as the Governor may direct, either by specific Warrant for each payment or by a previous written authority granted at the time any Contract or Agreement is entered into.

I am directed by their Lordships finally to request that you will move Lord Glenelg to convey the requisite directions to the Civil Governors of New South Wales and Van Diemen's Land for the adoption and observance of the arrangements now submitted to his Lordship, which My Lords will cause to be duly notified to the Officers in Command of the Troops, and in Charge of the Commissariat on those stations; and that, in so doing, you will state to His Lordship, with reference to any Instructions the Governor may have received in regard to communications with the Colonial Councils upon matters relating to the Colonial Expenditure, that My Lords conceive it will be proper they should be apprized that those Instructions are not in any respect to apply to expenditure defrayed from resources placed at the disposal of the Crown by the British Parliament; and that accordingly all directions relating to the Convict Expenditure, thus placed under the control of the Governor, are to be given upon their own discretion and responsibility in accordance with such Instructions relating thereto as they may receive from the Secretary of State, and are not to emanate from, or to be submitted for the judgment of, or to be in any manner controlled by the local Councils.

I am, &c.,

A. Y. SPEARMAN.

1837.  
14 Oct.

Instructions re  
expenditure  
for ordnance  
and convict  
services.

1837.  
14 Oct.

Instructions *re*  
expenditure  
and payments  
for ordnance  
and convict  
services.

[Sub-enclosure.]

MR. F. T. BARNEY TO OFFICER COMMANDING AT VAN DIEMAN'S  
LAND.

Sir,

Treasury Chambers, 6th January, 1836.

The Lords Commissioners of His Majesty's Treasury having had before them your letter of the 26th Feby. last, I am commanded to acquaint you that Commissariat Officers are enjoined by their Instructions from this Board not to imprest money to any Department, or to pay the contingent or other accounts of any Officer or Person whatever, excepting for the service of their own Departments, unless upon regular Warrants from the Commander of the Forces or Officer Commanding for the time being, which Warrants are to be considered as positive orders and full authority to the Commissariat Officer for charging in his accounts the sums therein expressed; and My Lords consider it important that this regulation should be adhered to in the case of payment of Salaries and Allowances, and in the other instances alluded to in your Despatch, excepting only in the case of payments, made by the officer in Charge of the Commissariat upon Schedules of approved Tenders for supplies, their Lordships considering that the approval of the Tenders, by the Officer Commanding, is a sufficient authority for any payments subsequently made in conformity thereto.

I have, &c.,

F. T. BARNEY.

LORD GLENELG TO SIR GEORGE GIPPS.

(A circular despatch per ship Emma Eugenia.)

Sir,

Downing Street, 14th October, 1837.

Request by  
trustees of  
British museum  
for specimens  
of natural  
history, etc.

I have the honor to transmit to you a copy of a Letter, which has been addressed to me by the Trustees of the British Museum, requesting me to instruct the Governors of Her Majesty's Colonial Possessions to make known within their respective Governments the desire of that Institution to receive Specimens of the Natural History of the Colonies; and also to take advantage of any opportunities which may offer of securing for the Trustees such rare and curious objects as shall appear to be of sufficient importance to deserve a place in the National Museum. I have, accordingly, to request that you will contribute to the utmost of your power towards the promotion of the views of the Trustees of the British Museum.

I also enclose several copies of a Code of Directions, which has been prepared by the Officers of the Museum for the guidance of inexperienced persons in selecting and preserving Mineralogical and other Specimens; and I have to request that you will cause them to be distributed among those who may be willing to collect and present Specimens to the Museum.

I have, &c.,

GLENELG.



[Enclosure.]

1837.  
14 Oct.

MR. T. FORSHALL TO LORD GLENELG.

My Lord,

British Museum, 2nd October, 1837.

Request by trustees of British museum for specimens of natural history, etc.

I am directed by the Trustees of the British Museum to acquaint your Lordship that, having a prospect of obtaining, at no distant period, much increased space for the deposit and exhibition of the various objects in their charge, They are anxious to extend and improve the several branches of their Collections with as little delay as possible.

To this end the Trustees conceive that Your Lordship's influence may very powerfully contribute; and, confident of your Lordship's desire to promote the interests of Science, They solicit without scruple that your Lordship will instruct the Governors of our Colonial dependencies to make the designs of the Museum known in their respective Colonies, and to take advantage of any opportunities which may offer of securing for the Trustees such rare and curious objects as shall appear to be of sufficient importance to deserve a place in the National Museum.

These objects when transmitted to England will be carefully preserved, and the names of the respective donors honorably recorded among the contributors to the Museum.

I am further to place at your Lordship's disposal Three Hundred copies of a brief code of directions for Collectors of Natural History, drawn up by the Officers of the Museum, and containing some suggestions which may be useful to persons inexperienced in the selection and preservation of Mineralogical, Zoological, and Botanical Specimens.

I have, &c.,

T. FORSHALL, Secretary.

[Sub-enclosure.]

[A copy\* of the directions is not available.]

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 7, per ship Emma Eugenia.)

Sir,

Downing Street, 16 October, 1837.

16 Oct.

I have received a Memorial from Mr. F. M. Stokes, a Settler in New South Wales, praying for a grant of Land. It appears from Mr. Stokes' Statement that he emigrated in the year 1829, under the late Land Regulations, but that on his arrival in the Colony he so employed his Capital as to render it unavailable for the Cultivation of Land; but, having now made a purchase of Sheep, he applies for a Grant. You will have the goodness to acquaint Mr. Stokes that I have received his Petition, and that I regret that the existing Regulations render a compliance with the prayer of it impossible.

Request by F. M. Stokes for land grant.

Refusal of land grant.

I have, &c.,

GLENELG.

\* Note 14.

1837.  
21 Oct.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 8, per ship Emma Eugenia; acknowledged by Sir George Gipps, 12th April, 1839.)

Sir, Downing Street, 21 October, 1837.

Despatch  
acknowledged.

With reference to your Despatch\* No. 138 of the 20th December last on the subject of the custody of the Public Stores in New South Wales, I have the honor to transmit for your information and guidance a copy of a letter which has been received from the Treasury on that subject. I have, &c.,

GLENELG.

[Enclosure.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 20 Oct., 1837.

Approval of  
arrangements  
for control of  
colonial store  
department.

Having laid before the Lords Commrs. of H.M. Treasury your letter dated 22 July last, enclosing copy of a despatch from the Governor of N. S. Wales reporting the appointment of a Colonial Storekeeper. I am commanded by their Lordships to transmit for the information of Lord Glenelg copy of a communication, which my Lords have directed to be addressed to the M. Genl. and Board of Ordnance on the subject to which your letter refers, and I am at the same time directed to request you will observe to Ld. Glenelg that my Lords concur in the opinion that the Expenditure that may have been incurred under the arrangement relating to the Colonial Stores, reported by Sir Richard Bourke, should be sanctioned.

I am, &c.,

A. Y. SPEARMAN.

[Sub-enclosure.]

MR. A. Y. SPEARMAN TO THE SECRETARY OF THE ORDNANCE.

Sir, Treasury Chambers, 19 Oct., 1837.

I am commanded by the Lords Commr. of H.M. Treasury to transmit to you Extract of a Desp. addressed on the 28 Decr. last by the Governor of N. S. Wales to the S. of State for the Colonies, so far as relates to placing the Colonial Store Dept. under the superintendence of the Ordnance Storekeeper; and to request that, in laying the same before the M. Genl. and Board of Ordnance, you will state that my Lords concur in opinion with Sir R. Bourke as to the expediency of adopting the arrangements proposed in that despatch, which the M. Genl. and Board will observe was distinctly contemplated in the communication from this Board of 18 March, 1835, relating to the employment of Ordnance Establishments in the Australian Penal Settlements, and has already been acted upon apparently with great advantage to the Colonial Service in V. D. Land. I am accordingly directed to request that you will move the M. Genl. and Board of Ordnance to cause the necessary Instructions to be conveyed to the Ordnance Storekeeper in N. S. Wales to afford the co-operation and assistance required by the Colonial Govt. in this respect, observing that any difficulty, in regard to the payment for articles procured for the Colonial Service, will be removed by the arrangement which has been pointed out in

\* Note 42.

the Communication recently made to the Sec. of State respecting the expenditure for different Branches of the Public Service in the Australian Settlements of the purport of which the M. Genl. and Board of Ordnance have been apprized.

I am, &c.,  
A. Y. SPEARMAN.

1837.  
21 Oct.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 9, per ship Emma Engenia; acknowledged by Sir George Gipps, 23rd August, 1838.)

Sir, Downing Street, 21 October, 1837.

With reference to my Despatch No. 257 of the 27th January last, I have the honour 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 Requisitions for Clothing and Stores for the Convict Establishments in the Australian Colonies.

Instructions re requisitions for stores for convict establishments.

I have, &c.,  
GLENELG.

[Enclosure.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 19 Oct., 1837.

I am commanded by the Lords Commrs. of H.M. Treasury to transmit the accomp. copy of a letter, addressed to their Ldships, by direction of the Board of Ordnance, dated 1 ulto., and to request that you will, in referring to the Letters from this Board of the 6 Octr. and 30 Novr., 1836, on the subject of the requisition for clothing and stores for the Convict Estabt. and to the Communication of the 9 Inst. respecting the Expenditure for Convict services in the Australian Settlements, move Lord Glenelg to instruct the respective Governors of N. S. Wales and V. D. Land to cause all future requisitions for stores to be prepared by the Ordnance Officers and in conformity with the regulations of the Ordnance Dept. The Governors shd. be further desired, when these requisitions have recd. their approval, to forward them in the first instance to the Secy. of State for his Lordship's consideration, and in order to their transmission to this Board: and to cause the same to be accompanied by Reports of Survey of Articles that may remain in the Colonial Stores and by full explanation with regard to anything unusual either in the qualities or description of any articles applied for.

I am, &c.,  
A. Y. SPEARMAN.

[Sub-enclosure.]

MR. G. BUTLER TO MR. A. Y. SPEARMAN.

Sir, Office of Ordnance, 1 Sept., 1837.

I have the honor to acquaint you, for the information of the Lords Commrs. of H.M. Treasury, that, the Board of Ordnance having recently had under consideration the Demands of Stores for the various Depts. at V. D. Land for 1837, their attention has been called to the apparently lavish and hasty manner in which articles are demanded for the Convict Estabts., for instance, in a former Demand ordered to be supplied on 9 January last 400 pairs of Wool Cords were included, while, in the present one, 50 pairs are

1837.  
21 Oct.

Instructions *re*  
requisitions  
for stores  
for convict  
establishments.

asked for; the Board beg to observe to their Lordships, that, if the latter were the whole number wanted, the former requisition must have been much too great, and, if the 50 pairs are meant to be in addition, they are obviously needless. Fifty pairs of Spectacles are also demanded, which articles the Board submit are scarcely proper to be included in a Requisition for Convicts.

I have therefore recd. the Board's Commands to request you will bring the same under the notice of the Lords Commrs., with a view to any instructions their Lordships may think proper to give to their officers, so as to ensure every care and attention in the formation of future demands, and to satisfy themselves that nothing is asked for but what is absolutely necessary. I am, &c.,

G. BUTLER, for the Secretary.

LORD GLENELG TO SIR GEORGE GIPPS.

(A circular despatch per ship Emma Eugenia.)

Sir,

Downing Street, 21st October, 1837.

I have the honor to transmit to you, herewith, a Volume which has been published by Her Majesty's Government,\* containing Extracts from the Second Report of the Inspectors of Prisons for the Home District. As the information contained in this Book may be beneficially applied to the management of the Gaols in the Colony under your Government, I beg strongly to recommend it for the perusal and attention of yourself and of the Public Officers, who may be charged with the superintendence of the Prisons.

I have, &c.,

GLENELG.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 100. per ship Earl Stanhope.)

My Lord,

Government House, 21st October, 1837.

I have the honor to acquaint your Lordship that the ship "Augusta Jessie" with Emigrants from the Southern Counties of England arrived in this Harbour on the 11th instant. I am happy to add that the passengers and Crew have reached their destination in a healthy state and that the casualties during the voyage have been trifling. One grown up Person and seven very young children have died on the passage according to the accompanying List. The whole number embarked consisted of 232, and 228 have been landed, four births having occurred on Ship-board. Too much praise cannot be given to the Surgeon Superintendent, Mr. Thomas Galloway of the Royal Navy, for the excellent order in which he has brought out his party. By taking no more persons on board than are allowed by the Passengers' Act, by judicious arrangements of the Berths, by enforcing cleanliness, and by attention to the diet of the children

Transmission  
of volume  
of extracts  
from report  
of inspectors  
of prisons.

Arrival of ship  
*Augusta Jessie*  
with  
immigrants.

Testimony to  
services of  
T. Galloway.

\* Note 43.

for whose use he had a Cow on board, this desirable result has been obtained. Some few of the children have whooping Cough, but their general appearance is that of rude health, the bloom of their English complexion being hardly impaired by the voyage.

1837.  
21 Oct.

The party landed on the 14th instant. Those, who needed it, obtained temporary accommodation in Wooden buildings I have had erected and fitted up in Sydney for the use of Immigrants brought to the Colony by Government. Nearly the whole number have already obtained advantageous engagements.

Accommodation  
provided for  
immigrants.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this list is not available.]

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SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 101, per ship Earl Stanhope; acknowledged by lord Glenelg, 20th June, 1838.)

My Lord,

Government House, 21st October, 1837.

I have been requested by Mr. G. M. C. Bowen to forward the accompanying Memorial addressed to Your Lordship. Upon its receipt I informed the Bishop of Australia, who acquaints me that he has received a copy from Mr. Bowen, and that he does not desire to accompany it by any remark, except that "Mr. Bowen is not in possession of all the facts which would be necessary to guide him to a right conclusion."

Transmission  
of memorial  
from  
G. M. C. Bowen.

I need hardly add that, upon the subject\* of Mr. Bowen's letter, your Lordship will, I am sure, hold me excused from offering any observation.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this memorial is not available.]

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LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 10, per ship Emma Eugenia.)

Sir,

Downing Street, 22d October, 1837.

22 Oct.

I have received Sir R. Bourke's Despatch No. 29 of the 15th May, in which he reports upon the subject of a Letter addressed to me on the 19th of April, 1836, by Mr. John Lamb, formerly a Magistrate of New South Wales, complaining of an Article which appeared in the "Australian" Newspaper of the 26th January, 1836, and which Mr. Lamb attributed to two Officers of your Government. Having attentively considered the

Despatch  
acknowledged.

1837.  
22 Oct.

Refusal to  
restore J. Lamb  
to commission  
of peace.

documents enclosed in Sir R. Bourke's present Despatch, I can see no reason to interfere in Mr. Lamb's case with the decision of your Predecessor to exclude that Gentleman's name from the revised List of the Commission of the Peace; and I have, therefore, to desire that you will communicate a copy of this Despatch to Mr. Lamb as containing my answer to that Gentleman's representations on the subject.

I have, &c.,

GLENELG.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 102, per ship Earl Stanhope; acknowledged by lord Glenelg, 16th June, 1838.)

My Lord,

Government House, 22nd October, 1837.

Transmission of  
letter from  
C. D. Riddell.

I have the honor to transmit the duplicate of a letter addressed to your Lordship by the Treasurer of this Colony, the original being forwarded by Mr. Riddell himself as stated in his letter to the Colonial Secretary of which I send a copy.

Adequacy of  
salary of  
colonial  
treasurer.

Having perused Mr. Riddell's Letter, I have little more to observe than that, in my opinion, the Colonial Treasurer is sufficiently paid for the whole duty he performs by a Salary of one thousand pounds a year. Had not the circumstance of his being obliged to provide security to a large amount been considered as some reason for attaching as large an income to the office of Treasurer, I should have said that, previously to the late addition to his duties, the Treasurer was greatly overpaid. The duties, which have been lately transferred,\* and which Mr. Riddell states to be so onerous and responsible, were efficiently discharged by Mr. Macpherson (who also gave security) for some years at a salary of £500 and latterly of £600. In adding to the insufficient duties of the Treasurer without increasing his Salary, I do not perceive that any injustice has been done him, as I am not aware of any compact between the Government and Mr. Riddell which prevented the former from requiring as large a portion of Mr. Riddell's time and labor for the public service as is usually given by other Functionaries. As the office now stands, the Treasurer may be regarded as placed upon a footing with the other Civil Officers of the higher Class in the Colony. Your Lordship will recollect that the salary of the Colonial Secretary has this year been reduced to £1,500.

I will not take up your Lordship's time in making any observations upon the other matters brought forward in Mr. Riddell's letter, the whole case appearing to me to hinge upon the question whether the Colonial Treasurer is or is not sufficiently paid for the duties he now performs.

I have, &c.,

RICHD. BOURKE.

\* Note 45.

[Enclosure No. 1.]

1837.  
22 Oct.

MR. C. D. RIDDELL TO COLONIAL SECRETARY THOMSON.

Sir, Colonial Treasury, 18th October, 1837.

I have the honor of transmitting to you, for the perusal of His Excellency the Governor, a duplicate letter addressed to Lord Glenelg on the subject of the additional Salary, to which I conceive I am entitled upon being commanded to perform the duties of Collector of Internal Revenue in addition to those of Colonial Treasurer.

Transmission of letter requesting extra salary.

I shall transmit the original by the earliest opportunity.

I have, &c.,

C. D. RIDDELL.

[Enclosure No. 2.]

[A copy of this letter is not available.]

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 12, per ship Emma Eugenia.)

Sir, Downing Street, 23d October, 1837.

23 Oct.

I have received Sir R. Bourke's Despatch No. 33 of the 19th May last, transmitting a Memorial addressed to me by Dr. Reid, formerly a Surgeon of the Royal Navy.

Despatch acknowledged.

That Gentleman, having received very considerable Grants of Land in New South Wales upon Quit Rent, prays that, in consideration of his meritorious services as a Naval Surgeon, he may be discharged from the future payment of that Quit Rent. You will express to Dr. Reid my regret at being unable to entertain his application. The admission of his claim would be the recognition of a principle very dangerous to the revenues of the Colony, and of which it would be impossible to foresee, or to limit the application to other cases. If Dr. Reid's public services have not been sufficiently requited, he must be referred to the Department under which those services were rendered.

Refusal to remit quit rent on lands granted to Reid.

I have, &c.,

GLENELG.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 13, per ship Emma Eugenia.)

Sir, Downing Street, 24 October, 1837.

24 Oct.

I have received Sir Richard Bourke's Despatch No. 28 of the 14th of May last, with the letter therein enclosed from Mr. John Bingle on the subject of the omission of his name in the revised commission of the Peace issued in January, 1836. Mr. Bingle's name was omitted in the new commission by Sir R. Bourke in the exercise of the discretion necessarily reposed in the Governor in such matters. I do not think such an omission a well founded cause of complaint; still less can I identify the Government with the Publisher of one of the local Journals,

Despatch acknowledged.

1837.  
24 Oct.

Refusal to  
restore  
J. Bingle  
to commission  
of peace.

or hold the Governor responsible for the vindication which the Journalist may have thought proper to make of his measures. There is not the slightest evidence to shew that your Predecessor sanctioned or knew of the Publication of which Mr. Bingle Complains. For these reasons, and without advancing further into the details of this Case, I must decline to make any order for Mr. Bingle's reinstatement. You will communicate to Mr. Bingle a copy of this Despatch as the answer to his letter of the 3d January last.

I have, &c.,  
GLENELG.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 14. per ship Emma Eugenia.)

Sir,

Downing Street, 24 October, 1837.

Despatch  
acknowledged.

I have had the honor to receive Sir R. Bourke's Despatch No. 30 of the 16th May last, reporting the death of Mr. Archibald Bell, a Member of the Legislative Council of New South Wales, and the nomination of Sir John Jamison to the vacant Seat at that Board.

Appointment of  
Sir J. Jamison  
to legislative  
council.

Having submitted to the Queen the name of Sir J. Jamison for a Seat in the Legislative Council, Her Majesty has been graciously pleased to approve that nomination, and his name has accordingly been inserted in the List of the Legislative Councilors in your Royal Instructions.

Reply to claim  
by P. P. King  
to seat in  
council.

Adverting to the remonstrance of Captain King in his letter of the 9th of May last enclosed in Sir R. Bourke's Despatch, No. 31 of the 17th May, I desire it to be understood that I am fully aware of the claims to consideration, which Captain King derives both from his personal and his professional character; and it is entirely remote from my intention to derogate from either in the preference given to Sir J. Jamison's claims; But, without entering into any other considerations, it appears to me sufficient to express my concurrence in Sir R. Bourke's opinion that it would be undesirable to "nominate two such near relations as Captain King and Mr. MacArthur to a close Council of 14 Members, of whom seven alone are unofficial."

The claim of right, if indeed Captain King can properly be understood as advancing such a claim, is too obviously untenable to require any discussion. His own statement is that a Seat in the Council was reserved for him provided he reached the Colony within 12 months from its first opening, and that he did not arrive there within that period.

I have, &c.,  
GLENELG.



SIR RICHARD BOURKE TO LORD GLENELG.  
(Despatch No. 103, per ship North Briton.)

1837.  
25 Oct.

My Lord, Government House, 25 October, 1837.

With reference to the last paragraph of my despatch of the 9th September last, No. 86, in which I stated that the Baron de Thierry was then in Sydney on his way to New Zealand, I have now the honor to transmit a printed paper which he has circulated here and the Copy of a Letter he addressed to me on the 7th Instant. I have given no answer to this Letter, nor, at an interview which I accorded him, did I enter into any discussion of his projects with respect to New Zealand. I merely intimated that I could not recognize him in any manner, and that I was convinced His Majesty's Government desired and would maintain the independence of those Islands.

Transmission  
of papers from  
C. de Thierry.

Policy re  
C. de Thierry.

I have given information to Mr. Busby to the foregoing effect.

The Baron de Thierry sailed in the "Nimrod" Brig for New Zealand on the 23rd instant with about twenty five Europeans of different trades and callings and two New Zealanders in his suite.

Departure of  
C. de Thierry.

I have, &c.,

[Enclosures.] RICHD. BOURKE.

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

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 15, per ship Emma Eugenia.)

Sir, Downing Street, 26 October, 1837.

26 Oct.

With reference to my Despatch to Sir Richard Bourke No. 50 of the 18th of September, 1835, I have the honour to transmit to you herewith copies of a further correspondence, which has passed between my Under Secretary and Mr. Robert Dawson respecting that Gentleman's claim to Land in New South Wales. To that Despatch, I have at present received no reply. As however it is possible that the necessity of furnishing a Report on Mr. Dawson's case may have escaped the notice of Sir R. Bourke, I have to request that you will supply that omission, if it should appear to have occurred, by reporting to me at your earliest convenience the steps, which were taken by your Predecessor on the receipt of my Despatch of the 18th September, 1835, together with your opinion as to the justice of Mr. Dawson's claim to a Maximum Grant of Land.

Claim by  
R. Dawson  
to land grant.

I have, &c.,

GLENELG.

[Enclosure No. 1.]

MR. R. DAWSON TO LORD GLENELG.

My Lord, London, 22 July, 1837.

Having had the honor in the year 1835 of receiving from your Lordship a communication,\* dated 16th Sept. of that year, as

\* Note 46.

1837.  
26 Oct.

to a Grant of Land in New South Wales, and, as that communication conveyed to me your Lordship's favourable decision upon the subject, I now beg leave to transmit the enclosed Documents, which I have recently received from Sydney, and at the same time respectfully to solicit your Lordship's attention to them.

Memorial to  
parliament.

Having felt myself deeply injured by the refusal of Sir Ralph Darling of a Grant of Land to me in 1828 without assigning to me any reasons for such refusal, and failing afterwards to obtain from your Lordship's Predecessors in office what I considered to be justice, I memorialized Parliament\* on the subject in the month of August, 1835. The Memorial was referred by the House of Commons to the Colonial Office, and your Lordship was afterwards kind enough to give my case your attentive consideration and to record your decision in favor of my claim, by ordering the Colonial Government to make me such a Grant of Land, as I was entitled to at the period of my first application in the Colony, provided the Governor should be of opinion that I was not disqualified from the enjoyment of such advantage.

Order given  
for land grant  
to R. Dawson.

No disqualification of any kind attached to me, and my son, who acted as my agent in the Colony, applied in 1836 for a Maximum Grant; but he was not allowed to select more than half the quantity I was entitled in respect of my Capital, in consequence of my having in 1828 applied for two Sections, or the half of a Maximum Grant, upon the navigable part of the Williams River; but, as these were front sections, one of them only would have been of more value, had I obtained it, than four sections, or a maximum Grant elsewhere, either at that or the present period.

Land  
authorised  
in colony.

It now seems that the Colonial Government has erroneously measured the amount of capital I then possessed in the Colony by the quantity of Land for which I applied, overlooking entirely the reasons assigned for such application.

Intentions on  
application  
for land.

My Son in his Letter (marked A) to Mr. Macleay, 7th of April, 1836, truly states that it was my intention to have applied for two other sections in another situation, and my reason for not applying for the whole four sections, to which I knew I was entitled, at one place, was that the country at the back of those sections was fit neither for sheep nor agriculture; but, if I had not been allowed to take a maximum grant in two separate portions, I should then have preferred the two (or even one of them only, if I could not have had both) valuable sections with a navigable river frontage and with the inferior Land attached to them behind, to the option of selecting a Maximum Grant in any other situation then open for location in the Colony.

Special  
concessions  
expected.

It may be objected that, when I applied for a Grant in 1828, I must have known that, according to the existing regulations, I could not be allowed to select a maximum, or indeed any other grant in two separate portions. In answer I beg to state to your Lordship that I was well aware that this would have been contrary to the regulations then in force; and I also knew that a selection of the two *front* sections, for which I actually did apply, was liable to the same objection, inasmuch as it was not the practice of the Colonial Government to grant more than one front section at once to any applicant upon a navigable river unless under particular circumstances; but hoping as I then did that the *peculiar* and unfortunate situation, in which I was at that time placed in the Colony, might induce the Governor to relax in my case from the

\* Note 46.

strict observance of such a rule in my favour (which would not I believe have been without example), I considered myself justified in endeavouring to obtain such an indulgence.

1837.  
26 Oct.

In the room however of getting any indulgence of the kind, my application was at once met by a refusal of any Land at all, without assigning to me any reasons for such refusal. No opportunity was therefore allowed me either to prove my qualification for a maximum Grant in regard to capital, or to make any explanation of the motives which had induced me to ask for less in point of quantity of acres on the Williams River, than I knew I was entitled to under the regulations then in force.

Land grant refused.

If my just claim for a Grant of Land had been allowed by Sir Ralph Darling, your Lordship will perceive that, in the event of the two front sections for which I applied having been refused me, and in the event also of his declining for the said reason to allow me to select my Grant in two separate portions, I still had the privilege under the regulations in force to take all I was entitled to in point of quantity either on the Williams River or elsewhere; and I respectfully submit to your Lordship that it cannot reasonably be supposed that I shall have forfeited an indisputable claim under the regulations in force to a maximum Grant, because the Governor had declined to grant me an indulgence to which he might have considered I possessed no claim whatever. Had I therefore remained in the Colony, and the Governor allowed my claim for a Grant of Land, I should have proved then, as I have done since, as will be shewn by the accompanying Documents, that I was entitled to a maximum Grant, and should have selected it accordingly under the regulations which then existed.

Claim for maximum grant.

I trust therefore that my having asked the Colonial Government in 1828 for two *front* sections on a navigable river, which under the regulations in force I knew could only be granted me as an indulgence, will not now be allowed to operate to my prejudice after the lapse of so many years, during which I have suffered so serious a loss by the conduct pursued towards me by Sir R. Darling, and that your Lordship will be pleased to direct the Colonial Government to permit me to select the remaining two sections, to which with the two already selected I have proved, as, by a reference to documents attached to No. 4, I was entitled in point of capital when I made my application in 1828.

Request for order to select land.

That your Lordship will in your judgment endeavour to do me justice I feel fully convinced, whatever that judgment may be, and hoping that your Lordship will allow the importance of this subject to me to plead my excuse for troubling you upon the present occasion so much in detail.

I have, &c.,

ROBERT DAWSON.

[Sub-enclosure No. 1.]

MR. R. B. DAWSON TO COLONIAL SECRETARY MACLEAY.

Sir, Sydney, 24 February, 1836.

I have the honor to acquaint you that I have received some papers from England, relating to my Father's application for a Grant of Land.

Understanding that the matter has been referred to the Executive Council, and being authorized to act as my Father's agent in the Colony, I have thought it right to request that I may be examined by the Council on the subject, should there be the least hesitation in forthwith admitting his claim.

Request by R. B. Dawson to be examined by council.

My address is to the care of Edey Manning, Esqre., Queen Street, Sydney.

I have, &c.,

ROBT. B. DAWSON.

1837.  
26 Oct.

[Sub-enclosure No. 2.]

COLONIAL SECRETARY MACLEAY TO MR. R. B. DAWSON.

Sir,

Colonial Secretary's Office, Sydney, 19th March, 1836.

Land grant  
for R. Dawson  
authorised by  
council.

I am directed by the Governor to inform you that His Excellency has laid before the Executive Council a Dispatch from the Right Honorable the Secretary of State, transmitting a Memorial addressed by you to the House of Commons on the subject of a Grant of Land for which you applied to General Darling in 1828, together with the several Official Documents connected with your claim, and that, at the recommendation of the Council which attentively considered all the circumstances of the case, His Excellency is pleased to authorize your being allowed to select 1,280 acres of Land in any part of the Colony open to the location of Settlers, previously to the 1st of July, 1831, and subject to the regulations then in force.

The above extent of Land is allowed as being the quantity you originally applied for, and not three sections as stated in your Memorial to the House of Commons, and there appearing to the Council to be no doubt that, had you remained in the Colony, you would have obtained a Grant to that extent.

The Council did not go into the question of Capital that you might have possessed when you made your original application, which it would at this time be difficult, if not impossible, satisfactorily to determine. It will accordingly be necessary for you to make an unobjectionable selection of the Land, now authorized, and report the same to the Surveyor General (who has been duly apprised) within four months from this date, when that officer will submit it for final approval.

I am, &c.,

ALEX. MACLEAY.

[Sub-enclosure No. 3, marked A.]

MR. R. B. DAWSON TO COLONIAL SECRETARY MACLEAY.

Sir,

Ratagan, Hunter's River, 7th April, 1836.

Letter  
acknowledged.

I have the honor to acknowledge on the part of my Father the receipt of your communication, dated 19 March last, informing me that His Excellency the Governor had been pleased to authorize my being allowed to select 1,280 acres of Land in any part of the Colony open to the location of Settlers, previous to the 1st of July, 1831, and subject to the Regulations then in force.

The above extent of Land is stated to be allowed as being the quantity originally applied for by my Father in 1828, and the question of the number of acres, to which his capital then entitled him, is said to be difficult, if not impossible, satisfactorily to determine.

Previous  
applications  
for land grant.

In reply, I may be permitted to state that my Father applied in 1828 for two valuable *front* sections on the Williams River, and that, as his application was deferred, he was not called upon to prove the amount of his capital, which would have entitled him to a maximum Grant of 2,560 acres.

That the reason of my Father's asking for a less quantity of Land than his capital entitled him to, was his intention of applying to Government for permission to take the remainder of his Land in a situation better calculated for the pasturage of Sheep, of which his Stock principally consisted; and that, had he failed in obtaining such indulgence, he would undoubtedly have been glad to take the whole in one Grant, rather than lose his right altogether.

Claim for  
maximum  
grant.

That I am ready, should any evidence on the subject be deemed conclusive, to make affidavit of my full belief that my Father's capital would at that time have entitled him to a maximum grant of Land.

That Sir Geo. Grey, in his Letter dated Sept. 18th, 1835, in answer to my Father's application to the Secretary of the Colonies, states that it was the intention of Government to allow him such a Grant as his Capital would have entitled him to at the time of his application in 1828, and that two sections, especially two *front* sections with the choice of location in 1828, were worth far more than four at this time with the present limited power of selection; and that under these circumstances, connected with the fact that my Father has now held stock in the Colony for nine years without a single Acre of his own on which to depasture them, I trust I shall not be considered presumptuous in hoping that His Excellency will take my Father's case into farther consideration and be pleased to allow him the remainder of the land solicited.

In the mean time, considering the daily increasing difficulty of procuring Land in an eligible situation, I beg to state that it is my intention to proceed in the selection of the Land already granted, and I trust that these circumstances will not operate to prejudice the claim now urged.

I have, &c.,

ROBERT B. DAWSON.

[Sub-enclosure No. 4.]

1837.  
26 Oct.

MR. R. B. DAWSON TO COLONIAL SECRETARY MACLEAY.

Sir, Ratagan, Hunters River, 24 June, 1836.

I had the honor to address you on the 29th March last with an application for 1,280 acres of Land in addition to the two sections lately granted by the Government to my Father.

Since the date of the above mentioned application, the arrival of Mr. E. B. Mowle, late of the Firm of Messrs. Geo. Bunn and Co., who were my Father's agents in the Colony, has put it in my power to furnish the Government with a correct statement of the amount of my Father's capital at the time of his application in 1828. Transmission of statement of capital of R. Dawson.

Enclosed is an attested statement of the balance, which he had in the hands of Messrs. Bunn in 1828, amounting to £524 and also a return of Sheep and Horses in the charge of Mr. Macleod of Ratagan, Hunters River, their nett value amounting to £1,234.

These amounts, with the enclosed certificate from Messrs. Icely and A. B. Sparke, both at that time Merchants in Sydney, will shew that, if my Father had been permitted, he could have proved capital so far beyond the amount required by the Government to entitle applicants to a Maximum Grant of Land.

Referring to the purchases of the Australian Agricultural Company of Cross bred Sheep from 1826 to 1828 from the Messrs. Macarthur's, Bowman, Hawkins, Icely, Rankin, Winder and others, at from three to five guineas a head, I submit that the valuation of my Father's Flocks is rather more than above their full worth at the time, they being of the finest quality of Wool.

I therefore trust that His Excellency will be pleased to take my Father's case into further consideration, and that, on this conclusive evidence, he will see fit to allow him the additional quantity of Land solicited.

I have, &c.,

ROBT. B. DAWSON.

[Annexure No. 1.]

RETURN of Sheep and Horses, the property of Robert Dawson, Esq., late Chief Agent of the Australian Agricultural Company, in the charge of Alexander Macleod, Esqre., of Ratagan, Hunters River in May, 1828, and their value affixed according to the correct prices of the period. Return of live stock of R. Dawson.

		£	s.	d.
Ewes Lamb by pure Saxon Rams,	219 at £3 a head	657	0	0
Do. Maiden	60 at Do.	180	0	0
Wethers	92 at £1	92	0	0
Rams of the pure Saxon breed	6 at £10	60	0	0
	<hr/>			
	377	989	0	0
Mares in foal	3 at £50 each	150	0	0
Horses	2 at £40 Do.	80	0	0
Colts	1 at £15 Do.	15	0	0
		<hr/>		
		£1,234	0	0

I hereby certify that the above is a true and correct return of the number and value of Mr. Dawson's stock under my charge in May, 1828.

Ratagan, Hunters River, 24th June, 1836.

ALEXR. MACLEOD.

[Annexure No. 2.]

CERTIFICATE.

WE the undersigned do hereby beg to certify that, in the year 1828, we would have cashed any Bills on England (had we required them) drawn by Mr. Robert Dawson, late Chief Agent of the A.A. Co., to the amount of £1,000. Certificates re finances of R. Dawson.

A. B. SPARKE.  
THOS. ICELY.

THE certificate signed by Mr. Mawle that I had a balance of £524 in the hands of the late Mr. Geo. Bunn and referred to in my said Letter No. 4 was forwarded to the Colonial Government with the other documents referred to, in proof of my capital when I applied for a Grant in 1828. Unfortunately my son did not keep a copy of Mr. Mawle's certificate, but the Colonial Government are in possession of it; and, as Mr. Mawle is still at Sydney, there can be no difficulty in proving it if required.

ROBT. DAWSON.

1837.  
26 Oct.

[Sub-enclosure No. 5.]

COLONIAL SECRETARY MACLEAY TO MR. R. B. DAWSON.

Sir, Colonial Secretary's Office, Sydney, 26th Novr., 1836.

Letter  
acknowledged.

With reference to my Letter of the 19th March last, I have now the honor by the direction of the Governor to inform you that His Excellency, having laid before the Council your Letter of the 9th April last, as the agent of your Father, urging the claim of the latter to a maximum Grant of Land, instead of two Sections as recommended by the Council and stating your readiness to prove that the Amount of Capital, possessed by your Father at the time he made the application to Sir Ralph Darling, would have entitled him to the former quantity.

Refusal of  
maximum  
grant.

The Council saw no reason to vary their former decision as Mr. Dawson has already been allowed the whole quantity he originally applied for. Measuring your Father's means by the terms of his application, the Council have adopted a surer criterion than any evidence that could be given at the present time of what his capital then was, and placed him in the same situation in which he would have stood, had Sir Ralph Darling been pleased to comply with his request.\*

I have, &c.,  
ALEXN. MACLEAY.

Comments by  
R. Dawson.

\* This could not in any respect be the case. The choice of situation is now limited to a District of Country, from which the valuable Land for which I asked Sir Ralph Darling has been granted away to others, and this, together with the fact that selections of all the best portions of Land from the District in question have been made during the last 9 years, must necessarily have put me in a much worse situation than that, in which I should have been, had Sir Ralph Darling complied with my application in 1828 to say nothing of the loss of time.—R.D.

[Enclosure No. 2.]

SIR GEORGE GREY TO MR. R. DAWSON.

Sir, Colonial Office, 14 September, 1837.

Refusal to  
reverse  
decision of  
governor.

I am directed by Lord Glenelg to acknowledge the receipt of your letter and its enclosures of the 22nd July, and to acquaint you in reply that, in the absence of any Report from the Governor of New South Wales on the subject of your claim to Land, his Lordship could not venture to over-rule the decision adopted by that officer with the advice of the Executive Council of the Colony.

Question to  
be decided.

Lord Glenelg would however remark that the question in debate would appear to be in a very narrow compass. The real enquiry is the extent of the Grant, to which you were entitled in 1828 on account of the available which you at that time possessed in New South Wales. To ascertain the nature and to estimate the value of that Capital after the lapse of so many years would appear to have been regarded by the Council as difficult if not impossible. They therefore selected as the best possible criterion the extent of the claims made by yourself in the year 1828, assuming that you would not have limited your application to a less amount of Land than your capital entitled you to expect. To this it is in effect answered that the demand was made for a smaller quantity than the regulations would have authorized, because your immediate object was to obtain your grant in a peculiarly advantageous locality, and that therefore, when you now seek only Land of average value, it is unjust to try your pretensions by the test which has been applied to them.

Explanation  
required re  
previous  
application.

Without prejudicing the question which will be raised on the Governor's Report of the case, Lord Glenelg would observe that, if your capital entitled you to a maximum grant, it is not very clear, even on your own explanation, why you demanded a smaller quantity, unless indeed it can be shewn the general custom and understanding that applicants, who obtained and sought for select and favourable situations, were expected to submit to a reduction in the

quantity as a set off against the quality of their Lands. In the case of Town or Suburban allotments, an understanding or usage of this kind certainly appears to have prevailed. But, of its prevalence in reference to rural Districts, Lord Glenelg has no information.

1837.  
26 Oct.

His Lordship must therefore await the Report, which it is to be presumed that the Governor will make of the grounds of the unfavourable decision of the Executive Council.

I have, &c.,  
GEO. GREY.

[Enclosure No. 3.]

MR. R. DAWSON TO LORD GLENELG.

My Lord, Sandwell, near Birmingham, 17 October, 1837.

I have had the honor of receiving your Lordship's letter of the 14th of September, acquainting me that the Governor of New South Wales had not made any Report to you upon the subject of my claim to a Maximum Grant of Land in that Colony, and that, in the absence of such report, your Lordship could not decide upon the Justice or not of that claim upon grounds stated by me in my Letter to your Lordship of 22nd July last.

Letter acknowledged.

In the absence of Sir Richd. Bourke's Report, I beg to call to your Lordship's recollection that part of your Letter\* to me of the 16th September, 1835, in which you informed me "that you would direct Govr. Sir Richard Bourke to investigate the circumstances, which had led to the refusal to grant 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 degree disqualified from enjoying such advantage, he will be directed to report the grounds of such opinion for the consideration of the Secretary of State."

Previous decision on claim.

The result of Sir Richard Bourke's investigation has proved that I was not disqualified for receiving a Grant of Land when I applied for it to Governor Sir Ralph Darling in 1828, and that, in pursuance of your Lordship's directions, Governor Sir Richd. Bourke made to me in 1836 a Grant of 1,260 Acres. No reasons, as I have before stated, were ever assigned for Sir Ralph Darling's refusal to me of a Grant in 1828; and it has been since shewn, by the Grant made to me by Sir Richard Bourke, that no valid and substantial reasons existed to justify such refusal.

Land granted by Sir R. Bourke.

Without prejudice to the question as to the proofs I have adduced of my claim in 1828 to a maximum Grant of 2,560 acres, I am sure your Lordship must admit that I have been severely injured by the delay in granting me that to which it has since been admitted by the Governor that I was entitled under the then existing regulations.

All I would ask then is to be placed in the situation in which I stood, when Governor Sir Ralph Darling unjustly refused me a Grant in 1828, that is, either to give me the sections I then asked for, and to which it is now admitted I was entitled, or to make me such a Grant as will in some degree compensate me for the loss I have sustained.

Alternative proposals for settlement.

Without entering upon the question of time which has been lost to me in the occupation of my Grant, and the advantages I should have derived by the possession of it during nine years, I would

\* Note 46.

1837.  
26 Oct.

Request for  
compensation  
for delay.

respectfully point out to your Lordship that there is a very great difference of value both as to locality and quality between the Land, asked for and unjustly refused to me in 1828, and that which I have now been compelled to select in a very circumscribed and almost exhausted District in 1836 after a lapse of nine years, during which every section of Land available either for Agriculture or Sheep has been selected from it. I am therefore induced to hope that your Lordship will kindly take this to me important circumstance into consideration, and be induced to order that I may have a further Grant made to me of 1,200 acres, which would make the two Grants a maximum one, upon the ground (if upon no other) that I have a fair and reasonable claim to some consideration for the deprivation which I have so long and so unjustly suffered, and that your Lordship will also be kind enough to allow me to select the Land in any District that may now be open for location in order that I may have the means, which I should be deprived of if restricted to the District open in 1828, of selecting Land upon which I could depasture my Flocks.

I hope your Lordship will excuse me for troubling you so often upon an affair, the recollection of which has long preyed upon my mind as one of extreme injustice done me by Sir Ralph Darling and your Lordship's predecessor in office, and in the anxious hope that I may be favored with a favourable reply, I am, &c.,

ROBERT DAWSON.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 16. per ship Emma Eugenia; acknowledged by Sir George Gipps, 27th August, 1838.)

Sir, Downing Street, 26 October, 1837.

On the receipt of Sir Richard Bourke's Despatch No. 83 of the 1st of August, 1836, I communicated to the Wife of Mr. W. Forster a copy of the Letter addressed to Sir R. Bourke's Private Secretary by that Officer, in which he expressed his readiness to pay the half of his Salary Monthly into the hands of any Public Officer, whom the Governor should think proper to name in order that it might be appropriated to the use of his Family in this Country. Sir R. Bourke further reported that he saw no reason to doubt the truth of Mr. Forster's statements; that he did not think it likely, from what he knew of that officer's character, that he would in future withhold from his family such aid as his circumstances would allow; and that for that reason he did not feel it necessary to enforce by any act of authority the offer which Mr. Forster had made, unless he should receive Instructions to that Effect.

I now enclose a Copy of a further Letter, which I have received from Mrs. Forster, in which she represents that she has not yet had any assistance from her Husband. In consequence of the favourable opinion expressed of Mr. Forster by Sir R. Bourke and the Conviction which he has stated as to the willingness of that Officer to do all in his power for the maintenance of his Family,

Proposal for  
allowance  
to wife by  
W. Foster.

Non-receipt of  
remittance by  
M. A. Foster.



I have hesitated to direct a Compliance with his Wife's application for the apportionment of a part of her Husband's income for her immediate relief in the hope that he has already acted on his promise, and that she will soon receive some remittance from him. If, however, that should unfortunately not have been the case, you will intimate to Mr. Forster that I cannot permit his continuance in the Public Service unless he shall punctually fulfil so obvious and imperative a duty; and you will take measures for having such portion of his Official Income as he may be able to appropriate to the maintenance of his Family regularly remitted through the Colonial Agent, if such a course should appear to you to be necessary in order to ensure its punctual payment.

1837.  
26 Oct.

Instructions  
re W. Foster.

I have, &c.,  
GLENELG.

[Enclosure.]

MRS. FOSTER TO LORD GLENELG.

My Lord,

Leicester, 8 Octr., 1837.

I hope you will excuse the liberty I am taking in again addressing you. In Decr., 1835, I directed a letter to yr. Lordship concerning my Husband, Mr. Wm. Foster, who is now Superintendent of Convicts at Sydney, N. S. Wales, which you was kind eno' to forward to the Governor there, and a reply was recd. from my husband to that officer on the subject. In it, my husband intimated that, if H.E. wd. be pleased, he shd. be most happy to pay the half of his Pay Monthly into the hands of any public Officer H.E. would name, for the purpose of being paid to me in England; the last letter I recd. from him was dated March, 1836, and it is now more than three years since I recd. any money from him, and during that time I have been obliged to contract debts which it is not in my power to pay. My object, in again troubling Your Lordship, is to request that some portion of my husband's Income might be appropriated to us, according to his promise, and save us from the degrading necessity of asking loans from friends. My Lord your Early and favorable attention to this my importunate request will for ever be remembered with the deepest Gratitude.

Request by  
M. A. Foster  
for allowance  
from salary  
of W. Foster.

MARY ANN FOSTER.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 104, per ship North Briton.)

My Lord,

Government House, 28 October, 1837.

28 Oct.

I have the honor to acknowledge the receipt of Your Lordship's despatch of the 21st June last announcing the lamented death of His late Most Gracious Majesty King William the fourth and the accession of Her present Majesty Queen Victoria.

Despatch  
acknowledged.

I lost no time in carrying Your Lordship's Instructions into effect, and have the honor to state that her Majesty the Queen was proclaimed\* yesterday in Sydney amidst the acclamations of a large concourse of People assembled on the occasion.

Proclamation  
of accession of  
H.M. Queen  
Victoria.

\* Note 47.

1837.  
28 Oct.  
Warrants  
received.

I have further to acknowledge your Lordship's despatch of the 23rd June last, containing her Majesty's Warrants in Council for continuing the use of the Public Seal of the Colony, and for making the required alterations in the Liturgy of the Church of England, and have given the necessary Instructions accordingly.

I have, &c.,

RICHD. BOURKE.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 18, per ship Emma Eugenia; acknowledged by Sir George Gipps, 24th August, 1838.)

31 Oct.  
Despatch  
acknowledged.

Sir, Downing Street, 31 October, 1837.

I have received your Predecessor's Despatch No. 21 of the 24th of April last, suggesting that a Steward and Matron should be sent out from this Country to take charge of the Lunatic Asylum,\* which has lately been completed in New South Wales.

Appointment of  
steward and  
matron for  
lunatic asylum.

I have appointed Mr. Joseph Digby and his Wife to act in those respective capacities. They have for some years been employed under the inspection of Dr. Sutherland, Physician to St. Luke's Hospital, who has borne high testimony as to their capacity for the service which they are about to undertake. Mr. Digby will receive a Salary of Two Hundred Pounds per Annum and his Wife One hundred Pounds per Annum in the Capacity of Matron; and they will be entitled to Half Salary from the date of their Embarkation according to the general rule.

Charges for  
patients in  
asylum.

I enclose for your information a copy of a letter from the Secretary to the Treasury conveying the sanction of the Lords Commissioners to these appointments; and I have to request your attention, as far as may be practicable, to their Lordships' suggestions as to the method to be observed for separating the charges to be incurred on account of the Inmates of this Institution, who may not be of the Class of Convicts from the cost arising from the reception of Convict Patients. I have applied to the Metropolitan Commissioners of Lunacy for any rules and Regulations, which may serve to assist you in introducing an efficient system of management into this Establishment.

I have, &c.,

GLENELG.

[Enclosure.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 21 Oct., 1837.

Approval of  
salaries for  
steward and  
matron.

The Lords Commrs. of H.M. Treasury having had under their consideration your letter dated 4th Inst., conveying the opinion of Ld. Glenelg that a Steward and Matron shd. be sent out from this country to take charge of the Lunatic Asylum, which has been lately built in New South Wales, the former with a Salary of £200 and the latter of £100 per ann., I am commanded by their Lordships

\* Note 27.

to request you will state to Lord Glenelg that my Lords do not object to the rates of Salary it is proposed to assign to the Steward and the Matron, selected for the care of the Lunatic Asylum at N. S. Wales, and are prepared to provide for any portion of the Expenditure on Account of this Establt., which may be considered to attach to the Convicts received therein; but that it appears to my Lords that any Expenditure attaching to the reception of other inmates into the Asylum ought to be defrayed in the case of Paupers by the Colony, and in other cases by Individuals or their Friends, and that Provision shd. be made for this purpose in the Regulations relating to the Institution.

1837.  
31 Oct.

Proposals *re*  
expenditure  
on patients;

I am further directed to request that you will observe to Ld. Glenelg that my Lords, having been thus called upon to concur in the Establishment of an Institution of so peculiar a nature, and, being convinced that Lord Glenelg will be most anxious that all arrangements relating to it shd. be most carefully considered, cannot but suggest to his Ldship, the expediency of providing for the separation of the Convict Lunatics from those of other Classes of the Colonial Community, and also of providing for the supervision and frequent visitation of the Establt. by a Committee of Superintendence, Consisting not only of Medical Officers but likewise of Civil officers and other Parties associated with them. With reference to these or any other regulations relating to this Establt., my Lords presume that Ld. Glenelg will Communicate with the Metropolitan Commissioners of Lunacy.

and *re*  
management  
of asylum.

I am, &c.,

A. Y. SPEARMAN.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 105. per ship North Briton; acknowledged by lord Glenelg, 7th August, 1838.)

My Lord, Government House, 1st November, 1837.

1 Nov.

Adverting to Your Lordship's despatch of the 31st July, 1836, No. 180, and its enclosures upon the subject of Claims to additional Grants of Land, I have the honor to transmit a printed copy of a Notice issued by this Government on the 27th June last in pursuance of the Instructions contained in that despatch.

Notice *re*  
claims for  
additional  
land grants.

Under this Notice several applications have been made for additional Grants, some of which have been sent to the Commissioners for investigation and some have been rejected. Amongst the last is an application from Major Lockyer, formerly in the 57th Regiment of Foot, a copy of which I have the honor to transmit with the Colonial Secretary's reply. Major Lockyer's claim has been refused for the reason that, having arrived in the Colony with his Regiment in 1825, he cannot have emigrated on the faith of the Regulations\* of April, 1826, or April, 1827.

Refusal of  
application  
from  
E. Lockyer.

It is stated however by this gentleman that he sold his Commission and retired from His Majesty's Service to settle in the Colony under the inducements held out by those Regulations, which he considered to be extended by the General Order issued from the Horse Guards on the 8th June, 1826 (No. 434), for

Claims by  
E. Lockyer  
as military  
settler.

\* Note 48.

1837.  
1 Nov.

Concessions to  
military settlers  
inapplicable  
to additional  
grants.

Application of  
concessions to  
officers retiring  
in colony.

Claims expected  
from civilians  
for additional  
grants.

encouraging officers of the army to settle in the Colony. After specifying the particular advantages offered to Military Settlers, the Order proceeds to state that, in other respects, the conditions, on which the Grants are made to them, are to be "similar to those which are now in operation in New South Wales with certain modifications, respecting which the officers, who may be disposed to avail themselves of this arrangement, will receive information at the Colonial Department." I am not aware that these modifications had any reference to the subject of additional Grants. So far as I am able to judge from the documents to which I have had access, they would seem to refer to the Bond to be given for residence during seven years, and the restrictions upon the sale of the Land until a certain amount of Capital had been first expended, which particulars were afterwards added in the General Order of the 16th May, 1827 (No. 453). I am therefore disposed to think that, with respect to additional Grants, it was intended to place Military Settlers on the same footing as Civilians. Several officers besides Major Lockyer have received Land under the terms of the above General Order upon disposing of their Commissions after arriving with their Regiments in this Colony; and it does not appear unreasonable to consider their retirement from the Army as equivalent to emigrating from England on the faith of the Regulations. As however Your Lordship's despatch of the 31st July, 1836, does not appear to have anticipated any other Claims than those of Persons actually leaving England on the faith of the General Regulations of the years 1826 and 1827, I have thought it proper to refer the point to Your Lordship for decision.

I ought not, however, to submit the case of Military officers thus circumstanced without observing that a great many claims of a similar character may and will be put forth by Civilians representing that, although they may not originally have left England on the faith of the particular regulations which held out the prospect of additional Grants, yet that, having received Land in the Colony while those Regulations were in force, they considered themselves as receiving such Land upon precisely the same terms as those Persons, who received a Copy of the Regulations in Downing Street before leaving England. Should Your Lordship decide in favor of the claim of Major Lockyer now transmitted, an effort will naturally be made by the Civilians I have mentioned to bring their claims within the principle of such decision. It will be necessary therefore that the Rule to be acted on with regard to the latter should be fully and finally settled together with the former. Some few Claims of this description have been already made and answered by informing

the Applicants that, as they did not leave England on the faith of the Regulations, they do not come within the Notice issued by direction of His Majesty's Government. Although some of these Persons might possibly succeed in establishing that they have taken steps materially affecting their personal interests in expectation of obtaining the benefit of the Regulations, yet the difficulty and embarrassment, which would result to the Government by admitting evidence of Miscellaneous private transactions of this nature, would be very great indeed, and the satisfactory completion of the enquiries, which would thence arise, almost if not altogether impossible. With regard to Military officers, the sale of the Commission is a tangible fact which relieves the case of all difficulty; and, when it is added that such sale was sanctioned by His Majesty's Government for the special purpose of settling in the Colony, it forms a sufficiently prominent distinction to render a decision in favor of such a claim as that of Major Lockyer compatible with a continued rejection of the others to which I have referred.

1837.  
1 Nov.

Difficulty expected *re* claims by civilians.

Effect of sale of commissions by military officers.

After this explanation of each of the cases now referred to, I have only in conclusion to submit them for Your Lordship's consideration and Commands.

I have, &c.,

RICHD. BOURKE.

[Enclosure A.]

[*This was a copy of the issue of the "New South Wales Government Gazette," dated 28th June, 1837.*]

[Enclosure B.]

MAJOR LOCKYER TO COLONIAL SECRETARY THOMSON.

Sir,

Ermington, 18 July, 1837.

In compliance with the Government notice of the 27th June last, I beg leave to submit my claim for an additional Grant of land. Having Settled in the Colony under the regulations of April, 1826, and April, 1827, and retired from His Majesty's Service and settled in the Colony by the inducements held out by the then existing regulations, and obtained as a primary Grant from the Government in the year 1827 2,560 acres of land, and am prepared to shew that I have fulfilled the conditions upon which the said Grant was obtained.

Application by E. Lockyer for additional land grant.

I have therefore to request that His Excellency the Governor will be pleased to allow my Application to be submitted to the Commissioners of Claims.

I arrived in the Colony as a Major in the 57th Regiment of foot in April, 1825. I retired in 1827 and obtained my Grant in the same year, and have been in possession ever since. I have improved the same by Building, fencing, and clearing to more than five times its original value. I have also purchased of the Government 3,635 acres of land and paid for the same. I am prepared to prove, when called on, that I have sufficient means to improve and cultivate an additional Grant.

I have, &c.,

[*Unsigned.*]

1837.  
1 Nov.

[Enclosure C.]

COLONIAL SECRETARY THOMSON TO MAJOR LOCKYER.

Colonial Secretary's Office,  
Sydney, 10th October, 1837.

Sir.

Application to  
be referred  
to secretary  
of state.

I duly received and submitted to the Governor your letter of the 18th July, claiming an additional Grant of land under notice of 27th June last, and in reply am directed by the Governor to inform you that, as it appears you did not come out to this Colony on the faith of the regulations of April, 1826 (having arrived in the Colony in 1825), His Excellency cannot transmit your application to the Commissioners, considering himself bound, in adjusting such claims as you have preferred, to pay strict attention to the conditions imposed by the Secretary of State, amongst which that above referred to is the most prominent.

But there are several circumstances in your case, in common with those of other Military Officers, which His Excellency thinks deserving of the most favorable consideration, and which he proposes on this account to bring under the notice of the Secretary of State by the first convenient opportunity.

I have, &c.,

E. DEAS THOMSON.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 107, per ship North Briton; acknowledged by lord Glenelg, 16th July, 1838.)

3 Nov.

My Lord,

Government House, 3 November, 1837.

Application by  
J. Raymond for  
land grant.

In the accompanying Letter from Mr. James Raymond, the Post Master General of this Colony, preferring a claim on behalf of himself and Sons to Land without purchase, I am requested if unable to comply with it myself to submit it for your Lordship's consideration. I have therefore to observe that Mr. Raymond's is one of many claims, of which the revival at the present moment is suggested by the steps taken by His late Majesty's Government to fulfil the expectations of additional Land held out to those who received their original Grants under the Regulations of 1826 and 1827. Many claims, supposed by Parties interested to be obsolete, being thus successfully renewed, it is natural that other dormant claims should again be brought forward, although not comprised within the same class. Unable to comply with the others, I am equally unable to entertain that of Mr. Raymond; but I understand this gentleman had some correspondence\* with your Lordship's Department previously to his emigration in 1825 relating to some peculiar circumstances, which may distinguish his case from that of an ordinary settler, and thus possibly enable your Lordship to give a favorable reception to his present application without establishing a precedent for other cases. I am therefore induced to forward his Letter, and I am bound in so doing to state that, so far as Mr. Raymond's personal character and circumstances can affect the

Origin of  
application.

Special  
circumstances  
re claim of  
J. Raymond.

\* Note 49.

case submitted, he is fully entitled to the most favorable consideration. He has proved himself a very zealous and meritorious Public officer, and has a very numerous family of Sons and Daughters, some of whom are married and have families of their own, and all of whom are either actually settled or likely to settle in the Colony and to prove very useful members of its society.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

MR. J. RAYMOND TO SIR RICHARD BOURKE.

Sir, Sydney, New South Wales, 30th October, 1837.

I do myself the honor to enclose the accompanying copy of the summary of the Rules\* for regulating the granting of land in this colony, which was handed to me at the Colonial Office, Downing Street, in the year 1825, under the assurance that both myself and Family would be entitled to land on the conditions therein set forth.

On leaving England, I made arrangements for the transfer of my property to this Colony to enable me to establish my claim to Land under these regulations; but unforeseen Legal difficulties delayed the completion of those arrangements and thus prevented me from claiming a fulfilment of the promises held out in the enclosed documents.

As however I made my arrangements to emigrate partly on the faith of those promises, and as the recent notice relating to secondary grants pledges the Government to adhere to the stipulations of granting land to Emigrate under those regulations, I feel assured that my claim to the land promised me in Downing Street will be admitted, when the circumstances, which have hitherto prevented my claiming a fulfilment of that promise, are considered.

The Revocation of the enclosed Regulations could not be anticipated by me, nor can such revocation, I respectfully submit, have the retrospective effect of cancelling my claim, especially as no time is stipulated thereon for preferring it; and that such is the opinion of my Lord Glenelg appears by his Lordship's having recently admitted the claim of an Individual to a grant of Land under precisely similar circumstances to those under which this application is preferred. I may also refer to the case of a Civil Officer, whose sons, having been promised grants of Land under the regulations in question when eligible, are now considered entitled to the same, and, as the public faith was I submit equally pledged to myself and sons, I hope the liberal policy which prevailed in the instance alluded to will be extended to this claim.

These circumstances and the fact of the Chaplains of the Colony having very lately been allowed compensation for Land, which they and their Families claimed under Regulations formerly existing in their favor, but revoked at the same time as those under which I make this claim, induce me to hope that my present application will not be in vain.

I arrived in the Colony in 1826 with a family 13 in number, which I conceive gives me a more than ordinary claim under regulations expressly framed for the encouragement of emigration, besides the peculiar circumstances of my emigrating under the auspices of Government, in consequence of Losses sustained, and grants of Land to

1837.  
3 Nov.

Testimony in  
favour of  
J. Raymond.

Application by  
J. Raymond for  
additional  
land grant.

\* Note 48.

1837.  
3 Nov.

myself and Sons when eligible being promised as an inducement in addition to public employment, which I have held since my arrival at very inadequate remuneration, will I hope entitle this application to your Excellency's kind consideration, and, if submitted to the Secretary of State, to your Excellency's favorable recommendation.

I have, &c.,

JAMES RAYMOND.

[Sub-enclosure.]

AFFIDAVIT.

Affidavit by  
J. Raymond.

JAMES RAYMOND of Sydney in the Colony of New South Wales, Esquire, maketh Oath and saith, that the annexed copy of the "summary of the Rules, which His Majesty's Government thought fit to lay down for regulating the grants of Land in (this) Colony" dated November, 1824, was handed to him at the Colonial Office in Downing Street, London, with an assurance that himself and sons would be entitled to grants of Land on the terms therein set forth.

JAS. RAYMOND.

Sworn before me, this 30th October, 1837.—R. CAMPBELL, J.P.

SIR RICHARD BOURKE TO LORD GLENELG.  
(Despatch No. 108, per ship North Briton.)

4 Nov.

My Lord, Government House, 4 November, 1837.

Despatch  
acknowledged.

I have the honor to acknowledge the receipt of your Lordship's despatch of the 30th April, 1837, No. 307.

Approval of  
grants for  
religious  
purposes.

In reply to that portion of it which treats of the measures adopted here for giving effect to the arrangements I had the honor to propose, and which were 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, I have to express the great satisfaction I have experienced at finding those measures have obtained your Lordship's approbation.

Stipends of  
Presbyterian  
clergy.

With respect to the difference, which your Lordship has noticed upon the Estimate for 1837 between the Stipends of Presbyterian Ministers and the Clergy of the Churches of England and Rome, I have to observe that it no longer exists. In the last Session of Council, I proposed to advance to £150 per annum the stipends of those Presbyterian Ministers, whose appointment took place prior to the passing of the Church Act, 7 W. 4, No. 3. This augmentation commenced with the 1st January last. Their Stipends had been originally fixed by the Secretary of State at £100 a year only, and conditional on their receiving an equal sum from their congregations. From this condition, to which neither the Clergy of the Churches of England or of Rome of the same date of appointment had been subjected, they have now been relieved.

Amount of  
stipends fixed  
by church act.

Your Lordship in the despatch observes also upon the amount of stipend to be granted to a Minister under the Church Act above referred to, conceiving it to be too small, and an



apprehension is expressed that the low rate will discourage clergymen of character from making this Colony the place of their spiritual labors. Judging from present appearances this apprehension does not seem to be wellfounded. Ministers of the Church of England are arriving in numbers fully sufficient to answer the call of Congregations of their Communion, and those of the Church of Scotland are rather in excess. Additional Clergymen of the Church of Rome are immediately expected.

1837.  
4 Nov.

Arrivals  
of clergy.

One of the principal objects of the Church Act being to add largely to the numbers of the Working Clergy throughout this extensive Colony, it was deemed advisable not to impose on the State any greater burden for the support of each than was absolutely necessary for his decent livelihood. It has been left to the kindness and consideration of their congregations to add to their stipends and to the comfort of their Pastors, where it might seem expedient. This duty is now, as I understand, in some cases discharged towards their Clergy by Members of the Churches of Scotland and of Rome. Congregations of the Church of England are relieved from this obligation by the large Stipends still payable to several Chaplains, appointed whilst the old regulation was in force, and by donations made by the Society for the propagation of the Gospel in Foreign Parts to the Chaplains of recent appointment. To each of these the sum of £150 is allowed to assist them in settling on their cures, and an annual Stipend of £50 is added to that paid by the Colonial Treasury. In some cases, Clergymen of the Churches of England and Rome receive small annual payments for attending Prisons and Hospitals, and some of the former have Glebes. Upon the whole, therefore, it may not be expedient to add to the Stipends fixed by the Act lest the permanency of the arrangement be endangered by rendering it too burdensome.

Reasons for  
amount of  
stipends fixed  
by church act.

With respect to the extent of free sittings, upon which Your Lordship also observes, I must state that it was in deference to the opinion of the Legislative Council I consented to reduce the proportion from one fourth to one sixth. I believe, however, that no practical inconvenience will be felt from the reduction. Bills,\* of which I transmit Copies, have been passed this year for regulating the temporal affairs of the Churches, both of England and Scotland, within the Colony, and, by the power given to the Trustees and Church Wardens, the letting of Pews and single sittings will, I have reason to believe, be so regulated as to obtain a sufficient income for the purposes of the Church without any injurious limitation of the indulgence of free seats.

Free sittings  
in churches.

Acts *re*  
temporal  
affairs of  
churches.

I have, &c.,

RICHD. BOURKE.

\* Note 50.

1837.  
5 Nov.

SIR RICHARD BOURKE TO LORD GLENELG.  
(Despatch No. 109, per ship North Briton.)

My Lord, Government House, 5th November, 1837.

Despatch  
acknowledged  
re penal  
settlements.

By Your Lordship's Despatch of the 26th December, 1835, I was desired to give effect to the reduction which has long been contemplated of the Penal Establishment at Moreton Bay. In the same despatch, your Lordship proceeds to express a doubt as to the expediency of maintaining a Penal Settlement of the kind, desiring a Report from me, First, as to the moral effect produced by banishment to Norfolk Island on the individuals confined there, and secondly, on the effect of the punishment as a preventative of crime in the Colony.

I have been unwilling to answer your Lordship's despatch without furnishing such statements and observations on the important questions it involves, as may enable your Lordship to determine upon the course to be pursued hereafter with respect to these Establishments. The great difficulty of the subject will, I trust, plead my excuse for so long a delay, and for the embarrassment I still feel regarding some of the points which the despatch has led me to consider.

Reasons for  
reduction  
of penal  
establishment  
at Moreton bay.

With regard to Moreton Bay, I have been led to desire its reduction, and to retain but one Penal Establishment for the whole Colony, with a view to diminish expenses of management, to lessen the dispersion of the troops, and to place the Convicts in greater security on Norfolk Island than I found them at Moreton Bay. These motives to its abandonment, and the transfer of the Prisoners to Norfolk Island, are still in force though not in the same degree as formerly. Escapes by land from Moreton Bay, which were frequent at the time of my arrival, have since almost wholly ceased. None but offenders under short sentences, who are generally not disposed to run, are now sent there, and encouragement is offered to the Aboriginal Natives to look out for runaways and apprehend and bring them back to the Settlement, a duty they have occasionally performed with great spirit and cleverness.

Improved  
conditions at  
Moreton bay.

Expense has been to some extent diminished by the success which has attended the cultivation of grain on the settlement, a large supply of food being now annually raised at Moreton Bay for the consumption of the convicts detained there, and admitting of annual exportation to Norfolk Island or Sydney. The number of convicts at this settlement has been reduced from 800 in the year 1832 to 300 in 1837, and the Military Guard has been consequently diminished. In this state of the Settlement, I have felt less anxiety for its reduction than formerly, whilst at the same time other considerations of some weight have delayed

Convicts at  
Moreton bay.

the proposed abandonment. Great difficulty presented itself in the disposal of the Convict Women, who have hitherto been exclusively sent to Moreton Bay, when sentenced in the Colony to transportation for a second offence. Their removal to Norfolk Island would call for additional buildings and for new arrangements, and incur consequent expense. Another consideration connected with the removal of the Penal Settlement from Moreton Bay is the question that would immediately follow as to the propriety of its being thrown open to settlers, and as to the means by which the Government of the Settlement when free should be carried on. All the difficulties, which are gradually giving way at Port Phillip, would be encountered over again at Moreton Bay; and, although I have little doubt that the sale of land will equally supply at Moreton Bay, as at Port Phillip, the means of maintaining the necessary Civil Establishment, its commencement is a labor and responsibility not to be lightly undertaken at a time when so many other essential matters are demanding the attention of the local Government. On these accounts, the reduction of the Penal Establishment at Moreton Bay has been delayed, though I would still recommend its being effected by the earliest favorable opportunity.

1837.  
5 Nov.

Reasons for delay in removal of penal settlement from Moreton bay.

With regard to Norfolk Island, I have the honor to enclose four documents, which contain much useful information.

Reports re penal settlement at Norfolk island.

1st. Observations by the Right Rev. Dr. Polding, the Roman Catholic Bishop officiating in this Colony, on the two questions put by your Lordship as to the effect of banishment to that Penal Settlement on the Criminals themselves and on others.

2nd. Observations of the Rev. H. T. Stiles, the Chaplain of Windsor in this Colony, who has twice visited the Island.

3rd. A letter from Deputy Assistant Commissary General Kent, who was for some time stationed at Norfolk Island, with the Report of the Commandant, Major Anderson, on the several particulars therein contained.

4th. A letter from Deputy Assistant Commissary General Arnold, who succeeded Mr. Kent in charge of the Commissariat of the Island.

With regard to the first of your Lordship's questions, the moral effect of banishment to Norfolk Island on the individuals confined there, I lament to say that, judging from other sources of information, as well as from a careful consideration of the statements now transmitted, I am led to believe that, in the great majority of cases, no real reformation of heart is efficiently assisted by the system of management pursued there. Both Mr. Polding and Mr. Stiles point out the principal defects: The

Want of moral effect of banishment to Norfolk island.

1837.  
5 Nov.

Inability to  
remedy defects  
in system at  
Norfolk island.

length of sentence which shuts out hope; improper association by the congregation of too many persons in large gangs and rooms; but, chiefly, the want of sufficient religious and moral instruction.

If it be asked why have not these imperfections been remedied, I would reply that the records of your Lordship's department contain ample evidence of the anxiety of this Government to supply appropriate religious instruction, but unhappily up to the present time continual difficulties have interfered with the attainment of this much desired object. The length of sentence (if it be admitted as an evil) is an error of the Law, more especially of certain of the Acts of the Imperial Parliament, which condemn cattle stealers and some other criminals to transportation for life, without leaving any power to the Court to lessen the period in cases where such a discretion might be exercised with advantage to the criminal and the public. The defects in the buildings used by the prisoners might be remedied at a large expense, and would have been undertaken if the transportation system, as it is called, had been considered permanent. But almost every year of the last six has brought some rumour of intended changes, and of the probability of the cessation or great diminution of transportation to these Colonies. In a gaol which is now building on the Island, more than one hundred single cells are provided, and more can and ought to be added, if no change of system takes place. In the last four years indeed, the conduct of the criminals on Norfolk Island (now above one thousand in number) has been remarkably quiet and orderly, whilst considerably increased labor has been exacted. I attribute the tranquillity chiefly to the humane but firm and vigilant superintendence of the present Commandant, Major Anderson, of the 50th Regiment, but in a great measure also to the power\* obtained about three years ago of trying capital offences on the Island. Much of the atrocious crime, which I found to prevail on my arrival in 1832, has its origin in the hope the criminal entertained of being taken to Sydney for trial, and with him a host of witnesses for the prosecution and defence. The chance of escape on leaving the Island for the place of trial, and the desire of changing the scene, led to many enormities. They have been almost entirely stopped by the measure in question, and but one special commission has been sent to Norfolk Island since the Act passed.

Improvement  
in conduct  
of convicts.

Value of  
banishment to  
Norfolk island  
in preventing  
crime.

With regard to the second question, its operation in preventing crime in New South Wales, Dr. Polding bears testimony to the dread of transportation felt by the Convict population of this Colony, while Mr. Stiles is inclined on the other hand to attribute very little influence to this feeling as a preventative of crime. I believe the true state of the case to be that, in this

\* Note 51.

instance as in that of most other punishments, the dread of it is greatly dependent on the temperament and circumstances of each individual.

But whatever be the true answers to your Lordship's enquiries, I would observe that to me the important question of the abolition of the Penal Settlement of Norfolk Island has always appeared to rest principally on the solution of the ulterior enquiry. What is to be done with the prisoners who would thereby be removed from the Island, and with those who would in future become amenable to a punishment of the same degree? I have always been anxious to reduce the Convicts consigned to Penal Settlements to the lowest possible number. In furtherance of this design, the punishment of criminals by labor in irons on the roads of the Colony has been rendered much more efficient and severe than was formerly the case, and its substitution for transportation has been of late encouraged and adopted by the Judges and Magistrates, whenever the law has allowed them a choice between the two kinds of punishment. It was also under consideration of the Legislative Council at the last Session whether the sentences of many of the convicts already there might not be commuted for labor for given periods within the Colony. I transmit, for Your Lordship's information and consideration, the copy of a Bill which was introduced by me for this purpose, but deferred for the present upon learning what was passing in the last Session of the Imperial Parliament with respect to secondary punishments, and the appointment of a Committee of the House of Commons to consider and report upon transportation to these Colonies. I cannot, however, but feel that, after every possible effort has been made to substitute labor in the Colony for transportation to a Penal Settlement, there will still remain a remnant of unhappy men who cannot with propriety be restored to society. Among these are many whose lives have been spared by the mercy of the Crown, but with the intention that they were to be thenceforth entirely cut off from the rest of mankind. Whatever may be now decided with regard to these individuals, it is evident that, if such a Penal Settlement as Norfolk Island or some substitute for this description of secondary punishment is no longer to be provided, many criminals will in future be left for execution, whose sentences under existing circumstances would be commuted to perpetual banishment.

These considerations lead me to hesitate in recommending the entire abolition of the Penal Settlement at Norfolk Island; but I would advise that the number of its inmates be much reduced, no criminals being sent there in future but those in whose cases it is the alternative for death. Further attention might then be

1837.  
5 Nov.

Abolition of  
penal settle-  
ment at  
Norfolk island  
dependent  
on disposal  
of convicts.

Proposal for  
reduction in  
number of  
convicts sent to  
Norfolk island.

1837.  
5 Nov.

directed to the improvement of its character as a penitentiary by introducing such a system of religious and moral instruction and such arrangements both in permanent buildings and in management as have been or shall be found most successful in such institutions in the Mother Country or in other states. It would be premature to enter into any detail on this subject until the preliminary question of the continuance of the settlement and, I may add, of transportation from the United Kingdom to this Colony be first decided. The capabilities of Norfolk Island with regard to buildings and public works may be in a great measure understood from the letter of Deputy Assistant Commissary General Kent, and the comments of Major Anderson, which are now transmitted.

Reports re  
capabilities of  
Norfolk island.

Finances re  
of penal  
settlements.

The perusal of the last mentioned papers will lead to the consideration of the question of finance, upon which I am also desired to report. Your Lordship will perceive that the writers of those papers rely much on the diminution of expense by attention to breeding of cattle and extended cultivation. \* The latter, when effected by manual labor of the convicts in the use of the spade and mattock, and by their bodily strength in drawing burdens, is no doubt a proper source of profit as well as employment in a Penal Settlement; but I would not recommend the introduction of flocks and herds, nor of draught cattle, nor of any kind of machinery of which human labor is not the moving power.

Expenditure  
and revenue  
at Norfolk  
island and  
Moreton bay.

The expense of Norfolk Island with 1,200 prisoners amounted in the last financial year, according to the Commissariat Returns, to £11,166 9s. 8d.; that of Moreton Bay with 300 prisoners to £3,063 16s. 1d., in both cases exclusive of the cost of Sea Transport and Military. In the same year, however, Norfolk Island should be credited with the sum of £863 15s. 5d. for grain exported, of which wheat and flour to the value of £160 17s. 7d. was sent to Moreton Bay, and Moreton Bay should be credited with the sum of £1,046 11s. 10d., being the value of maize raised in the Settlement and sold at Sydney.

Annual cost  
of convict  
in penal  
settlement and  
iron gang.

With respect to the comparative expense of the two kinds of Colonial punishments, transportation to a Penal Settlement and labor in irons on the roads within the located parts of the Colony, I find that, on taking together the foregoing charges for Norfolk Island and Moreton Bay, and adding those for transport and freight by sea to these places, the cost for each criminal at a Penal Settlement during the last financial year amounted to nearly thirteen pounds, and that for a prisoner in an ironed gang

\* In the original, there is a pencil note to the conclusion of the paragraph as follows:—"I do not concur in this."

to about seventeen. The labor of the latter, however, is expended on works of great importance and value to the Colonists, whilst the toil of the transport at a Penal Settlement at best serves but to diminish the cost of his maintenance.

1837.  
5 Nov.

I have, &c.,  
RICHD. BOURKE.

[Enclosures.]

[Copies of these papers are not available.]

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 110, per ship North Briton; acknowledged by lord Glenelg, 23rd August, 1838.)

My Lord, Government House, 6th November, 1837.

6 Nov.

I have the honor to transmit the Report of a Committee of the Legislative Council, appointed in the last Session to enquire and report upon the state and condition of the Tunnel\* for conducting water into Sydney, and upon the claims for further remuneration of Mr. Busby, who superintended the work from its commencement in 1827 to the 30th June last.

Report by committee of council *re* tunnel for water supply of Sydney.

My object in appointing this Committee was, as on a former occasion, to call the attention of the inhabitants of Sydney to the great probability of the town being insufficiently provided with water unless other means were adopted for its supply than those upon which Mr. Busby so confidently relied. I hoped that, by exciting public attention to so important an object of municipal arrangement, a company might be formed in Sydney to undertake the supply of the town, as is the case in many cities and towns of the United Kingdom, and the Government be relieved from a charge which can be better administered by the people, who are chiefly interested in the success of the undertaking. Whether such will be the result of the late enquiry and report, I will not venture to affirm; but it is evident from the documents now transmitted that much remains to be done to remove from Sydney the probability of occasional scarcity of water. Until the arrival of Major Barney of the Royal Engineers at the close of 1835, there was no person in the Colony upon whose professional skill this Government could place any well founded reliance for a satisfactory examination of the work in progress. His late Reports have convinced me of what I before conjectured, and it will most probably now depend upon the employment of his professional skill and experience to effect what Mr. Busby has certainly failed to accomplish after years of labor and great expense.

Object of appointment of committee.

Company suggested for water supply of Sydney.

Reports by G. Barney.

\* Note 52.

1837.  
6 Nov.  
Claim by  
J. Busby for  
remuneration.

Another object in appointing this Committee was to place before the public in a Report the claim of Mr. Busby to a large remuneration for his alleged services, a claim which a considerable number of residents in Sydney, whose opinions are on every account fully entitled to consideration, supported in a Memorial addressed to me in the last year. My opinions as to the project of Mr. Busby, and its execution to a certain point, are partly exhibited in the despatches addressed to the Colonial Office of the dates and numbers in the margin.\* The further result of his operations may be collected from the Report and the evidence taken before the Committee and now transmitted. Your Lordship will perceive in the concluding part of the Report the amount of remuneration to which the Committee consider Mr. Busby and his son to be entitled, and the grounds upon which they have formed their opinion. I have to request the honor of your Lordship's commands on the subject.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this report was printed in the "Votes and Proceedings" of the legislative council.]

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 111, per ship North Briton; acknowledged by lord Glenelg, 19th June and 9th October, 1838.)

7 Nov.  
Despatches  
acknowledged.

My Lord, Government House, 7th November, 1837.

I have to acknowledge the receipt of your Lordship's despatches marked in the margin.†

Supercession  
of keeper and  
matron at  
female factory.

I have given the necessary intimation to the keeper and matron of the Female Factory, now in office, of the probability of their speedy supercession, and have informed them of your Lordship's kind wish for their future employment in some other way. I regret that I have it not in my power to provide by any suitable employment for either of these persons, of whose conduct at the Factory, as in former situations under Government, I have the greatest reason to speak in terms of the highest approbation. I venture, therefore, respectfully to express a hope that your Lordship will cause the names of Mr. and Mrs. Bell to be brought under the favorable notice of the officer succeeding to the administration of this Government.

One of the Regulations, which I framed upon introducing a new arrangement of the Establishment in the last year, as communicated in my despatch of the 10th September, 1836, No. 96,

\* Marginal note.—29 Nov., 1833, No. 92; 16 May, 1834, No. 49.

† Marginal note.—4th May, 1837, No. 311; 5th July, 1837, No. 337.



directed the attendance of the Police Magistrate of Parramatta as the Visiting Justice of the Factory. This duty was discharged by the Magistrate without any additional salary until the 1st of July last, when finding his labor much increased, and likely to continue heavy, and without the relief of any Committee of Ladies, I directed that an allowance of £100 a year should be made to him, upon the Convict charge, for this extra duty. Your Lordship may judge of what is required of the Visiting Justice by perusing the copy of his instructions now transmitted.

1837.  
7 Nov.

Appointment  
of visiting  
justice to  
factory.

I had in preparation for printing a copy of the Regulations for the Female Factory, which I had taken some pains to put together after having had nearly a year's experience of their operation. The new form, which will be given to the Institution by the appointments your Lordship has recently made, will render many of these regulations inapplicable, and I do not therefore encumber your Lordship with a copy. I have, &c.,

RICHD. BOURKE.

[Enclosure.]

REGULATIONS.

*Visiting Justice,*

22d November, 1837.

1st. The Office of Visiting Justice of the Female Factory will be held by the Police Magistrate of Paramatta, who will be guided in the performance of his duties by such of the Provisions of 4 Geo. IV, Cap. 64. as are applicable to this particular place of Confinement.

Regulations  
for visiting  
justice to  
female factory.

2d. The Visiting Justice will be debarred from having any interest in any contract for the Factory Supplies.

3rd. He will visit the Establishment and inspect every part of it, at the same time seeing every Prisoner at least twice in every week. On these occasions, he will hear and determine Summarily, under the provisions of the 3rd Wm. IV, No. 3, all complaints against Prisoners coming within his Jurisdiction, and he will also examine the Books of the Office and of the Officers, entering his own name in the Officers' Book on the days of his visits.

4th. In the event of any disturbance at the Factory, he will proceed forthwith to the spot, and take such steps for its suppression, as his discretion may dictate, and as are within his jurisdiction as a Magistrate. He is liable to be called upon and bound to attend under any circumstances of an extraordinary Nature, where the Keeper shall feel his authority unequal to the occasion; and it will be his duty to make immediate enquiry into the cause of every death that shall take place in the Factory, in order to determine whether an Inquest be necessary.

5th. He will receive from the Keeper the Assignment Lists, which he will countersign; at the same time entering upon them any remark he may think necessary prior to their being forwarded to the Colonial Secretary for the approval of the Governor.

6th. He is required to countersign the certificates of due attendance on the part of the Officers of the Factory at the foot of the monthly Abstract of Salaries, and without this signature the Deputy Commissary General of Accounts will not pass the Account into

1837.  
7 Nov.

Regulations  
for visiting  
justice to  
female factory.

Warrant, unless by order of the Governor, through the Colonial Secretary. If the visiting Justice thinks it necessary to withhold his signature, he is immediately to state his reasons to the Colonial Secretary for the Governor information.

7th. The Visiting Justice will at the end of every month make a full and explicit Report of the state and condition of the Factory, the conduct and regular attendance of all the Officers, whether Male or Female, and the treatment and behaviour of the Prisoners, with such observations of his own, or Extracts from the Journals of the Officers, as he shall desire to bring under the Governor Notice.

8th. All the correspondence of the Visiting Justice will be conducted by himself, and carried on through the Colonial Secretary for the information of the Governor.

By His Excellency's Command,  
E. DEAS THOMSON.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 20, per ship Fergusson.)

10 Nov.

Transmission  
of letter from  
T. F. Elliot.

Sir, Downing Street, 10 November, 1837.

I have the honor to transmit to you the copy of a letter from the Agent General for Emigration, enclosing two Printed Notices\* on the subject of Emigration which he has prepared for circulation.

I have signified to Mr. Elliott my approval of these Documents and my concurrence in the explanations, which he has offered in submitting them for my consideration.

I have, &c.,  
GLENELG.

[Enclosure.]

MR. T. F. ELLIOT TO UNDER SECRETARY STEPHEN.

Sir, Colonial Office, 28 Octr., 1837.

Notices issued  
for use of  
emigrants.

In consequence of the urgent demand for them, I have prepared for circulation two Printed Notices, which I enclose herewith for Ld. Glenelg's information, the one explanatory of the assistance occasionally afforded by Govt. to Persons emigrating to N. S. Wales or V. D. Land, the other containing such information as can be officially supplied on Current Wages and Prices in those Colonies.

Before these Papers were printed, I submitted them to the remarks of Mr. James McArthur, Dr. Boyter, Dr. Brock and one or two other gentlemen, who appeared likely to be able to point out any deficiencies or inaccuracies in them.

Omissions  
from notice  
re assistance  
for emigrants.

In the notice respecting the assistance to Emigrants, I have felt it more prudent not to insert the Colonial Govt. offer of employment on Public Works to a limited number of Trades connected with Building. The Surgeons have authority to communicate it to Parties whom it may really concern. But I thought to introduce it into a notice for indiscriminate circulation, and destined perhaps to remain in use after this Offer may be altogether withdrawn, wd. expose the Govt. to mistakes, disappointments and doubtful claims.

\* Note 53.

For a somewhat similar reason, I have omitted the conditional Exception in favor of young men. It is said by the Colonial Govt. that they may be recd., provided no more of them be taken in any one Ship than there are also unmarried Women. The Surgeons will be apprized of the discretion they may exercise in this respect. But I have abstained from publishing it without reserve in the present Document, lest the selecting officer shd. be over burthened with this class of applicants, of whom not many after all ed. be admitted under the condition laid down, while very few, I am inclined to think, wd. be really desirable. They are far more likely to breed disorders on board than Men accompanied by their Wives and Children, who have so many additional restraints on their conduct.

1837.  
10 Nov.

Omissions  
from notice  
re assistance  
for emigrants.

Still more inexpedient did I feel it to notice the permission which in very special Cases I have proposed that the Surgeon may grant for the embarkation of eligible families accompanied by aged Relatives, provided the passage of such individuals beyond the prescribed years be paid for.

These several omissions I have made from the experience that in Public Notices it is desirable to be as sweeping and as broad as possible, and to reserve for more direct Opportunities of Communication any-thing that is exceptional, temporary or partial. In all other particulars than these I have mentioned, the Paper dated 20 Octr. contains a complete Statement of the Rules under which, by Lord Glenelg's sanction, I am acting.

In the Paper on Wages and Prices, I hope it may be found that I have taken the best precautions in my power against inaccuracies themselves and also against complaint of such unavoidable discrepancies as change of Circumstances, the different capacity of Workmen, or the different supply of Markets may produce. With reference to this latter Paper, I wd. suggest that the Governors be released from the direction to furnish a Statement of the Numbers of People required in each Trade or Calling. Sir R. Bourke, in his despatch of 2 Jany., 1837, states the impossibility of giving this information in a manner to be relied on. A glance at the Tables enclosed on that occasion will, I think, confirm Sir R. Bourke's view. I have therefore discarded the column relating to that Point and recommend that it shd. no longer be required. I have only in conclusion to request that those Printed Notices, with the explanations here offered, may be forwarded by an early opportunity to the Governors of N. S. Wales and V. D. Land.

Notice re  
wages and  
prices in  
colony.

I am, &c.,

THO. FRED. ELLIOT.

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LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 21, per ship Fergusson.)

Sir, Downing Street, 10 November, 1837.

I have received your Predecessor's dispatch No. 57 of the 1st July last, enclosing a Memorial from Mr. John Weston, praying for a Grant of Land in New South Wales together with copies of the correspondence which has passed between the Colonial Secretary and Mr. Weston on the subject of his application.

Memorial  
received from  
J. Weston.

1837.  
10 Nov.  
Refusal of  
land grant.

In that correspondence, Sir R. Bourke formed a correct judgment of my view of the case; and you will have the goodness to acquaint Mr. Weston that, for the reasons which have been already stated to him, I regret that it is impossible to comply with the prayer of his Memorial.

I have, &c.,  
GLENELG.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 22, per ship Orontes.)

11 Nov.  
Transmission  
of letter from  
T. F. Elliot.

Sir, Downing Street, 11 November, 1837.

I have the honor to transmit for your information the copy of a Letter and its enclosure from the Agent General for Emigration, reporting the circumstances under which the proposal to fill a Ship with Emigrants from Norfolk and the adjacent Counties has failed.

I have approved of Mr. Elliot's proceedings on this occasion.

I have, &c.,  
GLENELG.

[Enclosure.]

MR. T. F. ELLIOT TO UNDER SECRETARY STEPHEN.

Sir, Colonial Office, 30th Oct., 1837.

Report *re*  
failure to fill  
ship with  
emigrants from  
Norfolk and  
adjacent  
counties.

Altho' I have not proceeded in a matter of so much importance without personal communication with the Coll. Dept., it seems proper that I shd. report in writing for Ld. Glenelg's information the circes. under wh. the proposal to fill a ship with Emigrants from Norfolk and the adjacent Counties has failed.

So far back as April last, notice was recd. from the Commrs. of Poor Laws of a disposition amongst a considerable number of people in Norfolk to Emigrate, and they recommended that the district shd. be visited by a Surgeon who was then employed in collecting Emigrants for N. S. Wales. The reply from Sir G. Grey was that the People to be conveyed at that time were to embark from a different part of the Country, but that, shd. an opportunity occur at some future period, this representation wd. be borne in mind.

On assuming charge of my office, I adverted to this correspondence, and about the middle of June, finding that circes. wd. admit of it, I apprized the Poor Law Commrs. that at any date after the 18th Augt., which might be convenient, a Ship cd. be allotted to the conveyance of Emigrants from Yarmouth, and I therefore suggested a communication with the Board of Guardians and with any Resident Gentlemen in Norfolk, who might be supposed favorable to the enterprize, in order to learn what number of People were likely to be willing to go.

The answer procured by the P. L. Commrs. contained lists of 37 families, consisting of more than 200 Souls, who were qualified and willing to Emigrate; but it was remarked that the opportunity cd. be held out to the People with most advantage after the Harvest. It was accordingly postponed till that time.

In Septr. more than one enquiry was made when the promised Ship wd. be sent to the Eastern Coast. No Apprehensions appeared of any change in the People's views. A vessel therefore was advertised for, and Dr. Brock of the R.N. was sent into the Country to visit and collect the Expected Emigrants.

He returned on the 14th Inst. and reported that he had seen *three* families whom he cd. rely upon to embark. All the rest of the former Candidates had retracted. He further stated that the Chairmen of Board of Guardians, whom he had met with, had recd. him courteously, but had not concealed their indisposition towards the Emigration of such People as alone cd. be expected for the present undertaking, and that, altho. he was not able to say whether a party of Emigrants might not be procurable by his own exertions, yet unaided by resident persons of influence, if not actually opposed by them, he cd. not hope to accomplish it within the time that was open to him.

This was a conjecture, which required some prompt decision. In less than a fortnight, the ship was expected to be ready for Sea. One course wd. have been to make another Appeal to the parties concerned, and to represent the inconveniences of thus declining at the last moment the opportunity provided for them by the liberality of the Colony. Seeing the serious amount at issue, there were perhaps some considerable motives in favor of this line of Conduct, instead of the apparently more hazardous course of entering on an entirely new field at this advanced stage of the Enterprize. But I ventured to think it more expedient on the whole, as being better calculated to diffuse just impressions of the nature of the Case, not to persevere in our efforts in this part of the Country, but rather let it be understood that what had been offered to the Inhabitants was a boon to themselves, which, being once lost, it might not be easy to grant to them again. I wrote therefore, without enlarging on the Causes for regret, simply to state that, as it was of course out of the question to send a large Ship to Yarmouth or Harwich for the reception of so limited a number of persons as were now going, immediate measures wd. be taken to fill her with People to sail from the River: that, under these circumstances, altho' fresh applications from the Eastern Counties were not precluded, they would unavoidably be postponed to other claims, instead of, as hitherto, having the preference; but that, in order not to disappoint those who had adhered to their original intentions, they wd. be allowed the privilege of proceeding in the Vessel, on finding their own way to the place of Embarkation.

I then placed Dr. Brock in Communication with Mr. Maples, a person connected with various Mechanics' Societies in London, to whom Letters had been brought by another Surgeon of the Navy from a Master Mechanic at Sydney. I apprized Dr. Dobie at Glasgow that he must endeavour to diminish the proportion of Mechanics in the Party he was collecting to go from the Clyde. And I settled with Dr. Brock the terms of advertisements and Hand Bills to appear in London and places that cd. easily communicate with it. His proceedings have now been opened at the Office of Lt. Lean, who is actively co-operating with him in this Service.

The result of these measures cannot so soon be stated. But I feel every confidence that, with the zeal which all must feel to get thro' the difficulty, a sufficient number of duly qualified Emigrants

1837.  
11 Nov.

Report *re*  
failure to fill  
ship with  
emigrants from  
Norfolk and  
adjacent  
counties.

1837.  
11 Nov.

Report re  
failure to fill  
ship with  
emigrants from  
Norfolk and  
adjacent  
counties.

will be provided by the 15th of Novr., and I do not know that, if the Ship had been required to go to Harwich, she cd. have sailed from thence at an earlier day. Even had it been otherwise, there is so much disposition amongst people to undervalue what is offered to them gratuitously that it wd., I submit, have been worth a Considerable Sacrifice not to give them an opportunity of supposing it a favor in them to consent to go to N. S. Wales, but to impress upon them instead that, when a conveyance is provided for them to a Country, which it is for their interest to reach, free of expence, the favor can only be on one side: and upon this point, so long as I have the honor of being employed in dispensing the Fund which the liberality of the Colony has rendered available for these purposes, I trust with Lord Glenelg's approval to admit of no mistake.

Here I might have closed this report. But I ought perhaps to add that, within the last few days, Dr. Kay, the Assistant Poor Law Commr. for the Norfolk District, called upon me, accompanied by Mr. Parker, and acquainted me in conversation that he was inclined to anticipate an urgent demand for Emigration from Norfolk during the Winter, and that he wd. be glad to be able to hold out to the People the promise of a Ship if they wd. take advantage of it. I enclose the copy of a letter I have written to Mr. Parker on this subject.

I have, &c.,

THO. FRED. ELLIOT.

[Sub-enclosure.]

MR. T. F. ELLIOT TO MR. H. W. PARKER.

My dear Sir,

Downing Street, 27th October, 1837.

I feel so anxious to preclude any mistake on the subject of the conversation I had with you and Doctor Kay the other day, that I write to you a few lines, which I shall be obliged to you to forward to him, as doubtless you are in possession of his address.

What I wish to impress on him is that I can afford no guarantee of another Emigrant Ship being allotted to the service of the Eastern Counties. In the first place, it would be beyond my power to do so, for I never proceed to the engagement of a ship without ascertaining that the Secretary of State agrees in the sufficiency of the grounds for the measure: and I must add that, after the disappointment so recently experienced in Norfolk and the adjacent Districts, I can hardly assume that such reasons are shortly to be expected as would satisfy Lord Glenelg of the propriety of repeating the experiment. You will remember that it is no past transaction which is in question.

The ship is even now lying in the River, which was engaged for the exclusive accommodation of the Eastern Counties, wherein all persons from the other parts of the Country were refused a passage; and, out of the District so favoured, just five families remain to take advantage of the opportunity offered to them,

All the rest of the numerous applicants, who were originally enrolled as willing to go, have changed their minds. This is the experience which we are now enjoying. At the very moment when I had the pleasure of conversing with you the other day, we had not yet collected any fresh Candidates, so that, on the eve of a ship's being ready to sail at an expence of from four to five thousand pounds, we had none but the five families I have mentioned to embark, affording a supply of people to the Colony at the rate of

Refusal to  
allocate ship  
for emigrants  
from Norfolk  
and adjacent  
counties.

something less than a thousand pounds per family. Whether or not the deficiency be ultimately supplied on this occasion through very vigorous exertions, the hazard is one which ought if possible hereafter to be avoided, and which subjects our officers to a temptation, they ought not to be placed under, to relax the proper care and strictness in the selection of Emigrants. Under these circumstances, I do not say that a case may not be made out for assigning another ship to the convenience of Norfolk and the neighbouring Country; but I think that it must be a strong case, and that the sooner it comes forward the greater the need of very convincing proofs to establish the change from the disposition of which we are at this moment feeling the effects.

Another consideration is that our arrangements are now made for sending vessels from other parts of the Kingdom. And, until March, the season is very unfavourable for despatching large bodies of Emigrants from the English Channel. Even, therefore, if the expediency of again giving a ship to the Eastern Counties were shewn, it must be doubtful how soon an opportunity could possibly be afforded for the purpose.

Supposing then that, during the winter, the advantages of encouraging emigration from Dr. Kay's District should become apparent, I still do not think he could safely do more than say he would make his best endeavours to procure them another ship, and hoped he might succeed. But I would also suggest that he should take the same opportunity of explaining to the people that the former offer was an indulgence and a boon, a boon moreover so well recognized as such in other parts of the Country that this itself must constitute one of the main difficulties in obtaining its repetition in Norfolk, and therefore that he should advise the people not again to trifle with it, should they succeed in once more obtaining the offer, but to profit by an opportunity which in so many parts of the Country is completely an object of envy. In this manner, I hope we should come to a better understanding with one another, and, if at some future period the enterprize were renewed in Norfolk, we should be able to send forth a party of useful agricultural Labourers with satisfaction to themselves, and at the same time without the risk of heavy losses to the Colony, which so liberally provides them with the means of conveyance.

I would have written to Dr. Kay as well as to yourself; but, not knowing his address, it is perhaps the shorter mode to ask you to be kind enough to forward to him this communication.

I have, &c.,

THOS. F. ELLIOT.

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LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 23, per ship Fergusson.)

Sir, Downing Street, 13 November, 1837.

With reference to my despatch No. 371 of the 23d September last, I have the honor to acquaint you that the Lords Commissioners of the Treasury have sanctioned the remission of Mr. Hovell's debt to the Government on the conditions recommended by your Predecessor.

1837.  
11 Nov.

Refusal to  
allocate ship  
for emigrants  
from Norfolk  
and adjacent  
counties.

13 Nov.

Remission of  
debt due by  
W. H. Hovell.

1837.  
13 Nov.

Their Lordships however desire that you will not infer from this arrangement that any future demands attaching to Colonial Funds may be satisfied by the remission of repayments due on account of Convict or other services provided for by this Country.

I have, &c.,

GLENELG.

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LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 24, per ship Fergusson.)

14 Nov.  
Despatch  
acknowledged.

Sir, Downing Street, 14 November, 1837.

I have received Sir Richard Bourke's despatch No. 25 of the 2d May last, transmitting a Memorial from Mr. A. E. Hayes praying for a reconsideration of his claim to a Grant of Land in New South Wales.

Refusal of  
land grant to  
A. E. Hayes.

Mr. Hayes appears to be under the impression that under the former Regulations any Applicant for Land had an indefeasible right to a grant on the performance of certain conditions. This was not the case. A discretion was vested in the Governor in each case, and, while I regret that Mr. Hayes' original application received no answer, I am unable to assume that the Governor of New South Wales did not properly exercise in this instance the discretion which was vested in him by the published Regulations.

I therefore regret that I do not feel myself at liberty to comply with the prayer of the Memorial.

I have, &c.,

GLENELG.

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LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 25, per ship Fergusson.)

15 Nov.  
Despatch  
acknowledged  
re J. Bowman.

Sir, Downing Street, 15 November, 1837.

With reference to your Predecessor's Despatch No. 65 of the 15th June, 1836, submitting the case of Dr. James Bowman, late Inspector of Colonial Hospitals at New South Wales, whose appointment ceased under the new medical arrangements of the Colony, I have now the honor to transmit to you, for your information and guidance, the copy of a letter addressed to this Department by desire of the Lords Commissioners of the Treasury.

I have, &c.,

GLENELG.

[Enclosure.]

MR. F. BARING TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 31 Oct., 1837.

Having laid before the Lords Commrs. of H.M.'s Treasury yr. letter, dated the 20th Decr. last, with the inclosed Despatch from the Governor of New South Wales, relating to the abrogation of the



appointment of Principal Colonial Surgeon and Inspector of Hospitals upon the arrival in that Colony of the Officers of the Army Medical Staff, who had been deputed to take charge of the Colonial and Convict Medical Estabts., I am commanded by their Lordships to request you will state to Lord Glenelg that my Lords do not find, from a reply to an application which they directed to be addressed to the Secretary at War, that any report has been recd. by the Army Medical Dept. from the Officer in charge of the Medical Estabt. in N. S. Wales of the circes., which have rendered it necessary to dispense entirely with the further Services of Dr. Bowman.

1837.  
15 Nov.

Instructions  
*re* claims of  
J. Bowman  
on reduction.

As Dr. Bowman will be replaced on the Naval Half Pay on the discontinuance of his Colonial Salary, and the Cessation of his Services, which my Lords presume Sir R. Bourke has been satisfied ed. not be made available under the new arrangements, my Lords do not consider that his late employment entitles him to any additional retired Allowance.

My Lords might have been prepared to sanction the issue of some gratuity to Dr. Bowman upon the Abolition of his late Office; but, as they observe that he will have continued in the receipt of his full Salary for a considerable period after his Employment ceased, they conceive it will be sufficient that he should be allowed to retain such amount as may actually have been paid to him on this account, when Ld. Glenelg's Instructions on the subject shall reach the Colony, and that he shd. revert to his naval Half Pay from the period up to which the Salary had thus been issued.

I am at the same time directed to request that you will remark to Lord Glenelg that this continuance of the issue of the full Salary of an abolished Office appears to my Lords to have been both irregular and unnecessary, and that a moiety of the Salary was the utmost allowance that Sir R. Bourke shd. have considered himself warranted in granting, until the decision of H.M. Govt. ed. be signified to him.

I am, &c.,

F. BARING.

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SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 112, per ship North Briton; acknowledged by lord Glenelg, 22nd June, 1838.)

My Lord,

Government House, 15 Novr., 1837.

I have the honor to forward Copies of a correspondence between the Colonial Secretary and the Colonial Treasurer upon the subject of appointments of Clerks to the Treasury in this Colony, and a letter from Mr. Riddell, addressed to Your Lordship. I will as briefly as possible bring the leading facts forming the subject of the correspondence under your Lordship's notice.

Correspondence  
*re* clerks in  
treasury.

Upon the recent death of a gentleman, who held for some years the office of first Clerk in the Treasury, and who upon the introduction of the Regulations of this year for the appointment of Clerks in the Colonial Office was nominated a Clerk of the first class with a Salary rising from £300 to the maximum of £400 a year, the Colonial Treasurer proposed to me to introduce a

Proposal by  
C. D. Riddell  
for appointment  
of chief clerk  
to treasury.

1837.  
15 Nov.

stranger into the Department to occupy the vacant place, passing over the heads of several very respectable Persons, and notably of the next in seniority to the deceased, Mr. Williams, a gentleman of considerable ability and official knowledge.

Objections by  
Sir R. Bourke.

To this proposition, I objected as being a practical injustice to Mr. Williams and a breach of the newly framed Regulations, to the strict observance of which I attach great importance. Against this decision the Colonial Treasurer remonstrated, repeating a former application for the appointment of two clerks of the first class in his Department, and proposing that Mr. Williams should hold one, and that a stranger should be brought into the office to hold the other, who was to be considered as Senior Clerk in the Treasury. He further objected to the appointment of Clerks in his Department by any other than himself.

Appointment of  
two clerks  
proposed by  
C. D. Riddell.

Objections by  
Sir R. Bourke.

In reply, I objected to impose upon the public an unnecessary charge for an additional Clerk of the first class, and expressed an opinion adverse to Mr. Riddell's claim to appoint his own clerks.

Reference to  
secretary  
of state.

Mr. Riddell, in his letter of the 6th October having proposed to leave the question at issue to Your Lordship, I complied with his request, and directed the letter of the Colonial Secretary of the 13th of that month, explanatory of my views on the subject, to be addressed to him.

Claim by  
C. D. Riddell  
to appointment  
of clerks.

Mr. Riddell in his letter to Your Lordship urges over again the principal points of his correspondence with the Colonial Secretary, and first, that it has been considered the province of the Treasurer to appoint his own clerks. To this assertion, I cannot further assent than by observing that, on my arrival, there was but one Clerk in the Treasury, the gentleman lately deceased, and that, upon a second being added in my time with a Salary of £120 a year, I approved of the nomination of Mr. Riddell in favor of the son of Colonel Snodgrass, and would probably have continued to confirm any proper nomination whilst the office remained on the same low footing. Since the consolidation of the offices of Treasury and Internal Revenue, the Establishment has become much too large to allow of Mr. Riddell's expecting that the patronage should be left in his hands, whilst a similar privilege is denied to the Colonial Functionaries of the highest rank. I have, it is true, always consulted as much as possible the wishes of all these gentlemen, and frequently agreed to their nominations as a matter of courtesy but not of right, and in the new Regulation your Lordship may have observed that great deference is paid to the opinions of the Heads of Departments.

Objections  
to claim.

But Mr. Riddell urges his claim as peculiar on the ground of his great responsibility, and denies that the new Regulations are

applicable to his office. To this it may be briefly observed that his business is transacted chiefly by cheques, the Treasurer being authorised to keep large Balances in the Banks; that the surplus cash is kept in the vault under three keys of which one only is held by the Treasurer, and two by other Functionaries, and the vault never opened but in presence of the three; that the petty cash in the office is the only part of the Treasurer's charge, which I can consider liable to abstraction by a Clerk, and any possible loss in this may be easily obviated by the Treasurer's keeping the key. If, indeed, as Mr. Riddell seems to intimate in his letter to your Lordship (page 3), his Clerks drew cheques on the Banks, and the Banks paid on the Clerk's cheque the money lodged in the name of the Treasurer, the risk would be considerable, and the practice should be put an end to. But with regard to the usual course, I beg to refer Your Lordship to the copy of a reply from Mr. Riddell to a letter I caused to be written to him on the subject. I do not from that document infer that the appropriate employment of the Treasury Clerks exposes the Treasurer to any pecuniary risk, even were one and all inclined to be dishonest.

1837.  
15 Nov.

Business  
practice in  
office of  
colonial  
treasurer.

I have thus gone shortly over the principal matters urged by Mr. Riddell in support of his claim to appoint clerks of the Treasury without regard to Colonial Regulation. His objections to the succession of Mr. Williams under these Regulations may be still more briefly discussed. They are founded upon a supposed distinction between the duties of a Clerk in receipt and in the disbursement of Revenue, which seems in Mr. Riddell's opinion to render the one disqualified from taking the duties of the other, and upon the fact of Mr. Williams being a Man of Colour. The first is certainly no valid objection, as the official ability of Mr. Williams is admitted by the Treasurer himself. The second was brought under my notice in the beginning of the year at an interview with Mr. Riddell upon the formation of his office when the Treasury and Internal Revenue were consolidated. I confess it had no great effect upon me in disparagement of the claims of Mr. Williams to hold a superior place in the Department, as I look to integrity and ability rather than to complexion as the qualifications for office.

Objections by  
C. D. Riddell to  
appointment of  
A. Williams.

I have only one remark more to make upon Mr. Riddell's letter to your Lordship, which, however, is of great importance. He intimates his belief that his Sureties are not responsible for any deficiencies of his, connected with the additional duty transferred to him upon the Consolidation of the Treasury and Collection offices. Before I directed that the junction (though long

Liability of  
sureties of  
C. D. Riddell.

1837.  
15 Nov.

authorised by the Secretary of State) should be effected, I obtained the opinion of the Attorney General upon the continued liability of Mr. Riddell's sureties, which opinion I had the honor to transmit to Your Lordship in my Despatch of the 4th January last, No. 4.

I have, &c.,

RICHD. BOURKE.

[Enclosure No. 1.]

[A] MR. C. D. RIDDELL TO COLONIAL SECRETARY THOMSON.

Sir, Colonial Treasury, 20th September, 1837.

Death of  
J. Wallace.

I regret to have to announce to you, for the information of His Excellency The Governor, the Death of Mr. John Wallace, the Head Clerk in the Treasury department of my Office, which took place last night.

I should not so soon after the melancholy event have proposed that the situation be filled up, If the increased business of the Treasury did not call for such a proceeding.

Necessity for  
immediate  
appointment  
of successor.

In consequence of Mr. Wallace's severe indisposition. I have availed myself of the Services of Mr. Williams, first Clerk in the Revenue Branch, for some days past. But it is not expedient to detain him from the duties of his department longer than necessity requires, in as much as these are of so diversified a nature as to require the superintendance of one, who has been accustomed to discharge them.

Nomination of  
J. Hindmarsh  
as successor.

Having had reason to believe that, even had he lived, Mr. Wallace meant shortly to resign his situation, I have been for some time anxiously looking for some one whom I could safely recommend as his successor, and I believe that, in recommending Mr. Hindmarsh (now a Clerk in the Commissariat) to his Excellency The Governor, I have fixed upon one in every way deserving His Excellency's approval. This Gentleman has held a similar Office in the Commissariat department to that of which Mr. Wallace performed the duties in the Treasury for a period of nine years.

Mr. D. C. General Miller has assured me that, for sobriety, integrity, steadiness and efficiency, he is not surpassed by any one in the Colony. In short, he added, too much cannot be said in his favor.

With such Testimonials in his favor, I hope His Excellency the Governor will approve of his Appointment to the first Clerk in the Treasury Branch of my Office with the usual Salary.

I have, &c.,

C. D. RIDDELL.

[B] COLONIAL SECRETARY THOMSON TO MR. C. D. RIDDELL.

Sir, Colonial Secretary's Office, 26th September, 1837.

Letter  
acknowledged.

I have the honor to acknowledge the receipt of Your Letter of the 20th instant, reporting the Death of Mr. John Wallace, Chief Clerk in your department, and proposing as his Successor Mr. Hindmarsh at present a Clerk in the Commissariat.

Necessity for  
vacancy to  
be filled by  
seniority.

Having laid your Letter before the Governor, I am directed to inform you that, as you allege no objection to the Clerk who is next in Succession in your Office to the late Mr. Wallace, but on the Contrary State that diversified nature of the duties upon which he is employed in the Revenue Branch renders it necessary to retain

him in its superintendence, His Excellency is not aware that this can justly be deemed a reason for stopping his promotion. In the regulations respecting clerks framed by the late Board, the hope is distinctly held out to deserving and competent Clerks to Succeed to the higher Classes as they become Vacant, and Sir Richard Bourke considers it of great importance that this principle should not be departed from in any case in which there may not be an adequate reason for incompetency or other cause. With respect to the continuance of Mr. Williams in the superintendence of the Revenue Branch, the Governor is not aware that his promotion Should necessarily interfere with it. It is a matter of internal arrangement of your Office, which you can settle as may appear to you best calculated to an efficient performance of the business.

1837.  
15 Nov.  
Necessity for  
vacancy to  
be filled by  
seniority.

The Governor further directs me to enquire whether there is not among the Junior Clerks a person, who is Competent to Succeed to the second class upon Mr. Williams' promotion to the first. The Junior Clerk's place will be filled by His Excellency.

I have, &c.,

E. DEAS THOMSON.

[C] MR. C. D. RIDDELL TO COLONIAL SECRETARY THOMSON.

Sir,

Sydney, 27th September, 1837.

I have this day received Your Letter of Yesterday's date in reply to mine of the 20th instant, by which I am given to understand that His Excellency the Governor does not approve of my recommendation of Mr. Hindmarsh to be first Clerk in the Treasury Branch of my Department.

Letter  
acknowledged.

When I first took charge of the Office of Internal Revenue, I distinctly gave it as my opinion that, as the duties of that Department were of a nature perfectly distinct from those of the Treasury, in order to avoid certain disorder and confusion, it was absolutely necessary that the two Offices altho' nominally united Should be kept totally distinct. And my separation of them into the Treasury and Revenue Branches met with the approbation of His Excellency the Governor. Moreover on that occasion Mr. Macpherson informed me that Mr. Williams was the only individual in the office, who could conduct the business and at the same time superintend the numerous Clerks employed under him. Mr. Williams received an Addition to his Salary on the 1st of January of £50 per Annum as head clerk of the Revenue Branch of the Treasury.

Division of  
office into  
treasury and  
revenue  
branches.

Appointment of  
A. Williams as  
head of revenue  
branch.

I have since recommended that Mr. Williams be placed on the footing of a Clerk of the first Class in respect of the duties he has to perform in his Branch of the Department. It cannot therefore be said that I wish in the slightest degree to retard his promotion. but I have limited my Application for it to his services in the Revenue Branch. He can have no claim whatever to advancement in the other Branch, being, until the other day, totally ignorant of the duties to be discharged in it.

Status  
proposed for  
A. Williams.

If His Excellency the Governor thinks that, as Collector of a Revenue of about £150,000 a Year and Superintendent of Seven or Eight Clerks carrying on the Various and intricate business of the department, Mr. Williams does not merit the Salary of £300, it

Duties of  
A. Williams  
to be confined  
to revenue  
branch.

1837.  
15 Nov.

Duties of  
A. Williams  
to be confined  
to revenue  
branch.

Reasons for  
nomination of  
J. Hindmarsh.

surely could not be expected that I the head of this department should recommend him for that Salary in a branch of the Department of which he knows scarcely anything, and the duties of which he is accordingly incompetent to discharge. It will be seen that, as Head Clerk of the Revenue Branch, I have asked his promotion, because I have found him very competent for these his appropriate duties, and because his situation is one of a more confidential nature now than it previously was under Mr. McPherson, in as much as he is necessarily left now to his own discretion, My attention being chiefly devoted to the Treasury the business of which is rapidly increasing. It has for some time past been the source of the greatest anxiety to me to find out some one, whose Character and abilities were such that I could recommend him to His Excellency the Governor as a Successor to Mr. Wallace. I had determined to perform the duties myself (as I am now doing) for any length of time rather than appoint one who might turn out either incompetent or untrustworthy. I know nothing of Mr. Hindmarsh previous to his presenting a written request that I would employ him in the Treasury Branch of my Office, in as much as he had discharged similar duties for nearly nine years in the Commissariat, and upon referring to Gentlemen Connected with that department I found that in every respect he was eligible, so I lost no time in requesting the Governor to approve of his appointment.

I have the honor to remark that, as the Union of the two departments cannot in the least affect the nature of the duties to be discharged by the first Clerk of the Treasury except as rendering them more onerous, it follows that the mode of appointing him and the Salary Attached to his Office Should not be affected by Such an Union.

Claim by  
C. D. Riddell  
to nomination  
of clerks in  
treasury.

With regard to the appointment of Clerks in the Treasury, it has hitherto rested upon the recommendation of the Treasurer. Mr. Chief Justice Forbes gave it as his opinion to General Darling that he ought not to interfere with the Appointment of Mr. Wallace by Mr. Balcombe, then Colonial Treasurer. When a second Clerk was allowed for the department, Colonel Snodgrass applied to His Excellency the Governor on behalf of his son. I am informed that the Governor referred him to the Colonial Treasurer. I am quite sure that he was appointed on my recommendation, and, at a later period and since the Union of the two Departments upon the succession of Mr. Snodgrass, Mr. Wm. Macvitie was appointed Junior Clerk upon a similar Application. Thus in the only three instances which have occurred for many years, viz., of one head Clerk and two Juniors, the situations have been filled up on the recommendation of the Treasurer. I appeal therefore to the uniform practice of a former and of the present Governor as deciding it to be my province to recommend to a situation, the confidential nature of the duties attached to it requiring that the individual appointed should be as closely united as possible to the head of his department.

Salary of  
head clerk.

I need scarcely add that it is equally necessary that the Salary of one, in whom almost unbounded trust must be placed, ought to correspond with the nature of his duties. The Head Clerk in the Treasury has always and I hope will Still continue to receive the highest rate of remuneration allowed by Colonial regulations.

I regret that I have occupied so much of your Valuable time, but I feel that I should not have done justice to myself, had I not entered fully into the reasons which induced me to recommend Mr. Hindmarsh.

1837.  
15 Nov.

I have endeavoured first to show that I have done ample Justice to Mr. Williams in recommending him promotion in his own Branch of the department, in which he has been bred and the duties of which he is competent to discharge, but that I consider him incompetent to discharge the duties of first Clerk in the Treasury.

Summary of arguments.

2nd that, in recommending Mr. Hindmarsh, I have done so upon a belief that he is every way competent to discharge the duties of the situation.

3rd that, in the appointment of Treasury Clerks, it has been the uniform practice of the Colonial Treasurer to recommend, And of the Governor to adopt such recommendation.

4th that the first Clerk in the Treasury has always been, and ought to be considered a Clerk of the first Class.

I have, &c.,

C. D. RIDDELL.

[D] COLONIAL SECRETARY THOMSON TO MR. C. D. RIDDELL.

Sir, Colonial Secretary's Office, 4th October, 1837.

Having laid before the Governor your Letter of the 27th September, I am directed to inform you that His Excellency sees nothing in the observations, which you have now Submitted, to lead him to vary from the decision on the Subject of the Appointment of a Successor to the late Mr. Wallace, as Chief Clerk in your Office, which I had the honor to communicate to you in my Letter of the 26th of last month.

Objections to proposals of C. D. Riddell.

The Governor does not deem it necessary to place in your Office a second person with the pay of the first Class of Clerks, one only is provided for on the Estimates of this year and for 1838.

His Excellency observes by your Report that Mr. Williams, your Second Clerk, is a deserving person and qualified to hold a first Clerk's place. He should therefore, I am directed to State, be promoted.

Sir Richard Bourke does not think it necessary or desirable to have two distinct sets of Clerks in one Office with a separate course of promotion in each. The Assignment of their respective duties to the several Clerks is the proper province of the Head of the Department; but, unless you Shew to His Excellency's satisfaction that there is no person now in your office capable of taking the duty discharged by the late Mr. Wallace, His Excellency must Object to the introduction of a new person to the first Class of Clerks to the prejudice of all now in the department.

I am further directed to inform you that the Governor does not think that the appointment of Clerks in an Office containing so large an Establishment as the Treasurer's can with propriety be left to that Officer; but His Excellency considers it proper that promotion should take its regular course in the Department as enjoined by the Regulations lately established unless impeded by some sufficient Cause, and that Vacancies should be filled by Appointments at the bottom of the list.

Promotion to be by seniority.

I have, &c.,

E. DEAS THOMSON.

1837.  
15 Nov.

[E] MR. C. D. RIDDELL TO COLONIAL SECRETARY THOMSON.

Sir,

Sydney, 6th October, 1837.

Objections by  
C. D. Riddell  
to appointment  
of A. Williams.

In reply to your Letter of the 4th instant just received, I beg to State for the information of His Excellency the Governor that I expressly pointed out, in my Letter to you of the 27th Ultimo, that I considered Mr. Williams incompetent to discharge the duties performed by the late Mr. Wallace, in as much as he was ignorant of them, on which Account it was that I had recommended a Stranger to the department, but one who had performed similar duties for Eight or Nine Years. These Observations must have escaped His Excellency, when He desired you to inform me that, unless I show to His Excellency's satisfaction that there is no person now in my Office capable of taking the duty of the late Mr. Wallace, he must Object to the introduction of a new person to the first Class of Clerks to the prejudice of all now in the department.

Request for  
reference to  
executive  
council or  
secretary  
of state.

But, as the View of the subject taken by the Governor strikes at once at the responsibility attached to the Office of Treasurer, I have the honor to propose, either that His Excellency will Submit the case to the decision of the Executive Council, or else that he will be pleased to allow the Office of first Clerk of the Treasury to remain vacant until the decision of the Secretary of State can be obtained.

I beg you will assure His Excellency that I can have no objection to any person appointed by him, provided my securities in England are released from their bonds. That, as this cannot be done without a reference to the Secretary of State, I request permission to withdraw my application for a first Class Clerk for the Treasury in the meantime, until the arrangement in England can be completed.

I have, &c.,

C. D. RIDDELL.

[F] COLONIAL SECRETARY THOMSON TO MR. C. D. RIDDELL.

Colonial Secretary's Office,  
Sydney, 13th October, 1837.

Sir,

Want of proof  
of incompetency  
of A. Williams.

I am directed by The Governor to inform you, in reply to your Letter of the 6th instant, that His Excellency has not overlooked any part of your Communication of the 27th Ultimo. Sir Richard Bourke observes your Statement that "you consider Mr. Williams incompetent to discharge the duties of first Clerk of the Treasury"; but His Excellency must add that you do not support your assertion by any reasonable proof. On the contrary, by recommending Mr. Williams for promotion to the Class of a first Clerk, you have borne favorable testimony to his Conduct and ability, and, in representing the duties which Mr. Williams worthily discharges to be various and extensive, you have certainly impressed his Excellency with the belief that Mr. Williams is not incapable of assuming the duties performed by the late Mr. Wallace.

It would therefore be a great injustice to a deserving Individual, and a direct breach of the regulations lately established, to put any person in the Treasurer's Office over the Head of Mr. Williams.

It only remains then to be enquired whether, to satisfy your inclination to bring a Stranger into the department, The Governor shall consent to charge the Public with the Salary of a second



person in the first Class of Clerks. Upon the best consideration His Excellency can give the Subject, it does not appear to him to be necessary, and the proposal conveyed to His Excellency by you in the Letter now under reply confirms him in this belief.

1837.  
15 Nov.

You observe that the View the Governor has taken of your Office strikes at the responsibility attached to it. And you seem to think that, on Account of the security given by you to His Majesty's Government, you are entitled to appoint the Treasury Clerks without reference to regulation or His Excellency's instructions. You desire that this Claim may be brought before the Secretary of State for decision, and, pending the reference, you request that the Office of first Clerk in the Treasury may be left Vacant. Although Sir Richard Bourke is well convinced that you are under great misapprehension on the subject in question, yet His Excellency will not decline acceding to your request, and consents to leave the Office Vacant until a reply can be obtained from the Secretary of State, to whom He proposes to make the necessary Communication without delay. It is however to be understood that The Governor expects you will take care that the Public Service in your Office does not suffer by the arrangement you have proposed. With this view and in order that the number of Clerks allowed for the department may be made complete, His Excellency will appoint one to the third class, and, if you think that either of the Extra Clerks now in Treasury employment is deserving of being placed on the permanent Establishment, you will be pleased to send him in his name.

Office to be vacant pending reference to secretary of state.

Establishment of treasury to be maintained.

The Governor directs me to add that you will please in your pay abstracts, whether fixed or Supplementary, to place the names of the Clerks in the department according to their Class and seniority in each class, in conformity to the new regulations, and without reference to the duties you may have assigned to them respectively.

Instructions *re* pay abstracts.

I have, &c..

E. DEAS THOMSON.

[Enclosure No. 2.]

[A copy of the letter from C. D. Riddell to Lord Glenelg, dated 24th October, 1837, is not available.]

[Enclosure No. 3.]

MR. C. D. RIDDELL TO COLONIAL SECRETARY THOMSON.

Sir, Colonial Treasury, 14 November, 1837.

I have the honor to State, in answer to your letter of yesterday's date, No. 78, and for the information of His Excellency the Governor, that:

Custody of public money and payments by treasury.

1st. The public Money in the Banks stands in the name of the Colonial Treasurer.

2d. No other person than myself draws cheques upon the public funds in the Banks. Mr. Wallace in my absence used to pay by cheques upon the Bank of Australia any sums, which might be required, which Sums I replaced to his credit by Colonial Treasurer's Cheques. On one occasion after a Severe illness when absent for about three weeks, I requested the Cashiers of the Banks to pay the Colonial Treasurer's cheques signed by Mr. Wallace.

3d. The Collectors of Revenue pay sometimes in cash, but generally by cheques on the Banks.

I have, &c..

C. D. RIDDELL.

1837.  
16 Nov.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 26, per ship Fergusson.)

Sir, Downing Street, 16 November, 1837.

Regret at  
result of resig-  
nation of Revd.  
T. Atkins.

I have received Sir Richard Bourke's dispatch No. 38 of the 4th June, and I sincerely regret to find that my endeavour to provide the Prisoners at Norfolk Island with a Protestant Chaplain qualified for the office has failed, owing to the resignation of the Revd. T. Atkins, who had recently undertaken this charge.

Chaplain to  
be procured  
for Norfolk  
island.

Deeply impressed with the importance of securing to this Settlement the services of an efficient Protestant Chaplain, I shall renew my endeavours to find a Clergyman qualified for the employment and willing to undertake it; but you are aware from the previous correspondence on record on this subject that the greatest difficulty has hitherto existed in accomplishing this object.

Employment  
of Revd.  
T. Sharpe.

I am happy to find that, with the sanction of the Bishop of Australia, Mr. Sharpe's services will be for a time available at Norfolk Island, and I cannot but entertain the hope that, considering the extent of the evil likely to arise from the continued absence of religious instruction among the Prisoners confined there, some arrangement may be made by the Bishop for supplying the deficiency, should Mr. Sharpe be obliged to return to his former District before I shall have been able to provide a Successor to Mr. Atkins.

Reports  
required re  
Norfolk island.

With reference to this subject, I have to call your attention to my dispatch No. 91 of the 26th Decr., 1835. In case Sir Richard Bourke should not have transmitted to me, before his departure, the report there required, I have to request that you will at your earliest convenience procure and forward to me the information for which I felt it my duty to call, with your own opinion on the subject.

I have, &c.,

GLENELG.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 113, per ship North Briton; acknowledged by Lord Glenelg. 13th June, 1838.)

My Lord, Government House, 16th November, 1837.

Transmission of  
memorial from  
J. T. Morisset.

At the request of Lt. Colonel Morisset, formerly Commandant at Norfolk Island, but now, in consequence of ill health affecting him at that Settlement, retired from the Service and become a resident in the Colony, I have the honor to transmit a Memorial praying for the confirmation of a Grant of Land formerly allowed to him, but resumed in consequence of his

appointment at Norfolk Island being considered Military, his name being returned as on the Garrison Staff of the Command. Lt. Colonel Morrisset considers this Grant was merely in abeyance whilst he continued in Military employment, and that, having now retired from the service, he should be allowed to select land to an equal extent. It is upon this point that the decision of Your Lordship is requested, and I beg leave to refer you to the statement of the Memorialist in support of his claim. I should add that since the retirement of Lieut. Col. Morrisset he has been allowed to claim a remission of £300 in the purchase of Land as a retired Military officer under present Regulations, of which he has as yet availed himself to the amount of £182 only.

1837.  
16 Nov.

Request by  
J. T. Morrisset  
for land grant.

Remission in  
purchase money  
granted.

Lieut. Col. Morrisset is a settler of integrity and intelligence, and an efficient Justice of the Peace in his district. He has a family increasing in numbers, and I regret to state he represents his means to be inadequate to their proper maintenance and education. If his case should be thought to admit of favorable consideration, the liberality of His Majesty's Government will not be bestowed upon an unworthy character.

Testimony in  
favour of  
J. T. Morrisset.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

THE Humble Memorial of James Thomas Morrisset, of Bathurst, in the Colony of New South Wales, a retired Lieutenant Colonel of His Majesty's Army, and now a Settler in the said Colony,

Memorial of  
J. T. Morrisset  
soliciting  
land grant.

To the Right Honorable the Principal Secretary of State for the Colonial Department, etc., etc., etc.

Sheweth,

1. That your Memorialist arrived in the said Colony in the year 1817, with the rank of Brevet Major, and holding a Captain's Commission in His Majesty's 48th Regiment of Foot.

2. That, in the year 1818, your Memorialist was appointed by the Colonial Government to the office of Commandant of the Township and district of Newcastle, in the said Colony; the duties whereof he continued to discharge until the year 1823, when he was removed to the like charge for the township and district of Bathurst; in which charge he remained until the year 1825, when he quitted the said Colony for England on leave of absence.

3. That, in the year 1827, your Memorialist returned to the said Colony, with the appointment from the Right Honorable the Secretary of State of Commandant of the Penal Settlement of Norfolk Island, which appointment united civil office with military command.

4. That, in consequence of some doubt entertained by Governor Darling as to the functions appertaining to your Memorialist's said appointment, that Officer detained your Memorialist in Sydney until His Excellency could communicate upon the subject with the Right Honorable the Secretary of State.

1837.  
16 Nov.  
Memorial of  
J. T. Morisset  
soliciting  
land grant.

5. That, pending the said communication, your Memorialist was appointed to the office of Principal Superintendent of Police for the Town and District of Sydney, the duties of which he continued to discharge until the year 1829.

6. That, up to the time of your Memorialist's return from England as aforesaid, he had never received from the Government any Grant of Land whatsoever; and, conceiving that his long and faithful services in the Colony had entitled him to an indulgence which had been denied to no other Officer of equal rank and standing, he applied to His Excellency Governor Darling, by letter dated the 6th December, 1827, for permission to select a maximum Grant of two thousand five hundred and sixty (2,560) Acres.

7. That, in reply to the said Application, your Memorialist received a letter from the Honorable the Colonial Secretary, dated the 22 January, 1828, informing him, by direction of His Excellency the Governor, that, on applying to the Surveyor General, he would receive a written authority to select the quantity of land named in his application according to the Regulations of 5 September, 1826. (*Vide Appendix A.*)

8. That, in pursuance of the said authority, your Memorialist selected the aforesaid quantity of land at a place called "Yangy Gangy," and, the selection being approved and confirmed by the Government, he received a letter from the Honorable the Colonial Secretary, dated the 23rd August, 1828, communicating, by direction of the Governor, His Excellency's sanction to his taking possession of the said land, and to his retaining the same until His Majesty's pleasure should be made known on the subject, or until a regular Deed of Grant should be made out in his favour. (*Vide Appendix B.*)

9. That your Memorialist accordingly took possession of the said land, but, discovering soon after that another individual had an equitable claim thereto prior to your Memorialist's selection, he applied to the Government, by letter dated the 20th October, 1828, stating the circumstances, and expressing his willingness to relinquish the land, provided he might be permitted to make another selection in lieu thereof.

10. That, in reply to the said communication, your Memorialist received a Letter from the Honorable the Colonial Secretary, dated the 27th October, 1828, informing him, by direction of the Governor, that, in consideration of the said circumstances, His Excellency had been pleased to allow him to make another selection, as requested, within four months from that date. (*Vide Appendix C.*)

11. That, in pursuance of the said authority, your Memorialist made his selection at the Wolondilly River, in the County of Argyle, and reported the same to the Surveyor General by letter dated the 14th November, 1828; but, being informed that the land so selected was reserved for Government purposes your Memorialist forthwith made and reported a third selection, which was nullified by the circumstances hereinafter stated.

12. That, in reply to his last mentioned application, your Memorialist received a letter from the Honorable the Colonial Secretary, dated the 18 December, 1828, informing him, by direction of His Excellency the Governor, that, as he had not been confirmed in his civil appointment as an Officer in the Military service, he could not, consistently with the Regulations, be allowed to receive land. (*Vide Appendix D.*)

1837.  
16 Nov.

Memorial of  
J. T. Morisset  
soliciting  
land grant.

13. That, immediately before the said letter was written, the Governor had received instructions from the Secretary of State to detain your Memorialist no longer from his duties as Commandant of Norfolk Island; and, by the civil appointment in which he had "not been confirmed," your Memorialist believes that His Excellency meant his temporary appointment of Principal Police Magistrate of Sydney.

14. That, being of opinion that the Governor had not taken a correct view of his claim to a Grant of Land, your Memorialist requested that His Excellency would be pleased to refer the same to the decision of the Right Honorable the Secretary of State; and, His Excellency having complied therewith, your Memorialist was informed, by a Letter from the Honorable the Colonial Secretary, dated the 5th July, 1830, that the Secretary of State had signified in reply, that the Rule, which had been laid down in the case of Military Officers, must prevent his receiving land while he held a military situation; and it was therefore added that the land, previously authorised to your Memorialist, and the authority, which he had subsequently received to make a fresh selection in lieu, had been cancelled accordingly. (*Vide Appendix E.*)

15. That, in respect to his appointment as Commandant of Norfolk Island, your Memorialist begs most respectfully to solicit your Lordship's attention to a distinction upon which the applicability in his case of the rule above referred to would seem principally to depend; namely, that, although he held both a civil and a military Commission, *he received pay only as a civil Officer, his Military Command being attended with no emolument whatsoever*, and being conferred merely as an Appendage to his civil functions, from motives of convenience and economy to the Government; hence, he most respectfully submits for the consideration of your Lordship, whether, under those circumstances, he could with propriety be said to "hold a military situation" in the legitimate acceptation of the phrase?

16. That, in consequence of a violent nervous disorder, induced by arduous exertion in the discharge of his official duties, your Memorialist was obliged, in the year 1834, with leave of absence, to remove from Norfolk Island to New South Wales; and, in the subsequent year, finding that his health continued too infirm to justify his returning to the Island, he felt it his duty to tender his resignation, which was accordingly accepted.

17. That, under these circumstances, your Memorialist is induced to appeal to your Lordship's known justice and liberality for the redress of what he cannot but consider a real grievance to himself and family; in confirmation whereof, he begs most respectfully to submit the following summary of his case, *Vizt.* :—

(1) That he has served the Colonial Government faithfully and zealously for a long series of years, and in some of the most responsible and important offices.

(2) That, during the whole period of his residence in the Colony, now nearly twenty years, he has never received a single grant of land, nor any other indulgence whatsoever from the Government; and he believes he would be found justified in stating that every other Officer in the Colony, of rank and standing at all similar to his own, has received such indulgences to a liberal extent.

(3) That not only was your Memorialist's claim to a Grant of Land recognised and admitted by the Government of General

1837.  
16 Nov.

Memorial of  
J. T. Morisset  
soliciting  
land grant.

Darling, but he actually received *regular possession* of a Grant of two thousand, five hundred and sixty (2,560) Acres, which was spontaneously relinquished by himself from a sense of justice to a private individual.

(4) That, although at the time when his claim was ultimately disallowed, your Memorialist did certainly hold a military Commission, he yet derived no pecuniary advantage therefrom, his salary being paid to him exclusively as a *civil Officer*.

(5) That the decision of the Right Honorable the Secretary of State would seem indirectly to admit your Memorialist's claim upon its own merits, since his incapacity to receive Land is therein limited to the period of his "holding a military situation," implying, as appears to your Memorialist, that, when he should *cease* to hold such a situation, his claim would be unobjectionable.

Wherefore your Memorialist humbly prays that your Lordship will be pleased to take the premises into your favorable consideration, and authorise and instruct His Excellency the Governor of New South Wales to grant to your Memorialist two thousand, five hundred and sixty (2,560) Acres of Land, being the quantity originally located to your Memorialist by the Colonial Secretary's Letters of 23 August and 27th October, 1828.

And your Memorialist will ever pray, etc., etc., etc.

J. T. MORRISSET.

Sydney, New South Wales, 22 June, 1837.

[Appendix A, referred to in Paragraph 7.]

COLONIAL SECRETARY MACLEAY TO MR. J. T. MORRISSET.

Sir, Colonial Secretary's Office, Sydney, 22 January, 1828.  
With reference to your application for a Grant of Land, dated the 6 December, 1827, I am directed by His Excellency the Governor to inform you that, on applying to the Surveyor General, you will receive a written authority (for which you will pay him a Fee of 2s. 6d.) to select Two thousand, five hundred and sixty Acres, according to the Regulations of 5th September, 1826.

Order to  
select land.

When you have made the selection, you will be pleased to apprise the Surveyor General, by Letter, of the situation of the Land; adding such a description of the Boundaries, and other particulars as will enable that Officer to include your name in his first subsequent Half-monthly Return, and to report, for the Governor's information, whether there be any objection to your obtaining the spot selected.

You will be pleased to observe that the present order is only for Authority to select, which gives no power to take possession of Land; and that the Selection must be made and notified to the Surveyor General within four Months from the date of this Letter; otherwise the order now given will be null and void.

If the selection be approved of by His Excellency, you will afterwards receive from this Office a written authority (in which the Conditions will be specified) to take possession of the Land, and retain the same as a Primary Grant until His Majesty's Pleasure be made known on the subject, or until a regular Deed of Grant be made out in your favour.

But it is to be understood that you are to employ a free Overseer in charge, and to conform to such other conditions as may be imposed on other civil Officers.

I have, &c.,

ALEXR. MCLEAY.

[Appendix B, referred to in Paragraph 8.]

COLONIAL SECRETARY MACLEAY TO MR. J. T. MORRISSET.

Sir, Colonial Secretary's Office, Sydney, 23 August, 1828.  
The Surveyor General having, in his Report of the 1/15 May, 1828, stated that, in pursuance of the authority given to you by His Excellency the Governor, you have selected Two thousand five hundred and sixty Acres of Land, situated in an unnamed County and parish, being the Stock Station at present occupied by Mr. Percy Simpson about seven Miles in a North westerly direction from Mr. Hely's farm at Yandy Gangy, I am directed to communicate to you His Excellency's sanction to take possession of the said Two thousand five hundred and sixty acres of Land, and to retain the same until His Majesty's pleasure be made known on the subject, or until a regular Deed of Grant be made out in your favour.

Possession  
granted of  
land selected.

If the Grant be confirmed, the Land is to be held by you in free and common Soccage on the following conditions.

1837.  
16 Nov.

1st. You are to pay a Quit rent to the Crown of Five per Cent. per annum on the value of the Land, which is to be hereafter fixed by the Commissioners appointed for that purpose.

2. The payment of the Quit-rent is not to commence until the end of seven years from this date; but, within that period you must expend in Improvements on the Land a sum equal to one fourth of the value, estimated by the Commissioners, under the penalty of forfeiting the Grant.

Conditions for  
land grant.

3. The Quit-rent is to be redeemable at your option, on a payment to the Colonial Treasury of a sum equal to twenty years' purchase, provided such payment be made within twenty years after the date and execution of the Grant.

4. The Land is not to be alienable, under any pretence whatever, before the expiration of seven years from this date, nor until the sum above stipulated to be laid out in improvements shall have been actually expended on the said land.

5. The Crown reserves to itself the Right of making and constructing such Roads and Bridges on the Land, herein described, as may be necessary for public purposes; and also the right to such indigenous Timber, Stone, and other Materials, the produce of the Land, as may be required for making and keeping the said Roads and Bridges in repair.

6. You must either reside on the Land, or employ, in the immediate charge of it, as Agent or Manager, a free Man, of approved character and respectability.

I have, &c.,  
ALEXR. MCLEAY.

[Appendix C, referred to in Paragraph 10.]

COLONIAL SECRETARY MACLEAY TO MR. J. T. MORISSET.

Sir, Colonial Secretary's Office, 27 October, 1828.

I am directed by the Governor to inform you that, in consideration of the circumstances stated in your Letter of the 20th Instant, His Excellency has been pleased to allow you to make another selection of Two thousand five hundred and sixty Acres, in lieu of the like quantity which you were authorised to take possession on the 23 August.

Authority to  
select land.

It will therefore be necessary for you to attend the Surveyor General for the usual authority to select the Land within four months from this date, of which that Officer has accordingly been apprised.

I have, &c.,  
ALEXR. MCLEAY.

[Appendix D, referred to in paragraph 12.]

COLONIAL SECRETARY MACLEAY TO MR. J. T. MORISSET.

Sir, Colonial Secretary's Office, 18 December, 1828.

With reference to your application of 15 November for (2,560) Two thousand five hundred and sixty acres of Land in Argyle, and to the Governor's personal communication with you on the subject, I am now directed by His Excellency to inform you, since you have not been confirmed in your civil appointment, that as an Officer in the Military Service, you cannot consistently with the Regulations be allowed to receive Land, of which the Surveyor General has been duly apprised.

Refusal of  
land grant.

I have, &c.,  
ALEXR. MCLEAY.

[Appendix E, referred to in paragraph 14.]

COLONIAL SECRETARY MACLEAY TO MR. J. T. MORISSET.

Sir, Colonial Secretary's Office, Sydney, 5 July, 1830.

With reference to your Letter of the 15 May, 1829, relative to your Application requesting that the question of your eligibility to receive Land might be referred to His Majesty's Government, and that, in the meantime, you might be permitted to retain the Two thousand five hundred and sixty Acres near Yangy Gangy, of which you received authority to take possession on the 28 August, 1828, but subsequently relinquished for another selection, upon the notification of which you were informed that, being a Military Officer and not confirmed in a civil situation, you could not be allowed to retain land.

Cancellation  
of orders to  
select land.

I have now the honour by direction of the Governor to inform you that the Secretary of State (to whom your Application was agreeably to your request referred) has signified in reply, by Despatch dated the 17th December, 1829, No. 180, that the Rule which has been laid down in the case of Military Officers must prevent your receiving Land while you hold a Military Situation; and I am therefore commanded to add that the Land authorised for you as above, and the authority, which you subsequently received to make a fresh selection in lieu, have been cancelled accordingly, of which the Surveyor General and the Collector of Internal Revenue have been duly apprised.

I have, &c.,  
ALEXR. MCLEAY.

1837.  
17 Nov.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 27, per ship Fergusson.)

Despatch  
acknowledged.

Sir, Downing Street, 17 November, 1837.

I have the honor to acknowledge Sir Richard Bourke's dispatch No. 32 of the 18th May with an Extract from the Minutes of the Executive Council, recommending Dr. Bowler the Assistant Surgeon of Her Majesty's Ship Rattlesnake for promotion in consideration of the services which he rendered to the Emigrants of the Ship "Lady McNaghten."

Promotion of  
J. W. Bowler.

I have the satisfaction of informing you that the Lords Commissioners of the Admiralty have promoted Mr. Bowler to the rank of Surgeon in the Royal Navy.

I have, &c.,  
GLENELG.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 114, per ship North Briton; acknowledged by lord Glenelg, 13th June, 1838.)

Application by  
F. Mathew for  
land grant.

My Lord, Government House, 17th November, 1837.

I have the honor to transmit the application of Mr. Felton Mathew for a Grant of Land. The circumstances of his case are novel, and I felt with regret I was precluded by Instructions from acceding to his request; but I can confidently recommend the applicant to your Lordship's favor as an officer of great intelligence and unwearied diligence, to whom the people of Sydney are specially indebted for the rapid improvements which have been made in their streets since he became Town Surveyor.

Testimony in  
favour of  
F. Mathew.

I have, &c.,  
RICHD. BOURKE.

[Enclosure.]

Memorial of  
F. Mathew  
soliciting land  
grant as  
marriage por-  
tion for wife.

THE Memorial of Felton Mathew, Town Surveyor of Sydney in New South Wales.

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

Respectfully sheweth;

That your Memorialist arrived in New South Wales in December, 1829, holding the appointment of Assistant Surveyor; and, after being actively employed for five years on the Trigonometrical Survey of the Colony, and the measurement of Lands in the Interior, was, in January, 1835, promoted to the Office of Town Surveyor of Sydney, which latter appointment he still holds.

That, previous to leaving England, your Memorialist was engaged to be married to his Cousin, Miss Mathew, but was unwilling to solicit her to accompany him, until he should have obtained personal experience of the nature of the country to which he was proceeding.

That, having obtained that experience, however, he wrote home to Miss Mathew, and entreated her to follow him. That she



arrived accordingly in January, 1832, and was immediately married to Memorialist at St. James's Church, Sydney.

That, at the time of his so writing, and one inducement for his so doing was the Regulation then in force for giving Land to Ladies upon their marriage; in accordance with which the wife of your Memorialist would have been entitled to a Grant of Twelve Hundred and Eighty (1,280) acres.

That, under that Regulation, the wives of several Officers of the same Department as Memorialist obtained such Grants, although their engagements were of much more recent standing.

But that, while Miss Mathew was on her passage to this Colony, and about one fortnight only before her actual arrival, orders were received by the Colonial Government for the discontinuance of the Regulation in question.

That, in the Regulations recently published relating to additional Grants, her Majesty's Government has distinctly recognised the principle that all expectations ought to be fulfilled, under which persons have been induced to leave England.

That it is evident Mrs. Mathew left England in the expectation of receiving the same Grant, which had been bestowed on others in similar circumstances, and, as many eligible spots then open have since been selected, has suffered much disappointment and loss in not having hitherto obtained it.

That your Memorialist prays therefore that she may be now permitted to select the quantity to which she would have been entitled, had the Regulation continued in force, under which she was induced to leave England.

And your Memorialist, as in duty bound, shall ever pray, etc.

FELTON MATHEW, Town Surveyor.

Sydney, N. S. Wales, 26th November, 1837.

#### SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 116, per ship North Briton; acknowledged by Lord Glenelg, 4th June, 1838.)

My Lord, Government House, 17 November, 1837.

I have the honor to transmit a Petition from William Buckley,\* formerly of the 4th Regiment of Foot, and transported to these Colonies nearly forty years ago. Shortly after his arrival he absconded, when at Port Phillip with Major Collins, and remained as he relates for thirty-two years with a native tribe of the district, by whom he was adopted. Upon the appearance of Mr. Batman on the shores of Port Phillip, Buckley made himself known to his countrymen, to whom he rendered some service as an interpreter and mediator between them and the aborigines. He obtained presents and a salary of seventy five pounds a year from the Port Phillip Association, which salary is continued to him by this Government. He asks in addition for a Grant of Land, and appears to apprehend destitution in his old age. He has, however, been very carefully attended to, and provided with everything needful; and, as his services with the

1837.  
17 Nov.

Memorial of  
F. Mathew  
soliciting land  
grant as  
marriage por-  
tion for wife.

Transmission of  
petition from  
W. Buckley.

Career of  
W. Buckley.

Salary granted  
to W. Buckley.

\* Note 54.

1837.  
17 Nov.

Pension  
recommended.

aborigines are sometimes required at a great distance from the Settlement, he has had a horse given to him. I believe he would wish in future to be exempted from any duty; and, as he is growing old and in consequence of the services he has rendered as an interpreter and mediator, I beg leave to recommend that he be allowed a Pension of One Hundred Pounds a year, and a gratuity of one year in advance.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

MEMORIAL OF W. BUCKLEY.

Memorial of  
W. Buckley  
soliciting  
land grant.

To His Excellency Lieutenant General, Sir Richard Bourke,  
Governor of New South Wales, etc., etc., etc.

THE Humble Petition of William Buckley of Port Phillip, praying that he may receive the indulgence of a Grant of Land or such other assistance as to Your Excellency may seem fitting, in order that your Petitioner may not in his old Age be reduced to distress. Your Petitioner presumes not to make this request on the ground of his own deserts, but on the circumstance of his having, during a period of Thirty two Years, resided amongst the Natives of Port Phillip, without ever having during that period seen a White man. And also Your Petitioner respectfully Sheweth that, on the arrival of the party who first commenced sending Stock and Settling on the Said Territory of Port Phillip, Your Petitioner was instrumental in explaining the nature and object of their being there, and by this means inducing an amicable understanding between them. That Your Petitioner, from his Age and his having been separated from Civilized Life during Thirty-two Years, is unable to gain his livelihood as others are: and further he has (by joining his Countrymen) so far displeased his adopted Countrymen during Thirty-two Years, the Natives of Port Phillip, that he could not with that Safety, comfort, or Satisfaction (which he heretofore enjoyed) again join them; he therefore most earnestly and respectfully entreats the humane consideration of Your Excellency to his very peculiar case. And your Petitioner, as in duty bound will ever pray.

[Unsigned.]

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 28, per ship Fergusson.)

18 Nov.

Memorial  
received from  
W. Barton.

Sir, Downing Street, 18th November, 1837.

I have received Sir Richard Bourke's dispatch No. 41 of the 7th June last, transmitting the Memorial of Mr. William Barton praying for a Grant of Land in New South Wales.

I can perceive no reason for departing from the Earl of Ripon's decision on this case. The distinction, which Sir Richard Bourke has pointed out between this case and that of Mr. Dawson, to which reference is made by the Memorialist, appears to me conclusive.

Reasons for  
confirming  
previous  
refusal of  
land grant.

Mr. Barton, with a view to his own interest and not on any public ground whatever, deliberately abstained from applying for land until the Regulations were altered.

The condition was indeed imposed on him by his Employers, the Australian Agricultural Company; but to this arrangement with that Body the Government were in no sense parties. Mr. Barton has had the benefit of the terms, which he made with them and now asks to be relieved at the Public expense from the inconvenience to which those terms subjected him. Mr. Barton indeed urges that he confidently expected the Regulations would remain unchanged during the whole term of his engagement with the Company. It is however unquestionable that no pledge to this effect was given by the Government, nor could a continued adherence for any lengthened period have been reasonably anticipated to a system little adapted to a more advanced condition of the Colony.

1837.  
18 Nov.  
Reasons for confirming previous refusal of land grant.

I am the more anxious not to establish unadvisedly a precedent of concession in Mr. Barton's case, when I observe what weight is attributed by that Gentleman to the supposed precedent afforded by the case of Mr. Dawson, altho' very materially different from his own. When so much importance is attached to any measure of the Government respecting land, it is indispensable that they should act with the utmost circumspection on that subject.

Disinclination to establish precedent.

I have, &c.,  
GLENELG.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 115, per ship North Briton; acknowledged by lord Glenelg. 10th August, 1838.)

My Lord, Government House, 18th November, 1837.

At the request of Mr. Anderson, a retired Naval Surgeon, and now Colonial Surgeon in New South Wales, I have the honor to transmit for your Lordship's consideration the copy of a letter addressed by him to the Secretary of this Government. I have at the same time great pleasure in bearing testimony to the excellent character and conduct of Dr. Anderson, and to the zeal and intelligence with which he has discharged his professional duties for the last six years almost under my eyes at Parramatta. Doubtless there may be other cases in which considerable merit may be brought forward in support of similar claims by Colonial Surgeons, and possibly as strong an inclination and as sufficient a motive to retire. It will therefore be for your Lordship's consideration whether it might not be advisable to establish some scale of retiring allowance for Colonial Medical officers in New South Wales to be paid from the Convict Fund. I transmit a Return of the Pay and Allowances of those officers. In concluding this despatch I would briefly repeat the opinion I have

Transmission of letter from M. Anderson.

Testimony in favour of M. Anderson.

Retiring allowances proposed for colonial medical officers.

1837.  
18 Nov.  
Necessity for  
appointment of  
army surgeons.

formerly expressed that, as the head of the Colonial Hospitals in New South Wales is an officer of the Army Medical Department, it has become not merely expedient but almost necessary to place the whole of these establishments under Army Surgeons and Assistant Surgeons.

I have, &c.,

RICHD. BOURKE.

[Enclosures.]

[Copies of these papers are not available.]

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch marked "Separate," per ship Fergusson.)

20 Nov.  
Letter received  
from J. Lamb.

Sir, Downing Street, 20 November, 1837.

With reference to my despatch of this date No. 29, I have to acquaint you that I have received a communication from Mr. J. Lamb, bearing date the 14th June last, in which he adverts to the fact that it had been intimated to him by the Colonial Secretary that the Governor declined to hold further correspondence with him and encloses duplicates of the correspondence, which accompanied Sir Richard Bourke's despatch, No. 53.

Communication  
for J. Lamb.

You will have the goodness to acquaint Mr. Lamb that his complaint was forwarded by Sir Richard Bourke on the 26th June last; and you will exercise your own discretion as to the extent to which it may be right to communicate to Mr. Lamb the observations on his complaint contained in my answer to that despatch.

I have, &c.,

GLENELG.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 29, per ship Fergusson.)

Despatch  
acknowledged.

Sir, Downing Street, 20 November, 1837.

I have received your Predecessor's despatch No. 53 of the 26th June last, with the representation therein enclosed from Mr. John Lamb, on the subject of the withdrawal of his assigned servant William Elliot.

Regret at  
withdrawal  
of assigned  
servant from  
J. Lamb.

I cannot but regret that Mr. Brennan, the Acting Principal Superintendent of Convicts, and Mr. Holder, the Police Magistrate, should have adopted the measure of removing Mr. Lamb's assigned servant without awaiting the previous instruction of the Governor.

It was the exercise of an authority which was, to say the least, doubtful, and the delay of waiting for the authority of the Governor would have been attended with no apparent inconvenience.

It appears to me, on the evidence before me, that Sir Richard Bourke judged rightly in confirming the removal of the Convict

when the fact was brought to his knowledge. Perhaps it would have been more judicious to have complied with Mr. Lamb's request and to have afforded him an opportunity of knowing and controverting the grounds of the proceeding. Sir Richard Bourke's offer of another assigned servant in the place of the man so withdrawn ought, I think, to have been accepted by Mr. Lamb in a more conciliatory spirit and as a proof that no injury was meditated against him.

1837.  
20 Nov.

Approval of  
action of  
Sir R. Bourke.

Mr. Lamb's construction of the communication made to him respecting the temporary restoration of Elliot's services seems to me unreasonable, and might not unnaturally lead to a determination on the part of Sir Richard Bourke to decline all further correspondence with him on the subject. That determination, however, cannot but be regretted as having afforded Mr. Lamb at least a plausible ground of complaint. To a certain extent, indeed, it is justified by Mr. Lamb's implied menace of resorting to the legal Tribunals for redress.

Refusal by  
Sir R. Bourke of  
correspondence  
from J. Lamb.

In the present state of the question, it does not appear to me that there is any ground for my interference. If Mr. Lamb is prosecuting his legal remedies, it will of course be impossible to interfere pending the trial of the Action. If he has not resorted to those means of obtaining redress, then it would seem desirable that you should place Mr. Lamb in possession of the grounds of Sir Richard Bourke's proceeding; that you should receive and consider any refutation of those grounds which Mr. Lamb may offer, and should then adopt whatever decision you may find just respecting the future disposal of the Convict Elliot.

Instructions for  
adjustment of  
complaint.

I have, &c.,

GLENELG.

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SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 117, per ship North Briton; acknowledged by lord Glenelg, 13th June, 1838.)

My Lord, Government House, 20th November, 1837.

At the request of Mr. Jeffrey, a Landing Waiter at Sydney, I have the honor to transmit his Memorial for a Grant of Land, addressed to Your Lordship. Mr. Jeffrey states all the particulars of his case, of which I have no reason to doubt the correctness as far as they relate to himself; but I have no knowledge of an officer similarly circumstanced having received a Grant within the period of my Government.

Transmission of  
memorial from  
T. Jeffrey.

I should add that Mr. Jeffrey is a very diligent and useful officer and a gentleman of unexceptionable character.

I have, &c.,

RICHD. BOURKE.

1837.  
20 Nov.

Memorial of  
T. Jeffrey  
soliciting  
land grant.

[Enclosure.]

THE Memorial of Thomas Jeffrey, Landing Waiter in Her Majesty's Customs at the Port of Sydney, New South Wales,  
To the Right Honorable Lord Glenelg, Secretary of State for the Colonies.

Humbly Sheweth,

That your Memorialist was appointed by the Right Honorable the Lords of the Treasury in the month of August, 1830, and arrived in the Colony in May, 1831, and immediately entered on the duties of his office. At the time your Memorialist received his appointment, it was usual to allow emigrants of respectability Grants of Land on their arrival in the Colony, and it was under this impression that your Memorialist sought an appointment in New South Wales: but your Memorialist, to his regret, was given to understand on his reaching the Colony that he could not receive a Grant of Land while he held his present appointment. Your Memorialist has, however, subsequently learnt that Grants were given to the Civil Officers of the Colony similarly circumstanced with your Memorialist. He therefore submits to your Lordship his claim to be considered as entitled to share in the advantages, which other Officers derived from their emigration, in conformity with the practice existing in the Colony.

Your Memorialist would further beg to state that he incurred an expense of One Hundred and Seventy five Pounds for the passage of himself and wife to Sydney, without receiving the moiety of his Salary from the date of embarkation to that of his arrival, and which he was led to suppose would be paid, as your Memorialist was appointed to supersede an Acting Officer, who was allowed Two Hundred and Fifty Pounds for the performance of the duties until the arrival of your Memorialist, whose salary was fixed at Three Hundred Pounds per annum. And your Memorialist therefore submits that being deprived of this assistance, which is generally allowed to Officers proceeding to the Colonies to fill vacancies, adds to his claim to your Lordship's favorable consideration of his present application to be allowed a Grant of Land.

And your Memorialist, as in duty bound, shall ever pray.

THOS. JEFFREY.

Custom House, Sydney, 4th November, 1837.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 118, per ship North Briton; acknowledged by lord Glenelg, 30th August, 1838.)

21 Nov.

My Lord, Government House, 21st November, 1837.

Interest  
received by  
officials on  
public money  
deposited  
in banks.

My attention having been drawn to the fact of interest at 4 per cent. being allowed by the banks of Sydney on deposits, I called upon the officers in collection of Revenue under this Government to report the amount of interest received by them to the 31st December of the last year, on account of public money lodged by them in the banks previously to paying into the Treasury at the regulated periods. I have the honor to transmit the

replies of the Collector of Internal Revenue, Collector of Customs, and Post Master General.

1837.  
21 Nov.

I directed those officers to be informed that, as neither the Treasury Instructions of the 9th June, 1826, nor any other Instructions from His Majesty's Government, authorise their receipt of the interest in question, I propose to request the commands of the Secretary of State for the Colonies on the subject. In the meantime, the officers are held answerable to this Government for the amount of interest they receive, and are to be ready to pay it into the Colonial Treasury when called upon.

Interest received by officials on public money deposited in banks.

Your Lordship is aware that two and a half per cent. is allowed by the banks upon the public monies left by the Colonial Treasurer in their hands, the amount of which is placed to the credit of the public.

Interest on money deposited by treasurer.

I have the honor to request your Lordship's instructions.

I have, &c.,

RICHD. BOURKE.

[Enclosures.]

[Copies of these papers are not available.]

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 119, per ship North Briton; acknowledged by lord Glenelg, 30th June, 1838.)

My Lord, Government House, 22nd November, 1837.

22 Nov.

In reply to your Lordship's despatch of the 26th May last, marked *Separate and Confidential*, I have the honor to state that with reference to the concluding paragraph I caused a notice\* to be inserted in the Government Gazette, of which I transmit a copy.

Despatch acknowledged.

Referring to your Lordship's enquiry as to the number of Convicts who may be profitably employed upon the Public Works in this Colony, I have the honor to transmit the copy of a Memorandum from Major Barney, Commanding Royal Engineer on this station. I concur entirely in the opinion expressed by this officer, having no doubt that from four to five thousand convicts might be immediately and profitably employed on works of great importance to the welfare and security of the Colony.

Number of convicts required on public works.

To subject this enlarged number of Convicts in public employ to an efficient control, which is another branch of Your Lordship's enquiry, will require the constant presence of another Regiment of Infantry, if the present system of Military surveillance, which I have lately adopted, be approved and continued.

Additional regiment required.

I am indeed convinced that the Colony does not possess the means of furnishing any adequate number of civilians to keep

\* Note 55.

1837.  
22 Nov.

Advantage of  
supervision  
of convicts  
by military.

the working gangs in proper control, and that the employment of Military officers as Assistant Engineers, and of non-commissioned officers and Soldiers as Overseers and Guard is at once the cheapest and most efficient arrangement that can be effected here. I would add that under this system ten thousand convicts might be employed with great benefit to this Colony; but I apprehend the increased charge on the British Treasury would be considered excessive. Nor do I think the Colonists would willingly contribute to this enlarged expenditure on Public Works in the proportion they now bear, if at the same time the expenses of Gaols and Police be borne by them, and the whole produce of the Land Revenue be applied to Immigration.

Proposed  
abolition of  
assignment  
of convicts.

The abolition of Assignment to private service will therefore necessarily limit the transportation of offenders to this Colony to an amount probably not exceeding one sixth of the number usually sent out. If the abolition be resolved on, it should without doubt be *gradual*, as the sudden interruption of the accustomed supply of labour would occasion much distress. Early notice of the intention to contract the supply should be given to this Government, that regulations may be introduced for diminishing assignments upon equitable principles.

I have, &c.,

RICHD. BOURKE.

[Enclosures.]

[A copy of the memorandum is not available.]

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 31, per ship Fergusson.)

23 Nov.  
Despatch  
acknowledged.

Sir,

Downing Street, 23 November, 1837.

I have received Sir Richard Bourke's despatch No. 46 of the 15th June last, proposing the retention of Mr. Kinchela on the Bench in the event of a fourth Judge being appointed for New South Wales.

Inability  
to appoint  
J. Kinchela  
as judge.

On the subject of the appointment itself, I shall again address you when I shall have had an opportunity of conferring with the Lords Commissioners of the Treasury. But, with regard to the nomination of Mr. Kinchela to that office, I think it right to communicate to you my sentiments without further delay in order that you may not, in consequence of Sir Richard Bourke's recommendation, omit to avail yourself of any other suitable opportunity of providing for Mr. Kinchela.

Entertaining as I do the highest respect for Mr. Kinchela, I am yet constrained to say, and I say it with very sincere regret,



that I regard the peculiar infirmity under which he labors to be an insuperable obstacle to his employment on the Bench. I cannot, therefore, hold out the expectation that it will be in my power to recommend him to Her Majesty as the 4th Judge, should such an appointment take place.

I have, &c.,

GLENELG.

1837.  
23 Nov.

Inability to appoint J. Kinchela as judge.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 120, per ship North Briton.)

My Lord, Government House, 23rd November, 1837.

I have the honor to acknowledge the receipt of your Lordship's despatch of the 14th February, 1837, No. 263, covering sundry papers from the Secretary to the Treasury and Department of Ordnance and calling my attention to the concluding paragraph of Mr. Spearman's letter, in which a report is required from me whether I approve of the arrangements mentioned in those papers.

Despatch acknowledged.

I have the honor to inform your Lordship in reply that I approve of all the proposed arrangements except the allowance for *Climate Pay* in the Ordnance Storekeeper's Department, for which I consider no case can be made out in so healthy a country as New South Wales.

Approval of proposals *re* ordnance storekeeper except climate pay.

The respective officers have recommended Barrack Sergeants from amongst the Pensioners, and discharged non-commissioned officers in the Colony. I have approved of their nominations. They further state they have recommended the confirmation in the Storekeeper's Department of four clerks, now in the Colony, and that the fifth is to be expected from England. I would recommend that the appointment of Barrack Sergeants be made in the Colony as at present, but that Clerks should in future be sent out from England.

Approval of proposed appointments.

I have, &c.,

RICHD. BOURKE.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 32, per ship Fergusson.)

Sir, Downing Street, 24th November, 1837.

24 Nov.

I have had under my consideration Sir Richard Bourke's despatch No. 20 of the 11th April last, with its enclosures, on the subject of the disposal of the Estates originally granted to the Church and School Corporation in New South Wales.

Despatch acknowledged.

In requesting your early attention to this subject, I have some hesitation in giving you positive Instructions as to the course which it may be expedient to pursue. At the same time I feel a very strong disinclination to sanction the retention of these lands

1837.  
24 Nov.,  
Instructions re  
disposal of  
clergy and  
school estates.

in the hands of the Government as a permanent arrangement. Experience has, I think, demonstrated the error of anticipating any considerable revenue from the reservation of Colonial Lands with a view to the application of the rents to some specific object. The expense of management has in many instances exceeded and in others nearly equalled the receipts derived from them, and I see no sufficient reason to justify the expectation of a materially different result in the present instance.

I am therefore strongly disposed to think that the proper course will be gradually to sell these lands precisely in the same manner as other lands in New South Wales at the disposal of the Crown, taking of course adequate precautions in effecting this object, against the effect apprehended by Sir Richard Bourke of a depreciation in the value of the lands offered for sale by the Government.

There can be no objection to leasing a portion of those lands until they are capable of being sold with advantage; but such leases should be on terms which will not interfere with the disposal of the lands, whenever it may become advisable to offer them for sale.

Unless you should entertain any strong objection to the course which I have recommended, you will consider yourself fully authorized to act on it at once.

I have, &c.,  
GLENELG.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 33, per ship Fergusson.)

Sir, Downing Street, 24 November, 1837.

Report required  
re J. Helmsley.

Referring to my Dispatch No. 222 of the 30th October, 1836, I beg to say that I have received a renewed application from Mrs. Helmsley relative to the fate of her Husband; and I have to request that no time may be lost in transmitting any particulars which it may be possible to obtain on that point, if it shall appear that your Predecessor has not already done so. No such information has as yet reached this Department. I am, &c.,

GLENELG.

SIR RICHARD BOURKE TO LORD GLENELG.  
(Despatch No. 121, per ship North Briton.)

My Lord, Government House, 24th November, 1837.

In the Estimates of Expenditure for this Colony for the year 1838, a considerable sum has been appropriated for Public Works. Amongst these is a proposed Iron Bridge over Wallis's Creek at Maitland. Preference has been given to a bridge of iron

Proposed iron  
bridge at  
Maitland.

to one of any other material, for the reasons given by Major Barney of the Royal Engineers, in the letter of which a copy is transmitted. It is proposed, as your Lordship will perceive, that the materials shall be sent out from England, and I have to request your Lordship to authorise the Colonial Agent to procure them according to instructions transmitted to him by the Secretary to this Government.

1837.  
24 Nov.

Request for approval of shipment of materials.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this letter is not available.]

SIR RICHARD BOURKE TO LORD GLENELG.  
(Despatch No. 122, per ship North Briton.)

My Lord, Government House, 25th November, 1837.

25 Nov.

In reply to your Lordship's despatch of the 20th April last, No. 297, enclosing an application from Mrs. Gray for payment of an allowance of three pounds per month from her husband, a Pilot of this port, I have the honor to state that payments have been made to the 30th June last, and reported to the Colonial Agent in London, and that further Quarterly payments will be required and enforced.

Payments made by J. Gray.

I have, &c.,

RICHD. BOURKE.

SIR RICHARD BOURKE TO LORD GLENELG.  
(Despatch No. 123, per ship North Briton.)

My Lord, Government House, 26th November, 1837.

26 Nov.

Having furnished to Mr. Robert Campbell, of Sydney, a copy of your Lordship's despatch of the 2nd January last, No. 250, in which he is called upon to render back to this Government an over-payment of Two Thousand Pounds made to him in 1825, and informed that, if he declines to pay, he is to be sued for the amount, I have the honor to transmit a letter addressed by him to Your Lordship in reply to that communication.

Transmission of letter from R. Campbell.

Your Lordship will perceive that Mr. Campbell refuses to pay. I therefore obtained the opinion of the Attorney General upon the power possessed by Government to compel him, and his advice as to the mode of proceeding. I transmit herewith a copy of the Attorney General's opinion on the case. It will be for your Lordship, upon a full consideration of these papers, and bearing in mind the difficulty of proof and the leaning of Juries against the Crown in cases such as these, to determine whether

Refusal to refund overpayment.

Proposed legal action.

1837.  
26 Nov.

a suit shall be instituted. If your Lordship shall determine in the affirmative, the proceedings to be had in England, to which the Attorney General refers, will require immediate attention.

Objections to  
R. Campbell  
as member  
of council.

It appears to me that, in considering the whole conduct of Mr. R. Campbell in this transaction, the style and temper of the letter he addresses to your Lordship, and the very unfair attacks he has made upon me for the performance of a plain and simple act of official duty, that Mr. Campbell is not a fit person to remain as a Nominee of Her Majesty in the Legislative Council of this Colony.

If your Lordship will take the trouble to look at my despatch of the 11th June, 1836, you will perceive with what little foundation Mr. Campbell alleges that I had in reporting his case used the influence of my rank and station to injure him.

I have, &c.,

RICHD. BOURKE.

[Enclosures.]

[Copies of these papers are not available.]

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 36, per ship Fergusson.)

27 Nov.  
Despatch  
acknowledged.

Sir,

Downing Street, 27 November, 1837.

I have received Sir Richard Bourke's despatch No. 37 of the 3d June last, enclosing, with reference to his previous despatch of the 17th May, a further letter from Captain King, R.N., on the subject of his claim to a seat in the Legislative Council of New South Wales.

Relationship of  
Sir J. Jamison  
to member  
of council.

This despatch brings to my knowledge the fact that there subsists as near a degree of relationship between Sir John Jamison and one of the Members of Council as that existing between Captain King and Mr. McArthur.

I regret that I was not aware of that circumstance when the nomination of Sir John Jamison to a seat in the Legislative Council was first notified to me, as I should certainly have hesitated to advise Her Majesty to confirm an appointment, which serves to create another family connection in so small a Body.

Denial of  
claim of  
P. P. King  
to seat in  
council.

I must however decline the further discussion of this undesirable and unnecessary topic, because I cannot acknowledge that Captain King has any such claim to be appointed a Member of Council, as should interfere with the perfect competence of the Government freely to exercise their judgment in this matter, without the slightest imputation of breach of faith.

I have, &c..

GLENELG.

SIR RICHARD BOURKE TO LORD GLENELG.  
(Despatch No. 124, per ship North Briton.)

1837.  
27 Nov.

My Lord, Government House, 27th Novr., 1837.

I have to acknowledge the receipt of your Lordship's despatch of the 18th February last, No. 269, and to state that, with reference to the concluding paragraph of Mr. Stephen's letter to Sir John Barrow of the 14th of the same month, I have considered it equitable to allow Mr. David Thompson, R.N., who came out in charge of the emigrants in the John Barry, the gratuity of One Hundred Pounds for his services, leaving Fifty Pounds to be received by Dr. Boyter.

Payment of gratuities to surgeons in charge of immigrants.

I have also allowed Dr. Roberts, R.N., who arrived with emigrants in the William Nicol, bearing your Lordship's despatch of the 17th June last, marked *Separate*, the gratuity of One Hundred Pounds, leaving Fifty Pounds to be received by Dr. Boyter.

The pay and other allowances set forth in their Instructions, and sanctioned by your Lordship, have been issued both to Surgeon Thompson and Dr. Roberts.

I have, &c.,

RICHD. BOURKE.

SIR RICHARD BOURKE TO LORD GLENELG.  
(Despatch No. 125, per ship North Briton.)

My Lord, Government House, 2nd Decr., 1837.

2 Dec.

Referring to your Lordship's Despatch of the 6th June last, and its enclosures, in which I am informed that it was not intended that the expenses of the Colonial Marine of New South Wales should be defrayed out of the funds applicable to convict charges, under the arrangement communicated by the Secretary of the Treasury to Sir George Grey on the 23rd September, 1834, I beg leave to state that, in that communication, the cost of conveying Troops and Convicts by sea is specified as still to be borne by the British Treasury. The Vessels named in the Estimate of the Deputy Commissary General, of which an extract is enclosed in Mr. Spearman's letter, are solely maintained for Military and Convict services. They are constantly employed in conveying prisoners and Stores between Sydney and the Penal Settlements of Norfolk Island and Moreton Bay. It was indeed at one time proposed to reduce them, and to trust to procuring freight for carrying on this service; but, after very mature consideration, it was found that the conveyance by freight ships would be uncertain, and much more expensive than the maintenance of the two vessels in question. If, however, the Lords of the Treasury should desire it, there will be no objection whatever on the part of the Colonial Government immediately

Expenditure on colonial marine.

Cost of conveyance of troops and convicts by sea.

1837.  
2 Dec.

to reduce the vessels and leave to the Deputy Commissary General the charge of procuring freight ships for the conveyance of Military Guard, prisoners, and convict stores, between the ports before mentioned. The two vessels being solely employed on the duties I have enumerated, your Lordship will, I apprehend, approve of my continuing to charge them on the Military Chest.

Proposed  
adjustment of  
staff and  
charges.

On the Estimate referred to, the Clerk to the Master Attendant, who is also Colonial Harbour Master and who does the duty of the first named appointment without additional pay, may be transferred to the Colonial Fund as the Harbour Master's Clerk, leaving the Assistant Clerk a charge on the Military Chest. The Messenger may also be transferred to the Colonial Fund; but the constable and overseer, being employed about the Dock Yard chiefly when one or both of the vessels are in port, should continue a charge on the Chest. The charge for Boats, amounting to £123 13s. 4d. a year, may be placed to the Colony. I have given directions that these transfers take place from the 1st January next. If the vessels are to be reduced I expect the honor of your Lordship's further commands.

I have, &c.,

RICHD. BOURKE.

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SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 126, per ship North Briton.)

3 Dec.

My Lord,

Government House, 3 December, 1837.

Despatch  
acknowledged  
*re* resignation.

I have the honor to acknowledge the receipt of your Lordship's Despatch of the 3rd July last, No. 335, conveying to me Her Majesty's gracious acceptance of my resignation of this Government.

Proposed  
departure of  
Sir R. Bourke.

I have accordingly made arrangements for embarking on board the Samuel Winter for Valparaiso on the 5th inst., leaving the administration of this Government in the hands of Colonel Snodgrass, the officer next in command.

From Valparaiso I propose to proceed without much delay to London.

I have, &c.,

RICHD. BOURKE.

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SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 129, per ship North Briton; acknowledged by lord Glenelg, 1st June, 1838.)

4 Dec.

My Lord,

Government House, 4th December, 1837.

Application by  
J. A. Curtoys.

I have the honor to transmit a copy of a letter which has been addressed to me by Mr. J. A. Curtoys, a native of Spain, residing in Sydney, requesting to be made a Denizen of this Colony.

Believing that Mr. Curtoys is a very respectable man, I have much pleasure in recommending his application for that sanction on the part of Her Majesty, which is necessary\* to enable the Governor of this Colony to comply with it.

1837.  
4 Dec.

Letters of denization to be granted.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

MR. J. A. CURTOYS TO SIR RICHARD BOURKE.

Sir, Sydney, 25th November, 1837.

I beg most respectfully to solicit your Excellency's favor of submitting to Her Majesty's Government my humble request that Letters of Denization be granted to me in order that those disabilities, to which as a Spaniard I am subject in conformity with the law of England regarding aliens be removed, and I may therefore enjoy the rights of an English subject.

Request by J. A. Curtoys for letters of denization.

My residence of five years in England and upwards of two years in this Colony, my being married to an English woman, and having a Son born in England are circumstances, which justify, I trust, my hopes that Her Majesty will graciously condescend to grant me the object of this petition, if supported by your Excellency's powerful recommendation, for which I beg also to crave your Excellency's special favor.

I have, &c.,

J. A. CURTOYS.

SIR RICHARD BOURKE TO LORD GLENELG.

(Despatch No. 130, per ship North Briton; acknowledged by lord Glenelg, 9th June, 1838.)

My Lord, Government House, 4 Decr., 1837.

Adverting to the appointment of Mr. Henry Fisher to the Estates of the late Church and School Corporation, which was approved by Secretary Lord Stanley in his Despatch of the date and number in the margin,† I have the honor to inform your Lordship that this gentleman resigned his employment on the 29th ulto., and that I have appointed Wm. Macpherson, Esq., now Clerk of the Council, to succeed him under the provisions of the act of Council 5 Gul. IV, No. 11 (1834), until Your Lordship's pleasure is known.

Resignation of H. Fisher.

Appointment of W. Macpherson to charge of clergy and school estates.

Mr. Macpherson has, in the present state of the Council, full leisure to discharge the duties of both offices, and I can confidently recommend him for confirmation in the last appointment, if no augmentation be made in the business of the Councils by the Act of Parliament about to be passed for the administration of New South Wales. I may add that I could not at the moment name any Person in the Colony so well qualified for the appointment as Mr. Macpherson.

The cause of Mr. Fisher's retirement is, I regret to say, a deficiency in his payments as Collector to something more than £2,000. Measures have been taken for securing the public from

Deficiency in accounts of H. Fisher.

\* Note 56.

† Note 57.

1837.  
4 Dec.

loss, and Mr. Fisher confidently expects that, before the expiration of six months from this day, the whole deficiency will be made good. A further statement of this transaction will be transmitted to Your Lordship when the Crown Solicitor has had time to examine more closely the amount of Mr. Fisher's assets.

I have, &amp;c.,

RICHD. BOURKE.

LORD GLENELG TO SIR GEORGE GIPPS.

(A circular despatch\* per ship Fergusson; acknowledged by Sir George Gipps, 16th May, 1838.)

5 Dec.

Reference of applications from colonists to governor.

Sir, Downing Street, 5 December, 1837.

I have received from *Mr. Isaac Scott Hind*† a Letter dated "*Paterson, the 10th of August last,*" bringing under my consideration *his claim to two Sections of Land in New South Wales.*

This communication having been sent to me from the Colony by the Writer, and not having been transmitted through you, I have to desire that you would apply to the Writer for a Copy of it, and that you would forward that Copy to me, accompanied by such a report as the case may appear to you to require.

I have, &amp;c.,

GLENELG.

[*Similar despatches were written, bearing the same date, asking for reports relating to:—*

Application by Mrs. Swan for assignment of her husband, Robert Swan.

Request for land grant by John Murray as out pensioner of 50th regt.

Letter from John Pascoe Fawkner *re* land granted to John Batman.]

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 38, per ship Fergusson.)

6 Dec.

Transmission of proposals *re* civilisation of aborigines.

Sir, Downing Street, 6 December, 1837.

I have the honour to transmit to you the enclosed Extract from a Communication, which I have received from Captain Maconochie, R.N., Private Secretary to the Lieutenant Governor of Van Diemen's Land, and I beg to call your attention to the suggestions which it contains with regard to the systematic employment of the Aborigines in the protection and Civilization of their Brethren.

I have, &amp;c.,

GLENELG.

[Enclosure.]

[*A copy of this extract, dated 23rd June, is not available.*]

\* Note 58.

† Note 59.



DESPATCHES  
TO AND FROM ENGLAND  
DURING THE  
ADMINISTRATION OF ACTING GOVERNOR SNODGRASS.

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WHEN Sir Richard Bourke sailed from Sydney in the ship "Samuel Wynter" on the 5th of December, 1837, lieut.-colonel K. Snodgrass, being senior military officer in the colony, assumed the administration as acting governor. He held office until the arrival of Sir George Gipps on the 23rd of February, 1838.



## DESPATCHES,

DECEMBER, 1837—FEBRUARY, 1838.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 39, per ship Fergusson; acknowledged by Sir George Gipps, 24th August, 1838.)

Sir, Downing Street, 11th December, 1837.

1837.  
11 Dec.

With reference to my Despatch No. 18 of the 31st of October, I have the honor to acquaint you that I have with the Concurrence of the Lords Commissioners of the Treasury authorized the Colonial Agent to issue to Mr. Digby the sum of One Hundred and Fifty Pounds on account of the passage of himself and his Wife to New South Wales, And also to provide in communication with Mr. Digby some specimens of the most approved methods of confinement used in the treatment of Insane Patients in the Asylums in this Country. These charges will be subjected to such Apportionment as it may hereafter be found advisable to make between the Funds applicable to Colonial and Convict Services.

Advance to  
J. Digby.

I have, &amp;c.,

GLENELG.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 45, per ship Fergusson.)

Sir, Downing Street, 11th December, 1837.

I have received Sir R. Bourke's Despatches No. 69 and 77 of the 27th July and 12th Augt. last, the former reporting the arrival of the John Barry and Adam Lodge, Emigrant Ships, and enclosing Lists of the deaths which had occurred on board those Vessel; the latter Despatch transmitting a further report of deaths amongst the Emigrants on board the John Barry, and Enclosing the Minutes of Evidence taken before a Committee of the Legislative Council, which contains the opinions of Drs. Thomson and Osborne as to the causes of disease amongst the Emigrants under their respective superintendence.

Despatches  
acknowledged  
re immigrants.

I deeply lament the extent to which disease appears to have prevailed in both these vessels, and I lost no time, on the receipt

1837.  
11 Dec.

Transmission  
of letter from  
T. F. Elliot.

of the Despatches before me, in communicating with the Agent General for Emigration on the subject. I enclose for your information a copy of a letter, which I have received in consequence from Mr. Elliot, enclosing a copy of a Communication, which he has addressed to Dr. Boyter, bringing under his notice the practical points arising out of the Statements which have been received, and calling for any suggestions which he may be enabled to offer on a review of them. I may safely assure you that no measures will be omitted which experience has suggested, or may hereafter suggest, as tending to the health and comfort of Emigrants proceeding to the Australian Colonies under the Auspices of Her Majesty's Government.

I have, &c.,  
GLENELG.

[Enclosure.]

MR. T. F. ELLIOT TO UNDER SECRETARY STEPHEN.

Sir,

Colonial Office, 30th November, 1837.

Transmission  
of letter sent  
to D. Boyter.

In reference to the Dispatches received yesterday from the Governor of New South Wales, reporting the arrival of the Emigrant ships "John Barry" and "Adam Lodge," I have the honor to enclose for Lord Glenelg's information copy of a Letter, which I sent on the subject by the same night's post to Dr. Boyter.

I am, &c.,  
T. FREDK. ELLIOT.

[Sub-enclosure.]

MR. T. F. ELLIOT TO DR. BOYTER.

Sir,

Colonial Office, 29th November, 1837.

Transmission of  
despatches re  
fever amongst  
immigrants.

I have to transmit to you the Enclosed extracts of two Dispatches received today from the Governor of New South Wales, reporting the arrival of the "John Barry" and the Adam Lodge on the 13th July, and you will regret to observe that contagious fever had broken out amongst the Passengers by the former vessel chiefly towards the end of the voyage or after disembarkation.

Luggage stowed  
between decks  
on ship  
John Barry.

You will acquaint the parties interested with the deaths that have occurred. I do not see that any complaint was made of the arrangement in the "John Barry" further than that of her having been encumbered with Baggage between Decks, on which point I enclose the statements made by Dr. Thomson in some evidence he was called upon to give. He also says that the deaths of Children were chiefly "owing to affections of the Bowels, arising from unsuitable food." His Evidence at large will be transmitted to you as soon as it can be copied, but there is nothing else in it in the nature of objection to the arrangements in the Ships. I certainly am of opinion that no luggage ought to be allowed between Decks, and propose to make it a standing Clause in the instructions. When the number of Passengers is restricted to the proportion of one to every fifteen feet, as I explained to you when you were in Town, there could be no difficulty whatever in enforcing this regulation.

Probable cause  
of mortality  
amongst  
children.

The number of deaths among the Children is, I think, very probably attributable to some unsuitableness in the Dietary. The chief experience hitherto in conveying large Bodies of People has been in

Ships carrying a much smaller proportion of Children than in the Vessels we are now engaged in sending out. It is therefore no reflection at all upon the present officers, if it be found in this new species of service that some fresh arrangements have to be suggested by experience as it accrues; and this matter of the food for Children will I apprehend prove an example of what I mean.

1837.  
11 Dec.

Probable cause  
of mortality  
amongst  
children.

My attention was first drawn to the subject by observing in a letter from Dr. Galloway in the Augusta Jessie, written at Sea, that much sickness had prevailed among the Children.

A Passage in the report of a Surgeon, who had gone out in one of the London Committee's Ships, next fell under my observation, adverting to the number of gastric complaints among the children, and mentioning the expediency of having more of Sago, Arrowroot, or some such Article for the use of the younger part of the Passengers. I did accordingly settle with Dr. Brock and Dr. Dobie that, in the vessels now sailing under their charge, they should guard against any deficiency in this respect. And I made a reference on the subject, which is still pending, to the Physician General of the Navy. The accounts subsequently received from the "William Nicholl," the "John Barry" and "Adam Lodge" seem all corroborative of the same view. I shall be glad to consider any suggestions you may be disposed to make on the subject.

I am, &c.,

T. FRED. ELLIOT.

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LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 44, per ship Fergusson.)

Sir,

Downing Street, 13 December, 1837.

13 Dec.

I have received a letter bearing date the 27th July last, signed by the Revd. John McGarvie as Clerk of Presbytery of New South Wales, enclosing an Address to me from the Ministers and Elders of the Presbytery, expressive of their satisfaction with the regulations recently adopted in the Colony in reference to the erection of Churches and the maintenance of Ministers. I have to request that you will convey to that Body the Expression of my sincere gratification in receiving this testimony to the efficiency of those regulations and their adaptation to the peculiar character and circumstances of the Country to which they apply. You will assure them that Her Majesty's Government, anxious to extend as widely as possible the blessings of Religious Instruction, feel it their duty to advance by all proper means, and consistently with a just regard to the claims of other denominations of Christians, the welfare and interests of that valuable portion of Her Majesty's Subjects in New South Wales, which is connected with the Church of Scotland, and that I confidently rely on the zealous exertions of the Ministers of that Church to second the wishes and the efforts of H.M. Govt. in the cause of moral and religious improvement.

Address  
acknowledged  
from  
Presbytery.

Assistance to  
be granted to  
Presbyterians.

1837.  
13 Dec.

Intended  
exclusion of  
clergy from  
council.

You will further acquaint them that it is not the intention of H.M. Govt. to recommend in any future plan for the Government of New South Wales, that the Bishop of the Church of England or the Chief Minister of any Ecclesiastical Communion in the Colony should have a seat in the Council.

I have, &c.,  
GLENELG.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 46, per ship Fergusson; acknowledged by Sir George Gipps, 28th July, 1838.)

14 Dec.

Reference of  
papers to  
T. F. Elliot.

Sir, Downing Street, 14th December, 1837.

On the receipt of Sir Richard Bourke's Despatch No. 48 of the 17th June last, transmitting a Copy of the Votes and Proceedings of the Legislative Council of New South Wales on the 30th of May last, which comprized a Memorandum on the introduction of Indian Labourers into New South Wales, I felt it my duty to refer these Documents to the Agent General for Emigration in a letter of which I now enclose a copy, together with a copy of the answer which has been received from Mr. Elliot.

Desire to  
supply demand  
for labour from  
Great Britain.

Although not yet in possession of the Report of the Committee of the Council which Sir R. Bourke stated his intention of proposing to enquire into this subject, I cannot delay to express to you my earnest hope that the encreasing demand for labour in New South Wales may under the existing Arrangements, aided by any modifications which experience may suggest, be effectually supplied from this Country. The Statement, which I now transmit from Mr. Elliot, considered in connection with the short period during which the present system has been in operation, and the other Channels through which Emigration to New South Wales has been simultaneously carried on, tends strongly to encourage this hope, and the detailed Report, which will be laid before Parlt. early in the ensuing Year, will, I trust, afford additional ground for anticipating the best results from the measures recently adopted. On the other hand, I cannot but apprehend that the introduction into the Colony of a considerable body of Indian Labourers, as proposed in the Memorandum referred to, would have a prejudicial effect both on the interests of the Colony and on British Emigration. Its tendency would probably be to the permanent creation in the Colony of a distinct class of persons separated by origin and habits from the rest of the labouring Population, subject to restrictions not generally imposed, and regarded as of an inferior and servile

Objections to  
introduction  
of Indian  
labourers.

description. Such a system could scarcely fail to be injurious to the parties themselves, and, by bringing Agricultural Labour into disrepute, to discourage the immigration from this Country of Agricultural Labourers, who, as the advantages offered to them in New South Wales became more extensively known, may reasonably be expected to avail themselves in larger numbers than heretofore of the Opportunities of Emigration to that Country. With reference to the encreasing number of Emigrants proceeding from this country to New South Wales under Government Auspices, my attention has been directed to the opinion, expressed by several of the Witnesses examined by the Committee of the Council of New South Wales on Emigration in 1835, that an Agent at Sydney would be required as a medium of Communication between the Settlers and the Emigrants on their arrival, as well as of correspondence with the Agent in England as to the wants of the Colony, and other particulars on which it is essential that authentic information should from time to time be transmitted. It appears to me that such an officer would be very useful in securing the efficiency of those Local arrangements, which are indispensable to the welfare of the Emigrants on their arrival, and in imparting alike to them and to the Public in the Colony that early and correct information, which will greatly facilitate their speedy and beneficial employment in the service of the Settlers. He would further be of great use by regularly transmitting to this Country details as to the location of the Emigrants, and other particulars relating to their condition and circumstances. Such information will be required for the completion of the periodical Reports to be prepared by the Agent General, and to enable him to satisfy the enquiries of the friends of the Emigrants.

If, after Communication with the Gentlemen, who have taken the most active interest in this subject, you should concur with me in this opinion, such an officer will be appointed with as little delay as practicable. His Salary will be paid out of the Funds applicable to Immigration, and I should wish you to suggest the amount at which you think it ought to be fixed with reference to the nature and extent of his proposed duties.

I have, &c.,  
GLENELG.

[Enclosure No. 1.]

SIR GEORGE GREY TO MR. T. F. ELLIOT.

Sir,

Downing Street. 4 Novr., 1837.

I am directed by Lord Glenelg to transmit to you for your perusal the enclosed Copy of the Votes and Proceedings of the Leg. Council of N. S. Wales on the 30th of May last, a considerable portion of which has an important bearing on the subject of

1837.  
14 Dec.

Objections to  
introduction  
of Indian  
labourers.

Necessity for  
agent for  
immigrants  
at Sydney.

Transmission  
of papers re  
emigration.

1837.  
14 Dec.

Demand for  
labour in  
colony.

Emigration. You will observe that the demand for labour in the Colony is represented as far exceeding the supply, and that a proposal has been made and was under consideration for the introduction of Labourers from India. At the date of these proceedings, the arrangements, made in the early part of the present year for promoting Emigration from this Country to N. S. Wales on a more extensive scale than had previously been adopted, were not known in the Colony, and the subsequent information, which would be received on this subject, would probably affect the deliberations on the proposal to which I have referred.

Objections to  
introduction  
of Indian  
labourers.

The introduction of Labourers from India on the terms proposed is an Expedient, which Ld. Glenelg wd. be unwilling to sanction without a very urgent necessity for a recourse to this mode of supplying the deficiency of labour; but, before he addresses any Instructions to Sir G. Gipps on the subject, his Ldship. requests that you will inform him of the number of Emigrants who have already proceeded from this Country to N. S. Wales with the assistance of the Govt. since the Commencement of the present year, and of the probable number which may be expected to arrive there under the existing Arrangements before the close of 1838.

Statements  
required.

I am, &c.,  
GEO. GREY.

[Enclosure No. 2.]

MR. T. F. ELLIOT TO UNDER SECRETARY STEPHEN.

Sir,

Colonial Office, 1 Decr., 1837.

Reasons for  
delay in reply.

In reference to your letter of the 4th Ult., I deferred answering the enquiries it contained as to the probable number of people, who cd. be introduced into the Colony of N. S. Wales before the termination of 1838, until I could communicate with Dr. Boyter as to the number that might be reckoned on from Scotland, and until the "Orontes" should depart.

Returns of  
emigrants.

I have now the honor to report that, since the first Ship under the new system of Emigration sailed on the 24th March, there have gone 9 Ships to N. S. Wales containing 1,350 Adults and 1,350 Children, making 2,700 Souls.

The "Duncan" from Greenock will sail early in January, and is likely to carry about 300 more, and a party is being collected to go from Cork in February, which may be estimated also at 300, making the total up to the end of Winter 3,300 souls.

Expected  
sailings of  
ships.

Next is to be considered the period after winter. To reach the Colony by the end of the Year, a ship shd. sail before the Month of Sepr. Dr. Boyter anticipates that 6 Ships might be sent from Scotland at that time. And I think that four from Ireland (exclusive of the one above mentioned as immediately in contemplation) and four from Engl. form a reasonable Estimate of what may be sent from these portions of the Kingdom. More shd. be sent if practicable, but I on purpose make my calculations low to prevent disappointment. At the very moderate average of 270 per Ship, these Vessels wd. take 3,780 Souls in addition to the number of 3,300 despatched previously to March, making a total of 7,080 sent to the Colony in little more than 17 months from the first Ship in March, 1837.

Estimated  
number of  
emigrants.



In rendering this Statement, I by no means wish to exaggerate the importance of the results it Exhibits. It is impossible to read the recent accounts from the Colony without great sympathy in the inconveniences they shew to be felt from the scarcity of hands; and, under so pressing a demand, it is to be feared that the best efforts at Home must for a while appear slow in correcting the Evil. My attention, therefore, is far more occupied in considering the wants of The Colonists, than in dwelling on what we may have yet been able to do. With every allowance however for these circes., it is some satisfaction to observe, first that four or five times as much has been accomplished during the present year as in any similar period before; and this too with a more than usual amount of other kinds of Emigration to the Colony at the same time, and 2ndly that, altho' the admixture of Children may render the full extent of our operations less immediately sensible in the Colony, the permanent effect on the population is not the less sure. In fact, this is one respect in which, even with a view to numbers, there must be a vast superiority in our well-assorted parties of European Families, including a carefully secured equality of females, as compared with any importations that cd. be made of Chinese, who only come to go away, or of Indian Coolies, who are accompanied by a scanty proportion of Women, and who also stipulate to be returned to their own country. A supply from England at the rate of nearly 5,000 Souls per annum., on the principle I have just described, cannot it may be hoped last long without producing a very sensible impression on the state of N. S. Wales.

Far therefore from over-rating the past proceedings, which on the Contrary I shall always think it my duty with the sanction of the S. of State to lose no opportunity of improving upon and enlarging, and still less from under rating the present wants felt in the Colony. I confess it wd. nevertheless be a matter of Congratulation to me, if the preceding Statement shd. appear to afford any grounds for hoping that the Inhabitants may continue to prosper without introducing Indian Blood into their Population, or Indian Habits into their Industry.

I am, &c.,

T. F. ELLIOT.

1837.  
14 Dec.  
Want of labour  
in colony.

Progress in  
emigration  
of labourers.

Objections to  
introduction  
of Indian  
labourers.

LORD GLENELG TO SIR GEORGE GIPPS.

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

Sir,

Downing Street, 14th December, 1837.

With reference to my Despatch No. 46 of this day's Date, I have to inform you that Mr. J. D. Pinnock, who has for several years been employed in this Department in connection with Emigration, and who is still attached to the office of Agent General for this Service, has expressed to me his desire to proceed to New South Wales with a view to his permanent Settlement in that Colony, provided he could entertain a reasonable prospect of some suitable employment on his arrival. The experience, which Mr. Pinnock has acquired in the details of Emigration, especially to Australia, and the diligence and attention, with which he has performed his duties in this Office, would under

Desire of  
J. D. Pinnock  
to settle in  
colony.

1837.  
14 Dec.

Proposed  
appointment of  
J. D. Pinnock  
as emigration  
agent at  
Sydney.

ordinary circumstances have inclined me at once to nominate him to the Office of Local Emigration Agent at Sydney, should such an office be established. I am anxious, however, in an appointment of this nature, to act in accordance with the feelings and wishes of those Gentlemen in the Colony, who have bestowed so much attention on this subject, and whose intimate knowledge of the Colony entitles their opinion on all matters connected with its interests to the utmost Consideration. I am unwilling, therefore, to give you any positive directions with reference to this Appointment, as it might inconveniently fetter the discretion which it is my wish that you should exercise; but I should be happy, if you should find yourself able to confer it on Mr. Pinnock with the concurrence of the Gentlemen to whom I have referred. It is obviously important that whoever is appointed should be acquainted with the system at present in operation in this Country. Should you be of opinion that Mr. Pinnock's Appointment would not be so desirable as that of some other Gentleman, you will be authorized to make a provisional Appointment, which you will of course report to me; and in that case I have to request that you will avail yourself of any early opening which may offer itself for placing Mr. Pinnock in some situation for which he is properly qualified.

I have, &c.,  
GLENELG.

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LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 47. per ship Fergusson; acknowledged by Sir George Gipps, 12th April, 1839.)

15 Dec.

Sir,

Downing Street, 15 December, 1837.

Having referred to the Lords Commissioners of the Treasury your Predecessor's Despatch No. 138 of the 28th of December last, on the subject of the mode of providing for the Custody of the Public Stores of the Colony under your Government, I have the honour to transmit to you for your information and guidance a copy of a letter, which has been received in reply, with a copy of one from the Board of Ordnance therein enclosed, from which you will perceive that no objection exists on the part of Her Majesty's Govt. to the measure proposed by Sir R. Bourke of placing the Colonial Store Department under the Superintendance of the Ordnance Storekeeper in the Colony, provided any extra Expence arising out of such arrangement to the Ordnance shall be defrayed from Colonial Funds.

I have, &c.,

GLENELG.

Instructions  
re control of  
colonial store  
department.

[Enclosure.]

1837.  
15 Dec.

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 1st December, 1837.

With further reference to your Letter of 22nd July last, and the enclosed Dispatch from the Governor of New South Wales, and to the reply addressed to you by direction of this Board on the 20th Ult., I am commanded by the Lords Commrs. of Her Majesty's Treasury to transmit Copy of a Letter from the Secretary of the Ordnance dated 6th Inst., stating that the Master General and Board of Ordnance are not aware of any objection to the placing the Colonial Store Department under the Superintendance of the Ordnance Storekeeper at New South Wales, provided any extra expense, incurred thereby by the Ordnance, shall be defrayed from the Colonial Funds; and I am directed by their Lordships to request you will submit the same to Lord Glenelg for his information.

Instructions  
re control of  
colonial store  
department.

I am, &c.,

A. Y. SPEARMAN.

[Sub-enclosure.]

MR. R. BYHAM TO MR. A. Y. SPEARMAN

Sir, Office of Ordnance, 6th November, 1837.

Having submitted to the Master General and Board of Ordnance your Letter dated the 19th Ult., enclosing an Extract of a Dispatch from the Governor of New South Wales to the Secretary of State for the Colonies, in which he proposes to place the Colonial Store Department under the Superintendance of the Ordnance Storekeeper,

I have the honor to acquaint you, for the information of the Lords Commissioners of H.M. Treasury, that the Master General and Board are not aware of any objection to the Ordnance Storekeeper at New South Wales undertaking the duty proposed, provided the expenses incurred on account of the Colony as well as the Compensation for himself and the charge for any extra Clerks, whose employment may be found necessary by that additional duty, be defrayed from the Colonial Funds, and kept entirely separate from the Ordnance Accounts.

The Master General and Board have therefore given instructions to that effect to the Ordnance Storekeeper at New South Wales, at the same time cautioning him that great care must be taken that the arrangement does not interfere with the business of this Department.

I have, &c.,

R. BYHAM.

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LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 48, per ship Fergusson.)

Sir, Downing Street, 16 December, 1837.

16 Dec.

I have the honor to transmit to you a copy of a letter from the Secretary to the Treasury with a copy of one addressed by order of the Lords Commissioners to the Master General and Board of Ordnance relative to the course, which is to be pursued with a view of providing for the repairs of Military Barracks in the Colony under your Government in cases of emergency, when

Instructions  
re repairs to  
military  
barracks.

1837.  
16 Dec.

Instructions  
re repairs to  
military  
barracks.

the Expenditure cannot be anticipated and submitted for the previous sanction and direction of the Board of Ordnance; and I have to request that you will take such measures as may be necessary on your part for giving effect to the proposed Arrangement.

I have, &c.,

GLENELG.

[Enclosure.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 30th Novr., 1837.

The Lords Commissioners of Her Majesty's Treasury having, in a Letter which they directed to be addressed to the Board of Ordnance on the 31st Ultó., submitted for their opinion an arrangement which my Lords proposed to carry into effect with a view of providing for the repairs of Military Barracks in New South Wales and Van Diemen's Land in cases of exigency, when the expenditure cannot be anticipated and submitted for the previous sanction and directions of the Board of Ordnance, I am commanded by their Lordships, in transmitting copy of the said Letter to be laid before Lord Glenelg, to request you will state to his Lordship that the Master General and Board of Ordnance have signified to my Lords their entire concurrence in the arrangement therein proposed, and that you will move his Lordship to instruct the Officers Administering the respective Governments of New South Wales and Van Diemen's Land to proceed in conformity with that arrangement, in the event of any applications being made to them, under the circumstances to which it has reference.

I am, &c.,

A. Y. SPEARMAN

[Sub-enclosure.]

MR. F. BARING TO SECRETARY OF ORDNANCE.

Sir, Treasury Chambers, 31 October, 1837.

With reference to your Letter dated the 13th Ultó., and to your previous communication of the 26th of May last on the subject of Barrack Works and repairs in New South Wales and Van Diemen's Land, and to the communication made to you on the 28th Inst. respecting issues from the Military Chests in the Australian Penal Settlements for Ordnance Services, I am commanded by the Lords Commissioners of H.M. Treasury to request you will state to the Major General and Board of Ordnance that my Lords further propose, with their concurrence, to acquaint the respective Governors of N. S. Wales and Van Diemen's Land that, as the great distance of those stations from this country, and the period consequently required for communication between the officers of the respective ordnance establishments and the Superior Board may at times render it indispensably necessary that those officers should incur expenditure for the repairs of the Military Barracks under their charge, which could not have been anticipated and reported for the previous directions of the Master General and Board, the officers will be instructed, in the event of any such exigency occurring, to submit to the Governor a statement of the required expenditure and of the circumstances, which may have prevented the transmission of an estimate and report thereon to the Master General and Board, or render it indispensable that the service should be executed without awaiting the authority of the Master

General and Board; and that, upon being satisfied as to the exigency of the case, the Governor will record his approval under his signature upon the statement, and will cause the same to be notified to the officer commanding the Troops, who will be authorized, upon such approval being signified to him, to grant his Warrant for such extra issue from the Military Chest, on account of the Ordnance Department, as may be required for the execution of the service.

1837.  
16 Dec.

Instructions  
re repairs to  
military  
barracks.

I am at the same time further to request that you will accordingly move the Master General and Board to apprise my Lords whether this arrangement meets with their concurrence.

I am, &c.  
F. BARING.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 49, per ship Fergusson.)

Sir, Downing Street, 18 Dec., 1837.

18 Dec.

I have received your Predecessor's Despatch No. 40 of the 6th of June last, recommending Mr. Lewis, the Commander of the Colonial Schooner "Isabella," for remuneration on account of the Services, which he rendered on the expedition sent in search of the Passengers and Crew of the "Charles Eaton."

Despatch  
acknowledged.

I cannot but object to the practice, recommended for adoption on this as on several other occasions, of remunerating Public Officers for Services, which they may have performed by Grants of Land or Donations from the Land Revenue; but, under the circumstances of this case, Her Majesty's Govt. will be prepared to sanction a Grant to Mr. Lewis of a sum not exceeding £300, if the Legislative Council should be inclined to vote it from the General Revenues at their disposal.

Grant of money  
proposed for  
C. M. Lewis.

I have, &c.,  
GLENELG.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 50, per ship Fergusson; acknowledged by Sir George Gipps, 9th December, 1839.)

Sir, Downing Street, 19 December, 1837.

19 Dec.

I have received Sir R. Bourke's despatch, No. 47 of the 17th of June last, requesting that two well qualified persons with their Wives may be sent out to New South Wales as Schoolmasters and School Mistresses; and I have to acquaint you that, having obtained the concurrence of the Lords Commissioners of the Treasury to the rates of Salary and passage allowance proposed by Sir R. Bourke, I have instituted enquiries which will I trust shortly result in the engagement of suitable persons possessing that degree of experience which will enable them efficiently to superintend the Central or Normal Schools, for which I presume they are intended.

Despatch  
acknowledged.

Schoolmasters  
and mistresses  
to be selected.

I have, &c.,  
GLENELG.

1837.  
19 Dec.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 51, per ship Ferguson.)

Sir, Downing Street, 19 December, 1837.

Request for  
passage money  
for R.C. school-  
masters.

Allowance for  
passage money  
to E. Hawksley.

Referring to the measures which have been adopted for aiding the increase of School Masters for the Instruction of the poorer Classes of Colonists in New South Wales, I have the honor to transmit to you Copies of a Correspondence with the Revd. W. Ullathorne on the subject of an application, which he has made for the Grant of an Allowance for the passage to the Colony of a limited number of Roman Catholic School Masters; I have further to acquaint you that Mr. Edwd. Hawksley, having produced satisfactory testimonials as to his character and general Competency for the office of Schoolmaster, has received an allowance of Forty Pounds on account of his Outfit and Passage, being the amount applied for by Mr. Ullathorne.

I have, &c.,  
GLENELG.

[Enclosure No. 1.]

REVD. W. ULLATHORNE TO LORD GLENELG.

My Lord, London, 3 Augt., 1837.

Want of  
teachers in  
colony for  
R.C. schools.

I beg leave respectfully to state to yr. Ldship., as directed by the Rt. Revd. Dr. Polding, that considerable difficulty has been experienced in forming in N. S. Wales those elementary Schools for the Children of Poor Catholics supported by the Govt., owing to the difficulty of finding, in the Colony, a body of Teachers who are competent and at the same time willing to give themselves to the task; and that it is deemed advisable in consequence, as well by the Catholic Bishop as by the Governor, that such Teachers shd. be obtained from the Mother Country, Sir R. Bourke having also expressed himself in answer to Dr. Polding as being confident that yr. Ldship. wd. not object to sanction the advancement of pecuniary means for the conveying of these Teachers to their destination.

Number of  
teachers  
required.

About 6 Male Teachers and about four Females, more particularly required for the Orphan School and large female Schools in Sydney, wd. be sufficient numbers to meet the present demand for their Services.

Request for  
allowance for  
passage money.

The passage of these to the Colony, including preliminary Expenses, could not I am of opinion be arranged under 40£ each person; but this wd. not amount to much more than the Salaries and Allowances given to Teachers by the Local Govt. for the same period of time.

I most respectfully solicit yr. Lordship's approbation of this proposal, and your sanction to the advancement of what may be deemed a sum adequate to carry the proposal into effect.

I have, &c.,  
WM. ULLATHORNE.

[Enclosure No. 2.]

1837.  
19 Dec.

SIR GEORGE GREY TO REVD. W. ULLATHORNE.

Sir, Downing Street, 6 Sept., 1837.

I am directed by Ld. Glenelg to acknowledge the rect. of yr. letter of the 3d Ulto., in which you represent the expediency of sending out to N. S. Wales some R.C. Teachers for the Instruction of the Children of poor Catholics in the Schools at present existing in the Colony for their Education; and you request that some pecuniary allowance may be granted to enable those Teachers, about 6 male and 4 female, to proceed to their destination. His Lordship is happy to have it in his power to comply with yr. request by directing an Allowance of £40 to be made for the passage of each of the ten persons, who may be selected for this purpose, subject, however, to an undertaking that, in the case of any of them failing on their arrival in the Colony to fulfil the purpose for which they were intended, the Allowance made to such person or persons shall be refunded, unless such failure shd. be occasioned by death or illness.

Letter acknowledged.

Grant of allowance for passage money.

It will be necessary that the qualifications of the parties selected shd. be carefully ascertained, and, on their being recommended to Lord Glenelg as fit and proper persons for the duties which they will be called on to perform, they will be authorized to receive the proposed Allowance on an instruction from yourself that they have engaged a passage and are about forthwith to proceed to their destination.

I have, &c.,  
GEO. GREY.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 52, per ship Fergusson.)

Sir, Downing Street, 21 December, 1837.

21 Dec.

I have the honor to transmit to you the accompanying Extracts of a letter addressed to my Under Secretary by Mr. Elliot, Agent General for Emigration, and of the reply which I have desired to be made to it, by which you will perceive that I have sanctioned a direct correspondence between Mr. Elliot and the Colonial Secretaries of New South Wales and Van Diemen's Land in all matters of Emigration, excepting where any Instructions are to be given, which of course will be communicated to you in the usual manner by the Secretary of State.

Instructions re correspondence of T. F. Elliot.

I have, &c.,  
GLENELG.

[Enclosure No. 1.]

EXTRACT of a Letter from T. F. Eliot, Esq., to Sir George Grey, Bart., dated Colonial Office, 23d Nov., 1837.

"ANOTHER matter to which I wd. beg attention is the mode of communicating with N. S. Wales and V. D. Land. Hitherto I have been obliged to throw into my Reports to the Secy. of State any intelligence, which I wished to convey to the Governors. But it is obvious that, besides producing loss of time where promptitude of

Method of correspondence of agent general for emigration.

1837.  
21 Dec.

information may be of great importance, this practice must require me occasionally to introduce into my letters here matter superfluous except in the Colony. On this branch of correspondence also, therefore, I wd. request Ld. Glenelg's instructions as to the course to be hereafter observed."

[Enclosure No. 2.]

EXTRACT of a Letter from Sir George Grey, Bt., to T. F. Eliot, Esq., dated Colonial Office, 20th Dec., 1837.

Method to be adopted for correspondence.

"WITH regard to the correspondence with N. S. Wales and V. D. Land, Lord Glenelg does not think it proper that anything in the nature of instructions shd. pass except thro' him, and therefore, whenever anything is to be required to be done, from whatever quarter the desire may emanate, the Secretary of State alone must be the medium of Communication. But for pure purposes of information, of which there must often be a need distinct from any other object, Lord Glenelg entirely assents to the expediency of continuing no cause of delay that can possibly be removed; and, in matters of this description, he sanctions a direct Correspondence henceforward between you and the respective Colonial Secretaries of the Australian Colonies. The Governors of these Colonies will be apprized accordingly of the present decision."

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch per ship Fergusson.)

Transmission of duplicate of despatch.

LORD GLENELG presents his compliments to Sir George Gipps and in forwarding a Duplicate of his Dispatch No. 380 of the 2d of October, 1837, begs to call Sir George Gipps' attention to the Postscript which was not in the Original Dispatch.

Downing Street, 21 December, 1837.

[Enclosure No. 1.]

[*This was a copy of the despatch on page 110 with the following postscript:—*

P.S.—I transmit to you the enclosed copy of correspondence from Mr. Ullathorne on this subject.]

[Sub-enclosure.]

EXTRACT of a Letter from the Revd. W. Ullathorne, dated 10 Novr., 1837, addressed to Lord Glenelg.

Reduction in allowances for R.C. clergy.

I BEG leave respectfully to explain the perplexity, in which I have been involved owing to the unexpected reduction made by the Govt. in the allowance to the Revd. Mr. Goold, one of the Catholic Clergymen who have recently sailed for N. S. Wales.

In my letter to your Lordship of July 29, 1837, I had made application for the usual allowance for passage and outfit for that Revd. Gentleman of £150. In the ansr. directed by yr. Ldship. to be transmitted to me of 4 Augt., I am promised "the usual Allowance for outfit and passage" for that gentleman, conditionally that testimonials were transmitted to yr. Ldship. On the faith of this,



I had advanced the sum of £144 14s., and I have since been informed by the Revd. Mr. Heptonstall of Acton that only £100 had been allowed to that Revd. Gentleman.

1837.  
21 Dec.

To Mr. Brady, the priest destined for Norfolk Island, I had advanced the sum of £145 15s., altho' he has been allowed only £100 from Govt.

Whereas the Revd. Mr. Lovat recd. the "usual allowance," viz., £150.

It is impossible for a Catholic Clergyman to go out to N. S. Wales duly supplied with outfit for less than £150; and the residue I have been compelled to make up by private Charities. The Passage money alone amounts to £65, fitting out £20 more; he has to pay his expences to London, his Board, Lodgings, etca., whilst detained there; and books, vestments and altar plate make an essential part of his outfit; without these he cannot perform his duties. Catholic Priests, such self sacrificing men as are required for N. S. Wales, etc., are not men who possess ready money themselves; every farthing they receive, which is not required for their immediate wants, goes in charity.

Expense of passage and outfit for clergy.

I am confident that it is not your Lordship's intention I shd. fit out the servants of Govt. with the beggings of Charity; having therefore explained what before cd. not have entered into your Ldship's consideration, I beg leave respectfully to solicit that I may be compensated, or rather those persons who have advanced the money, for those sums which, on the faith of Government, have been advanced to the Revd. Messrs. Goold and Brady.

Request for reimbursement of allowances.

Of the 6 Chaplains for whom Salaries have been voted by the Legislative Council of N. S. Wales, I hope to be enabled to present, in a short time, the names of four to yr. Ldship. May I respectfully solicit of yr. Lordship to be assured on my Explanations with those persons as to whether they can receive the allowance of £150 each or not for passage and outfit, as it was upon that undertaking I left N. S. Wales to procure the aid of these persons.

Request for allowance for passage and outfit.

[Enclosure No. 2.]

SIR GEORGE GREY TO REVd. W. ULLATHORNE.

Sir,

Downing Street, 20 Decr., 1837.

I am directed by Ld. Glenelg to acknowledge the rect. of yr. letter of the 10th Ult. With regard to the Allowance to the Revd. Mr. Goold for his outfit and passage to N. S. Wales, his Ldship. directs me to state that he will authorize the Coll. Agent to pay to you on Mr. Goold's acct. the sum of £50, being the difference between the amount which that Gentleman has already recd. and the rate of allowance heretofore usually granted to Clergymen proceeding to the Australian Colonies. Adverting however to the alteration, which may probably be made by the local Authorities in the passage allowance to Clergymen proceeding to those Colonies, in pursuance of the instructions from Ld. Glenelg referred to in my letter to you of the 6 March, 1837, his Lordship wishes it to be clearly understood that he cannot guarantee in future cases the continuance of the present rate of allowance. Mr. Brady has recd. the same rate of allowance, which was with the concurrence of the Lords Commrs. of the Treasury granted from the Funds applicable to Convict Charges to the Protestant Clergymen who proceeded to Norfolk Island; and it will be impossible for H.M. Govt.

Allowances for passage and outfit of clergy.

1837.  
21 Dec.

to increase that allowance in the present instance, particularly as, in order to save any possible disappointment, it was distinctly stated in my letter to you of the 10 March last that £100 only would be allowed for the passage of the R.C. Clergyman to be appointed to officiate at Norfolk Island.

I have, &c.,  
GEO. GREY.

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LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 54, per ship Maria.)

29 Dec.  
Appointment of chaplains.

Sir, Downing Street, 29 December, 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 appointment.

The Revd. J. C. Gylls; The Revd. Hart Sparling; The Revd. Edwd. Smith; The Revd. William Boulton.

Mr. James Edmunston has also been recommended by the Society and will shortly be ordained by the Bishop of London for the service of New South Wales.

These Gentlemen will receive the usual allowance of £150 on account of their outfit and passage.

I have, &c.,  
GLENELG.

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LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 53, per ship Duncan.)

30 Dec.  
Transmission of reports re visit of ship *William Nicholl* to Cape of Good Hope.

Sir, Downing Street, 30 December, 1837.

Having received from the Governor of the Cape of Good Hope a dispatch, of which the enclosed is a copy, reporting the circumstances under which the "William Nicholl" Emigration Ship touched at that place on her passage to Sydney, I felt it my duty to call on the Agent General for Emigration for a Report on the subject, and I have now the honor to transmit to you, for your information, a copy of a communication which I have received in reply from Mr. Elliot.

I remain, &c.,  
GLENELG.

[Enclosure No. 1.]

SIR B. D'URBAN TO LORD GLENELG.

Government House,  
Cape of Good Hope, 16th September, 1837.

My Lord,  
I have the honor to request your Lordship's attention to the circumstances stated in the enclosed letter, which has been addressed to me by the Secretary to this Government, respecting the Government Emigrant Ship "William Nichol."

It was not merely the crowded state of the Vessel which attracted notice, but the want also of proper food for the Children embarked, and for the nursing Mothers among the women. The provisions laid in were of the common kind, salt beef and pork, biscuit, flour, etca.; but no nourishing light food, such as Sago, Arrowroot, Rice, portable soups, prepared Vegetables, and the like was provided.

1837.  
30 Dec.  
Condition of ship *William Nicholl* at Cape of Good Hope.

The ship was plentifully supplied here by the Inhabitants, with such of these Articles as could be procured, and with good beer, which in such cases is deemed very necessary to keep up the strength of the Mothers; as also with Materials for clothing; the want of which was severely felt, many of the poor creatures being without a change.

It has been suggested by Dr. Grant of the Bengal Medical Establishment, who was particularly active in providing for the comfort of these Emigrants, that, in any future case of Emigration from the Highlands of Scotland, the following Stock and other Articles should be provided in addition to those I have mentioned, and certain arrangements made as follows:—

Reforms proposed in outfit of emigrant ships.

2 Cows, or a few Goats; Sweet rusks; Oatmeal for Porridge; Hospital Clothing, linen and flannel; Hospital to be properly divided for men and women.

For Highland female Emigrants, a paid *Female Interpreter* to have charge of the female Hospital; Preserves such as Jams, Jellies, etca.; Privies to be constructed for the Women; Best Brandy for the Medical Stores; No woman advanced in pregnancy beyond 4½ months to be admitted on board.

Vessels to touch for a day or two at some port in Great Britain or Ireland, and to remain in Table Bay for ten days at least, in order that the weakly amongst the women and Children may be landed.

I have, &c.,  
B. D'URBAN.

[Sub-enclosure.]

MR. E. BELL TO SIR B. D'URBAN.

Colonial Office,

Sir, Cape Town, 14th September, 1837.

I beg permission to bring the following circumstances under Your Excellency's notice.

The Convict Ship "Platina" arrived in Simons Bay about a fortnight since with 113 female Convicts on board as embarked, no deaths having occurred on the passage. That Vessel measured 303 Tons; and the Master peremptorily refused to receive even one additional Convict on account of want of room in the Vessel.

Arrival at Cape of Good Hope of ship *Platina*;

The Government Emigrant Ship "William Nicholl" has arrived since with a party of Emigrants from the Isle of Skye, bound to New South Wales; this Vessel measures 408 tons, and has on board 144 Adults, for whom the same proportion of tonnage, allotted for the female Convicts in the "Platina," would give 386 tons, leaving 22 tons disposable.

and of ship *William Nicholl*.

But there are without reckoning 10 who died on the passage, no less than 179 *Children* now on board the Vessel, making a complement of 323 persons (not including the Crew) for a Vessel of

Number of emigrants on ship *William Nicholl*.

1837.  
30 Dec.

Tonnage per  
passenger.

408 tons; so that about  $1\frac{1}{4}$  tons for each is all that has been allotted for that number of persons on a voyage of half the circumference of the Globe!

The tonnage for the female Convicts was  $2\frac{7}{10}$ ths nearly for each!

Testimony in  
favour of  
master and  
surgeon.

There is no cause of complaint against the Superintending Surgeon or the Master of the "William Nichol." The Vessel has had all her wants supplied by the Commissariat on the Station; and the Inhabitants of the place have provided most amply, and readily, all those comforts for the unhappy women and children, which are not allowed to them by the Regulations of the service.

For particulars as to the state of these people and the vessel, in consequence of her crowded state, I beg to refer Your Excellency, should you deem it necessary, to the Attorney General, the Port Captain, and the Health Officer of Table Bay.

Proposed  
limitation of  
masters.

My object in making this statement is that Her Majesty's Govt., if apprized of these facts by Your Excellency, may interfere to prevent the recurrence of much misery in Emigrant Ships, on long voyages, by confining the numbers to be embarked within some fixed proportion to the tonnage of the Vessel.

I have, &c.,

E. BELL, Secy. to Govt.

[Enclosure No. 2.]

MR. T. F. ELLIOT TO UNDER SECRETARY STEPHEN.

Sir, Downing Street, 12th December, 1837.

Submission  
of reports re  
ship *William  
Nicholl*.

With respect to the circumstances under which the *William Nicholl* touched at the Cape of Good Hope, I deferred replying to your reference to me of Sir Benjamin D'Urban's dispatch on that subject until I could hear from Dr. Boyter, who was more immediately responsible for the arrangements in that Vessel. I have also waited several days in the hope of being able to see the Cape Newspapers containing a Report by Dr. Grant, a temporary resident at the Cape, who attracted public notice to this subject, and on whose statements the Governor's dispatch seems to be founded. But, having in vain endeavoured to find a copy in London, I am unwilling to incur any more delay. I have the honour therefore to enclose for Lord Glenelg's information copies of Dr. Roberts' letter reporting his having put in at the Cape, of Dr. Boyter's remarks on first hearing that circumstance, and of his further letter upon receiving communication of the dispatch from the Governor of the Cape. And, in transmitting these papers, there are some observations of my own, which it may be right that I should not omit.

Two unfavorable accounts may be noticed of the state, in which the "*William Nicholl*" touched at the Cape, one which appeared in the Times Newspaper of the 15th November as taken from a Cape Paper, the other contained in the Governor's Official dispatch, on which I am called to report.

Mortality  
on ship.

Before examining them, however, it is desirable to state what was the real extent of the calamity. In a body of 320 Men, Women and Children, taken from an extremely distressed district, in a state of great want, the deaths, after being restored to a full diet and making a Sea voyage, have amounted to ten Children and one Woman, the latter having died of Child birth fever, a cause quite

independant of the Ship; not one other death has occurred of a grown Person. The men are reported to have enjoyed good health, and their conduct to have been correct and orderly. With every regret therefore for the misfortunes which happened, I think it important to remark in the outset that they do not raise a necessary presumption of the faults being in the equipment of the Ship.

1837.  
30 Dec.

The account in the Times stated that the People were overcrowded, that they were starving for want of Provisions, and even Clothing, and that the Vessel and births were in a state of filth. On the matter of numbers, I shall speak further on.

Allegations *re* overcrowding and want of provisions.

That the Ship was short of provisions is untrue. She took with her six months' provisions, for which I now hold the receipts in my possession, and she had not been at sea more than two months when she called at the Cape. The Government expenditure for her there amounts to precisely £20 1s. 9d., being for fresh meat and vegetables while the Ship remained in Harbour. It must have been a strange shortness of Provisions when the Ship put to sea again without adding to her Stock. The fact is that in this, as in all other cases of the kind, a large surplus will remain to be discharged into store at Sidney when the Ship reaches her destination.

Denial of shortage of provisions.

With respect to the Clothing, I cannot speak of my own knowledge; but it was expressly pointed out as an object of attention in the Instructions, by virtue of which Dr. Boyter was acting. He states, you will observe, that, in addition to the common stock of "Clothing the Emigrants possessed, I made them all procure a new Suit of plaid with several other little articles required for the voyage"; and he expresses great surprise at the present complaints.

Supply of clothing.

On the subject again of Cleanliness, I can only say that words cannot be stronger than those in which it was enjoined on the attention of the Surgeon Superintendent. And this it will be observed with no apparent risk of its becoming mere dead letter. Cleanliness *is* habitually enforced in Ships of the present description, it is enforced through the efforts of the passengers themselves, and in no class of vessels is it more rigidly enforced than those in which Dr. Roberts has repeatedly served with credit. Altho' therefore the poor Highlanders may have been rather inert in this respect, I cannot help attaching a good deal of force to Dr. Boyter's remark "that it does not appear very likely that so experienced a Surgeon as Dr. Roberts would allow sixty five Stout, healthy men and husbands to remain idle Spectators in such a case."

Alleged want of cleanliness.

As it has been impossible as yet to procure a copy of Dr. Grant's published letter, I am obliged to take the following passage from an abstract of it given in a Scotch Paper.

"He found that many of the Women had suffered in their health in consequence of the Surgeon, belonging to the Vessel, not knowing their language, and there being no female Interpreter." After such a sentence, it is indeed surprising to find from Dr. Boyter that, independantly of two highly recommended Sheperds as General Interpreters, "a Midwife (Mrs. McDonald), that understood English Gaelic, and of excellent character, undertook the charge of Women and Children both in and out of Hospital." If Dr. Grant really made the observation above ascribed to him, I trust the results may induce him to pause another time before, on such imperfect information, he casts discredit on the performance of a

Allegations *re* surgeon.

1837.  
30 Dec.

very arduous service and scatters doubts and fears amongst the thousands whose circumstances place their best prospect in Emigration.

The benevolent statement of this Gentleman is at this moment a fertile source of pain and would be more extensively so, were it not fortunately corrected by the simpler narratives of the poor Emigrants themselves, whose letters I am sure are replete with gratitude for the kindness and good treatment they have experienced.

Food suitable  
for children  
and nursing  
mothers.

I now turn to the Governor's despatch. The want of light nourishing food for the Children such as Sago or Arrowroot is pointed out. I quite agree in the object of this remark. And I am glad to say that, previously to the receipt of the present intelligence, I had desired that the Surgeons of the "Duncan and Orantes" would guard against the want, besides proposing a reference on it as you are aware to the Physician General of the Navy. I mention this, not that I would not with equal readiness adopt an improvement whatever might be the occasion of its suggestion, but because I am happy to find in this occurrence an example that there has been no want of due Vigilance in conducting the business of Emigration at the central department. The utility of something strengthening for nursing Mothers is also an observation, in which I should entirely concur. Table beer, however, would not, I should apprehend, prove a well considered expedient for the purpose in Ships, destined to cross the Line. But I had settled, before the arrival of Sir Benjamin D'Urban's despatch, that a moderate stock of Porter should henceforth be carried in the Emigrants' Ships, and I hope this may be found conducive to the end in view. On the want of clothing, I can only refer to the remarks in a former part of this letter. For the future, a minimum is provided by the notice dated the 20th October, with which Surgeons will be desired to do their utmost to enforce a compliance. From the Poverty and habits of the People in the Highlands and in Ireland, the subject will, I fear, in practice throw great difficulties on the Officers in the execution of their duty; but it seems indispensable that they should, at their risk and responsibility, secure enough for their purposes of health. The remaining suggestions in the Governor's despatch are said by him to be taken from Dr. Grant. Some of them shew no great accuracy in ascertaining the arrangements in the "William Nicholl," and others certainly betray a very scanty knowledge of the habits of our Peasantry or the conditions on which alone Emigration could have reached the vast amount it has attained in recent years.

Supply of  
oatmeal.

Oatmeal for porridge is recommended for the future Ships from Scotland. You will be surprised, Sir, after seeing this gravely enumerated among the desiderata for the future, to be informed that the "William Nicholl" carried between four and five times as much Oatmeal as had ever been customary formerly, the allowance to a Man and Woman having been increased from a pint and a half per Week to seven pints. To add to that would be mere waste.

Female  
interpreter.

A paid female interpreter is recommended. I have already said that there was a Female Interpreter; why she should be a paid one, if the free passage constitute a reward and inducement to her,

I do not know. I may add here that the two next Ships from the Hebrides carried Surgeons, who were themselves familiar with the language of the People and their habits.

1837.  
30 Dec.

As to excluding Women advanced more than four months and a half in pregnancy, the advice is somewhat minute without endeavouring to determine what half month would be the fittest limit. I will merely say that, to all the selecting Officers, I now express a general opinion that few Children are preferable to many, and Women who are not pregnant to Women who are; but it is to be observed that families often present themselves in Clusters, and, if one be refused, the rest will not go; and it is indispensable, therefore, I think, to leave the Surgeons a discretion on the subject, instead of imposing a rule, which might deprive them at times of their most numerous and best Candidates.

Pregnant women and children as emigrants.

I will not take up Lord Glenelg's time by giving all of Dr. Grant's suggestions. The proposals that Emigrant Ships should carry Jams and Jellies, and some best Brandy for the use of the hardy peasantry they convey, and that, in coming from the Highlands, they should touch for a day or two at some Port in Great Britain or Ireland, are such as to any one possessing any acquaintance with the subject must be beyond all comment, further than that they unavoidably detract very much from any weight that could be attached to the rest of the representations by which they are accompanied. I have reserved the subject of numbers for the last, both on account of its importance, and also because it will be required to be entered into a little more at length than the other Topics.

Reforms proposed.

The "William Nichol," I must frankly say it, carried greater numbers than accord with my own views. It is my duty however distinctly to disclaim any imputation on Dr. Boyter in this remark as the following statement will explain.

Until the Spring of the present year, it was never thought necessary (for what reason I know not) to attend to the Provision in the Passenger's act,\* that Vessels intended to cross the Line should not carry more than one Adult passenger for every fifteen superficial feet of the lower deck. Both in the practice of the Ports here and in the official letters and even in evidence received by the latest arrivals from New South Wales, there is abundant evidence of the general inattention to this enactment. It seems to have been thought enough not to carry more than three People for every five Tons. Especially in communications from the Admiralty upon the capacity of Transports to carry Emigrants, no regard whatever was paid to the other provision. It is not therefore any reflection on Dr. Boyter that he did not advert to it.

Limitation of number of passengers.

On the other hand, it is due to myself to state, from the moment I commenced my duties, I insisted on both limits being observed, the one measured by space as well as the one measured by Tonnage. I only did not write to Dr. Boyter on the subject, because, as he was already in the Hebrides acting under orders he had received before my appointment, and in the enjoyment of the high confidence he had deservedly gained both in the Colony and here, I did not wish to trouble him immediately on my appointment with new and minute Instructions, but left him to work out the service on which he was already detached. On his return from the

\* Note 3.

1837.  
30 Dec.

Limitation of  
number of  
passengers.

Hebrides, I acquainted him for his guidance with the resolution that the fixed proportion of Passengers to the size of the Deck must be invariably adhered to. Having then been the first to introduce this practice, having persisted in it contrary to the opinion of, I may say, almost all the Surgeons who have gone out and almost all the Emigration Agents who have been employed in this branch of the service, in fact having supported it against the doubts expressed by the Admiralty itself, and maintained it notwithstanding a representation from that high Authority in a letter now on record, which satisfied the Secretary of State of the propriety of the course I advocated, it would hardly have been just to myself to have left room for any mistake on this occasion as to my own view of the best general rule. But I mention it as I have already said without the slightest imputation on Dr. Boyter's proceedings in the particular case. In concluding this report which I fear has grown to an inconvenient length, I would merely state as briefly as possible the following results. It seems very probable that, from the want of any previous experience in sending such large numbers of Children, the dietary of the earlier Emigrant Ships this year stood much in need of improvements, of which several, however, have since been introduced, and others will be adopted as fast as found to be advisable. With respect to numbers, a rule is now invariably enforced which seems to defy the possibility of crowding. It will be endeavoured to obtain families with few Children in preference to families with many, and to avoid, as far as circumstances will admit, taking women far advanced in Pregnancy.

The dispatch from the Governor of the Cape is returned herewith.

I have, &c.,

THOMAS F. ELLIOT.

P.S.—Since writing this letter I have seen Dr. Grant's published statement and find that it calls for no correction here.

[Sub-enclosure No. 1.]

SURGEON ROBERTS TO ———.

Ship William Nicholl, Table Bay,

Sir,

Cape of Good Hope, 14th September, 1837.

Agreeably to my Instructions, I have the honor to state that the "William Nicholl" put into this Port on the 11th instant, having been Sixty Six days at Sea, for the Purpose of obtaining a fresh supply of Water, the quantity on board being deficient to complete the Voyage.

I also beg to state that, during the performance of this part of the Voyage, sickness has prevailed on board to a considerable extent particularly amongst the Children, several of whom have died from fever and Marasmus. The Women have also been subject to considerable sickness, one death having occurred from Childbirth fever. The men have in general enjoyed good health without any casualty having occurred; their conduct throughout the Voyage has been correct and orderly; a detailed account of the cases of Sickness will be given in the general report agreeably to your instructions; at present there is still considerable sickness on board amongst the Children. On reporting the arrival of the Ship, I requested that fresh Beef and Vegetables would be supplied for the use of the

Report by  
G. Roberts re  
ship William  
Nicholl.



Emigrants on board, when His Excellency the Governor was pleased to grant the request. I trust from this Circumstance, from change in diet, that health will be restored and that the remainder of the Voyage will be performed without any additional casualty.

The fresh beef and Vegetables are supplied by the Commissariat, and receipts of the quantity supplied will be forwarded from that department. The Ship will leave this Port tomorrow the 15th to proceed on her Voyage.

I have, &c.,

G. ROBERTS, Surgeon Insp.

1837.  
30 Dec.

Report by  
G. Roberts re  
ship *William  
Nicholl.*

[Sub-enclosure No. 2.]

EXTRACT of a letter from Dr. Boyter, R.N., to T. F. Elliot, Esq., dated Dundee, 19th November, 1837.

“THE William Nicholl was provisioned and supplied with every necessary store for the period of six months and for three hundred Adults, and, when the vessel arrives at New South Wales, there will be at least remaining in the Hold three months’ provisions to spare. As Dr. Roberts has made no complaints, it is to be presumed that he had no wants but a supply of Water, and it was known to me before the Ship sailed that they intended calling at the Cape to water and refresh, and their very short stay there is a strong proof that the prevailing sickness was not of an aggravated character. As to the state of filth described in the Newspaper report, it is not very likely that so experienced a Surgeon as Dr. Roberts would allow sixty five stout, healthy Men and Husbands to remain idle spectators in such a case. The number of three hundred moving objects in a Vessel of 408 tons would undoubtedly startle a Stranger; but, in a Ship of the same size, Two hundred Convicts are confined below all night, with thirty Soldiers, eight women and a dozen Children besides the Crew occupying the same space as the Troops, and all on the same deck with the Convicts. Yet no complaints are made and seldom any bad results from it, Although the Proportion is far beyond the Emigrant Vessels.”

Criticism of  
statements  
by D. Boyter.

[Sub-enclosure No. 3.]

DR. BOYTER TO MR. T. F. ELLIOT.

Sir,

Blairgourie, 2S November, 1837.

I have the honor to acknowledge your letter of the 25th enclosing a dispatch (a Copy) from the Governor of the Cape of Good Hope relative to the “William Nicholl.” As to the crowded state of the Ship, if we only allow two children for one adult, it will appear by their own shewing that the total number on board was barely equal to two hundred and thirty four Adults. The “William Nicholl” was a new built Ship and exceedingly capacious in every respect; the length of deck was eighty two feet independant of the Hospital, and was fitted up for the reception of two hundred and fifty Adults, eighteen inches being allowed for each individual. I removed all the Midship births with the exception of a few in the aftermost part of the Ship for the accommodation of the Super-numerary women. The Provisions and comforts laid in were such both in *quantity* and *quality* that no Ship ever sailed from Great Britain so fully or so well provided; and, as a proof of this, I beg to refer you to the account and Vouchers sent into office with the

Reply by  
D. Boyter to  
allegations re  
ship *William  
Nicholl.*

1837.  
30 Dec.

Reply by  
D. Boyter to  
allegations re  
ship *William  
Nicholl*.

Master's receipts for the same. In addition to the common Stock of Clothing the Emigrants possessed, I made them all procure several other little articles with a new suit of Plaid requisite for the Voyage. I am therefore not only surprized but confounded, that such an assertion should be made utterly unfounded and destitute of truth; and, even had they been worse provided, their only suffering must have arisen from the heat of a Tropical Climate. Convicts have only two Shirts for the Voyage, and no allowance of soap to wash them; and I never experienced much inconvenience from the want of more. As to Dr. Grant's suggestions about Rusks, Jellies, Jams and Brandy, better substitutes were provided in abundance such as Oatmeal and Molasses, and more good Port wine was sent on board for their use than is consumed in any two Hospitals in the kingdom for the same period of time. A widwife (Mrs. McDonald), that understood English and Gaelic and of excellent character, undertook the charge of women and Children both in and out of Hospital. I also gave a spare Cabin under the Poop to two highly recommended Sheperds, to act as Interpreters on all occasions. Water Closets were constructed separately for both Men and Women, so that, with the exception of Cows, everything was provided that the Doctor recommended. As to the stage of Pregnancy when women ought to be received on board, it is a question with which the Doctor has no concern, his idea of a Vessel sailing from Skye "and touching at some Port in Ireland or Great Britain and remaining in Table Bay two days at least to land the Weakly" is so truly absurd as to require no remark; with respect to the letter of Secretary Bell, containing a statement and comparison with the *Platina*, female Convict Ship, it frequently happens that a number of Female Convicts cannot be collected in a short time to fill up a Ship for a certainty, and from that or some other reason Female Ships are never so crowded as Male Ships. As to the Master of the *Platina* refusing peremptorily to embark one Convict more for want of room, it so happens that the Surgeon Superintendent's opinion in matters of that nature is always and only consulted. The tonnage of a Vessel is no sure criterion to act on. The "*John Barry*" was about 630 tons and took out three hundred and thirty six souls besides the Crew; that Ship was only ten feet longer than the "*William Nicholl*," and in no other respect equal to her; by accounts received from the Emigrants at the Island of St. Jago, they were all satisfied with the Ship and Provisions. If Dr. Roberts could have suggested any improvement as to numbers, diet, or fitting of a ship, his instructions required him to do so; and it appears very extraordinary that the Secretary for that Colony should have forwarded such a communication without obtaining more correct and better information. The only question to be considered and decided on is the number of people that are in future to be embarked in Vessels of certain Tonnage and dimensions. In conclusion, I must again repeat that the arrival of the "*William Nicoll*" at the Cape, with as great a number of Souls as I reported having embarked, is a far happier result than I had any reason to anticipate; and any Person that witnessed the wretchedness of the People at the time of Embarkation must be strongly impressed with the same feeling.

I have, &c.,

DAVID BOYTER, M.D.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 55, per ship Maria.)

1837.  
30 Dec.

Sir, Downing Street, 30 December, 1837.

I have the honor to acquaint you that the four Roman Catholic Clergymen, whose names are mentioned in the margin,\* having been selected by the Revd. W. Ullathorne and having produced satisfactory testimonials, I have intimated my readiness, on their being prepared to leave this Country, to authorize the Colonial Agent to issue to each of them the sum of £150 on account of his outfit and passage to New South Wales.

Selection of  
R.C. clergy.

I have, &c.,  
GLENELG.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 56, per ship Maria.)

Sir, Downing Street, 30 December, 1837.

I have the honor to acknowledge the receipt of your Predecessor's despatch No. 54 of the 27th June last, with the Report of the Surgeon of the "Prince George" as to unusual prevalence of sickness in that ship during the voyage to New South Wales.

Despatch  
acknowledged.

Lord John Russell has caused a reference to be made on the subject to the Lords Commissioners of the Admiralty, and I now transmit for your information the accompanying copy of a Report thereon from the Physician General of the Navy.

I have, &c.,  
GLENELG.

[Enclosure.]

REPORT.

Admiralty, 17th November, 1837.

THEIR Lordships having been pleased to refer to me a letter from the Secretary of State for the Colonial Department (herewith returned), enclosing one from Sir Richard Bourke, Governor of the Colony of New South Wales, and a report from Mr. Thos. Bell, Surgeon, R.N., Superintendent of the "Prince George" Convict Ship, relative to the unhealthy state in which that Ship arrived at Sydney.

Statement  
by physician  
general re diet  
on convict  
ships.

I have so recently and fully reported my opinion to the board on all the circumstances, which appear to affect the health of the convicts on their passage from England to New South Wales and Van Diemen's Land, that it will be unnecessary to trouble their Lordships by entering again on the general subject; I shall therefore confine my observations as much as possible to the individual case.

His Excellency the Governor attributes all the ill health, which assailed the convicts in this Ship to the issue of Cocoa instead of Oatmeal, entirely overlooking the other parts of the Surgeon's

\* Marginal note.—Revd. Fras. Murphy, Revd. John Rigney, Revd. John Fitzpatrick, Revd. John Lynch.

1837.  
30 Dec.

Statement  
by physician  
general *re* diet  
on convict  
ships.

Report which appears to me to account in the easiest manner possible for all the ill health that prevailed, without attributing any evil effects to an Article of Diet, which has been used for a long period in the Navy with the most beneficial result, and which I have no hesitation in avowing my opinion could not have produced the evil consequences attributed to it.

Mr. Bell states in his Report that the Prisoners were embarked in December last in a state of Health arising from deficient nourishment, want of exercise, depressed Spirits, etc., that they met with a long continuance of Wet and blowing weather, and on the 25th December the Ship lost both her Anchors and Cables in the Channel, in a terrific Gale of Wind, and was nearly driven on Shore and obliged to return into Port. That the Cold, Wet, and confinement between Decks, and the check which exhalation gave to the action of the skin produced loss of Appetite and great debility, and that few could use the Chocolate, morning and evening. Surely it was quite unnecessary after such a detail as the foregoing to attribute any evil effects to Chocolate.

The deteriorated health and depression of spirits when they embarked, followed by Cold, Wet, and Gales of Wind encountered before they left the Channel, were amply sufficient to account for all the illness that followed; and indeed I cannot but think that, but for the active and unremitting attention of the Surgeon, they would have been attended with far more serious consequences; and, if the changes of time for the sailing of the Convict ships be not adhered to, viz., that none should leave this Country for New South Wales or Van Diemen's Land from the end of October till the beginning of March, and, if the Convicts make but one step from the Prisons where they have been confined, previous to, and after their conviction, into the ships for conveyance to those Colonies; I am persuaded that neither Diet nor Medicine nor the most careful attention and skill on the part of the Medical Superintendent can prevent the accession of serious disease.

It is well known to their Lordships that the change from Oatmeal to Cocoa was made by the Victualling Department in consequence (as I have been informed) of the repeated representation of some of the most experienced Medical Officers in that service that the Convicts would not use the Oatmeal; and the Surgeons have repeatedly told me the same thing; and, if it were necessary, I could mention individual Cases, noted in the Journals of the Surgeons; and it is notorious that not one third of the Oatmeal was ever used, but was generally given to feed the live stock or left as a perquisite to the Master of the Vessel when the other Provisions, remaining after the Voyage, were lauded.

The Ship in question was supplied, on sailing, with 2,205 lbs. of Chocolate (a five Months' supply), and also a proportion of Oatmeal for one month's Supply, and was on her Voyage 141 days; the 290 pounds of the former returned therefore cannot be looked upon as a large quantity unused, and certainly does not bear out the Report that the Chocolate was generally declined by the Convicts. At this moment, there is a report in Office from the Surgeon Superintendent of the "Frances Charlotte," which ship conveyed 150 Boys and sailed in November last, wherein the Convicts refused both Oatmeal and Chocolate, yet their health was well preserved.

Independent of all this the following statement will completely disprove the information, which Sir Richard Bourke has received respecting the issue of Cocoa for Oatmeal, vizt. :

1837.  
30 Dec.

Statement by physician general *re* diet on convict ships.

Year.	No. of Convicts sent out.	No. of Deaths.	Proportion of Deaths.
1830 .....	4,981	45	1/111
1831 .....	5,303	41	1/129
1832 .....	5,177	54	1/96
1833 .....	5,560	63	1/88
1834 .....	6,190	61	1/101
1835 (red ink) .....	5,365	37	1/145

Cocoa was issued during the year noted in Red Ink, and it is to be observed that in that year the proportion of Deaths was less than in any of the preceding.

There is another very striking circumstance in the report, which I cannot help thinking would have staggered Sir Richard Bourke's opinion had the Governor duly considered it.

Mr. Bell states that the illness was not confined to the Convicts alone "for many of the *Ship's Company*, both young and old, were afflicted *and some of them still remain on the sick List.*"

Surely this quite overturns the opinion about the Chocolate; and it is evident from its being so underlined as I find it in the report that Mr. Bell must have thought so likewise.

I believe it to be unnecessary to occupy more of their Lordships' time with this Report, and the more especially as the Diet has been re-modelled a few months ago, and, in my opinion, contains with the medical supplies everything that is either useful or necessary in preserving the health and restoring it when deteriorated. But, if Convicts are embarked with their health already destroyed, or sent out at such inclement seasons of the Year, no Diet or Medicine nor any exertion or attention on the part of the Medical Superintendent can prevent the sickness, which, as in the case of the "Prince George," extensive experience has long taught me will uniformly follow such a state of things.

W. BURNETT, Physician General.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 57, per ship Maria.)

Sir, Downing Street, 30 December, 1837.

I have received Sir Richard Bourke's dispatch No. 76 of the 4th August last with the Memorial therein enclosed from Mr. S. L. Harris, praying compensation for losses sustained in consequence of a sum of money having been withheld from him, which became due to him from the Government during his employment as Colonial Architect in the years 1823 and 1824.

Memorial acknowledged from S. L. Harris.

This application proceeds on the assumption that the judgment of the Court did not render justice to Mr. Harris. To act, however, on such an assumption would be to attribute to the Judges or to the Jury some error or neglect of their duty, which could not justly be ascribed to them in a case where no proof

Reasons for refusal of application.

1837.  
30 Dec.

is given nor even any allegation made of any such error or neglect. I think it impossible now to resume the consideration of claims on which the competent Legal Tribunal has deliberated and pronounced a decision.

I have, &c.,

GLENELG.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 58, per ship Maria.)

Sir,

Downing Street, 30 December, 1837.

Transmission  
of order  
from select  
committee.

I have the honor to transmit to you an extract from an order of a Select Committee\* of the House of Commons, appointed to enquire into the question of Transportation requiring certain information with reference to the Colony of New South Wales; and I have to request that you will take the necessary measures for preparing and transmitting to me at your earliest convenience the information required, as far as may be practicable.

I have, &c.,

[Enclosure.]

GLENELG.

Returns  
required  
by select  
committee  
of house of  
commons.

EXTRACT of an Order of a Select Committee of the House of Commons on Transportation, dated 29 November, 1837.

1. Return of the Revenues of New South Wales in each year since the commencement of the Colony.

2. Abstract of every Census of N. S. Wales distinguishing Convict, those whose Sentences have been remitted or have expired, and free, distinguishing likewise in each class the age and sex.

3. Return of the total numbers of Convicts in N. S. Wales at the beginning or at any other period of each year since the Commencement of the Colony, distinguishing those holding Tickets of Leave, in assigned service, in the employment of the Govt. on Public Works, and in the Police; likewise the number of Convicts under sentence for Colonial Crimes distinguishing each description of punishment, and, in each of the above classes, distinguishing age, sex, and period of transportation.

4. Return of the Numbers of Convicts, who, in each year since the commencement of the Colony of N. S. Wales, have become Free by the expiration of their sentences, have obtained Free and Conditional Pardons, have died, have absconded, have been Executed, and have been missed; distinguishing in each class the Age, sex and period of transportation.

5. Return of the number of Persons charged with Criminal Offences, who were committed to the different Gaols in N. S. Wales and the dependencies thereof 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 acquitted or convicted, and with which those were charged agt. 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 Free Convicts, whose sentences have been remitted or have expired, Convicts holding Tickets of Leave, and other Convicts generally, distinguishing age, sex and period of Transportation.

\* Note 20.

LORD GLENELG TO SIR GEORGE GIPPS.

1838.

THE following despatches, written in the year 1838, have been Despatches omitted:—

dated	Despatch numbered	Transmitting
4th January	62	authority for free pardon for William Robertson.
10th January	64	approval for one absolute and sixty-four conditional pardons.
19th January	65	conditional pardon for John Donahoe.
22nd February	78	refusal to mitigate sentence on John Thomas Morgan.
26th March	93	petition for mitigation of sentence on Robert Dennis.
26th March	94	warrant for reduction of sentence on Thomas Rimmer.
1st May	103	free pardon for John Leary.
18th June	127	recommendation in favour of wife and family to be sent to Patrick Gaygan, convict.
23rd June	136	fourteen free and one hundred and seventy-nine conditional pardons.
10th July	150	refusal to mitigate sentence on James Daley.
2nd August	172	free pardons for Dorothy Fenn and Christiana Wilhelmina Eckhardt.
11th August	178	approval of eight absolute and one hundred and eighteen conditional pardons.
22nd August	179	testimony in favour of wife of — Kinnear, convict.
23rd August	183	testimony in favour of Hugh Naghten, convict.
28th August	190	instructions for confinement of Henry Hammond <i>alias</i> Henry Flemming as criminal lunatic.
18th September	Circular	instructions for report <i>re</i> James Freeman, convict.
10th October	217	do James Vaughan, convict.
22nd October	221	authority for conditional pardon to John Mortimer Algar.
3rd November	228	warrant for reduction of sentence on George Jenkins.
8th November	233	instructions for confinement of John Waggoner as criminal lunatic.
28th November	249	authority for remission of sentence on Samuel Welsh.
8th December	254	indent of convicts <i>per</i> ship <i>Neva</i> in 1835.
8th December	256	instructions for confinement of Ralph Nixon as criminal lunatic.
13th December	259	approval of commutation of death sentence on Long Jack, aboriginal.

CIRCULAR LETTERS.

DURING the year 1838, the following letters were written by the secretary of state which were similar to that\* dated 5th December, 1837, with the following manuscript alterations:— Circular letters omitted.

Letter dated 23rd May, 1838.

Mr. Thomas Bell—a Memorial—7th of Decr.—the removal of Mrs. Bell and himself from the superintendence of the Female Factory at Paramatta.

Letter dated 24th May, 1838.

Mr. Henry Donnison—a Letter—15th of Decr.—the case of James Freeman, a Convict in New South Wales.

Letter dated 29th August, 1838.

Mr. Richard Stubbs—a Letter ——— of ——— his claim to a Grant of Land in New South Wales.

ASSIGNMENT OF CONVICTS.

DURING the year 1838, a letter, which enclosed the assignment of convicts (not available) *per* the ship named, was written by lord Glenelg to Sir George Gipps, with date as under:— Assignment of convicts.

Date of letter.	Ship's name.	No. of convicts.
26th March	Bengal Merchant	270 Male.

\* Note 60.

1838.

## ACTING GOVERNOR SNODGRASS TO LORD GLENELG.

Despatches  
omitted.

THE following despatches, written in the year 1838, have been omitted:—

	Despatch dated	numbered	Transmitting
	1st January . . . . .	1	“ blue book ” for the year 1836.
	3rd January . . . . .	3	report on expense of return to Europe of Greek convicts.
	5th January . . . . .	5	report <i>re</i> Ann Keogh, convict.
	6th January . . . . .	6	do <i>re</i> Edward Coady, convict.
	4th February . . . . .	18	quarterly return of intestate estates.
	23rd February . . . . .	29	three absolute and one hundred and twenty-eight conditional pardons.

## SIR GEORGE GIPPS TO LORD GLENELG.

THE following despatches, written in the year 1838, have been omitted:—

	Despatch dated	numbered	Transmitting
	4th April . . . . .	49	report <i>re</i> Robert Cragg, convict.
	6th April . . . . .	51	return of tickets of leave for year 1837.
	6th April . . . . .	52	return of deaths of convicts for year 1837.
	6th April . . . . .	53	return of escapes of convicts for year 1837.
	18th May . . . . .	78	quarterly return of intestate estates.
	21st May . . . . .	79	report <i>re</i> Charles Edsell, convict.
	23rd May . . . . .	80	return of assignments revoked.
	18th June . . . . .	87	annual medical returns.
	20th June . . . . .	88	rules and regulations of supreme court.
	21st June . . . . .	90	reports <i>re</i> Hugh Connors and Patrick Kinselagh, convicts.
	23rd June . . . . .	93	report <i>re</i> Samuel Welsh, convict.
	1st July . . . . .	94	list of convicts requesting free passages for families.
	5th July . . . . .	98	requisition for medicines and stationery.
	11th July . . . . .	104	recommendation for commutation of death sentence on Long Jack, aboriginal.
	12th July . . . . .	105	report <i>re</i> release of Hugh Morgan, convict.
	19th July . . . . .	113	report <i>re</i> proposed pardons for machine-breakers.
	26th July . . . . .	116	quarterly return of intestate estates.
	23rd August . . . . .	129	requisition for stores for convict services.
	4th September . . . . .	137	report <i>re</i> omission to transmit pardon for William Nixon.
	8th September . . . . .	140	report <i>re</i> Alexander Hamilton.
	10th September . . . . .	141	abstract of revenue and its appropriation for 1837.
	21st September . . . . .	146	recommendation for commutation of death sentence on James McCullum.
	20th October . . . . .	169	report <i>re</i> Robert Denis, convict.
	23rd October . . . . .	171	request for particulars of sentence on Thomas Cullen.
	24th October . . . . .	172	request for particulars of sentence on Bernard Murray.
	12th November . . . . .	185	requisition for convict clothing.
	19th November . . . . .	188	list of convicts requesting free passages for families.
	30th November . . . . .	192	report on immorality of John Byron, master of female convict ship “ John Renwick,” with female convicts.
	5th December . . . . .	194	reply to memorial by James Monds or Mounds, convict, denying his claim for wrongful conviction as bushranger.
	29th December . . . . .	204	two absolute and one hundred and forty-two conditional pardons.



LORD GLENELG TO SIR GEORGE GIPPS.

1838.  
1 Jan.

(Despatch No. 59, per ship Maria.)

Sir, Downing Street, 1st January, 1838.

I have received Sir Richard Bourke's despatch No. 73 of the 1st August, forwarding Returns of Absolute and Conditional Pardons, which he had granted during the year 1836, and submitting the propriety of discontinuing such Returns as being unnecessary for the reasons stated by him.

Despatch acknowledged.

I am aware that the Governor issues only such Pardons as he is instructed to grant, and that a Report therefore of what he has actually done, if made in a single sentence, might be drawn out into detail by referring to his Instructions. But on the other hand these Returns are convenient for reference and useful as shewing that the Instructions have been correctly understood and followed. If, moreover, in any case the fact should be questioned judicially or for any other legal or technical purpose, the Returns in question would supply a material link which might otherwise be wanting in the chain of evidence. For these reasons I must decline to sanction the proposed departure from the established practice.

Necessity for returns of absolute and conditional pardons.

I have, &c.,

GLENELG.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 60, per ship Maria; acknowledged by Sir George Gipps, 28th August, 1838.)

Sir, Downing Street, 2d January, 1838.

2 Jan.

I have the honor to transmit to you the copy of a letter which has been addressed to this Department by desire of the Lords Commissioners of the Treasury respecting a disbursement of £12 9s., which appears to have been made, with the authority of your Predecessor, for the purchase of Robes for the Revd. Mr. Atkins while officiating as Chaplain at Norfolk Island.

Payment for robes for chaplain at Norfolk island.

If Mr. Atkins still resides in the Colony under your Government, you will require him to refund the amount in question into the Commissariat Chest.

Payment to be refunded.

I have, &c.,

GLENELG.

[Enclosure.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 28th December, 1837.

With further reference to the Communication which was addressed by direction of this Board to you on the 15th Ult., and to your reply of the 22nd of the same month thereto, in which you state, by desire of Her Majesty's Secretary of State for the Colonies, that his Lordship had not received any information from

Disallowance of charge for robes for chaplain at Norfolk island.

1838.  
2 Jan.

Disallowance  
of charge  
for robes for  
chaplain at  
Norfolk island.

the late Governor of New South Wales with regard to the Disbursements, which appear to have been made with his Authority on account of Clerical robes purchased for the officiating Clergyman at Norfolk Island, I am commanded by the Lords Commissioners of Her Majesty's Treasury to request you will move Lord Glenelg to apprise the Governor of New South Wales that the payment of £12 9s. for Robes, purchased for the Revd. Mr. Atkins, has been disallowed as a charge which should not properly have been made against the Public, and that he will desire the Governor to give directions that the amount may be refunded to the Chest under the charge of the Commissary by deduction from any payment, to which Mr. Atkins may be entitled for salary or other emoluments.

My Lords at the same time beg leave to observe to his Lordship that the late Governor, Sir Richard Bourke, by whose authority the payment was made, will be held responsible for the amount until it is recovered.

I am, &c.,

A. Y. SPEARMAN.

ACTING GOVERNOR SNODGRASS\* TO LORD GLENELG.

(Despatch No. 2, per ship North Briton.)

My Lord, Government House, 2nd January, 1838.

Transmission  
of returns *re*  
immigrants.

In obedience to the instructions requiring information as to the disposal of the Emigrants arriving from time to time in this Colony, under the arrangements adopted by Her Majesty's Government, I have the honor to transmit three nominal Returns† shewing the engagements and wages (so far as can be ascertained) of the Emigrants landed from the ships Adam Lodge, arrived 13 July, 1837; John Barry, arrived 9th Sept., 1837; William Nichol, arrived 28th Oct., 1837.

I have, &c.,

K. SNODGRASS.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 61, per ship Maria; acknowledged by Sir George Gipps, 3rd September, 1838.)

3 Jan.

Sir, Downing Street, 3d January, 1838.

Reports  
required *re*  
disposal of  
articles *ex*  
government  
ships.

I have the honor to transmit, for your information and guidance, the copy of a letter from the Board of Treasury, enclosing Statements of Articles delivered from Convict Ships into the charge of Public Officers at New South Wales in the years 1835 and 1836, respecting the disposal of which their Lordships require to be furnished with a Report; and stating under what Regulations Articles, delivered at New South Wales and Van Diemen's Land from Her Majesty's Ships of War, or Transports or Convict Ships, are to be disposed of in future.

I have, &c.,

GLENELG.

\* Note 61.

† Note 62.

[Enclosure.]

1838.  
3 Jan.

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 22d December, 1837.

I am commanded by the Lords Commissioners of Her Majesty's Treasury to transmit to you the enclosed statements numbered 24, 25 and 26 of Religious Books, delivered from Convict Ships into the charge of the Assistant Chaplain at Sydney between the 1st April, 1835, and the 4th July, 1836, with the statement No. 27 of Bazils with Chains delivered into the charge of the Superintendent of Convicts at Goat's Island, New South Wales, between the 1st April and 31 December, 1835; Also the statements No. 28 and 29 of Fittings of Convict Ships delivered into the Charge of the Port Officer at Hobart Town between the 1st April, 1835, and 31 March, 1836; and I am to request you will lay these statements before Lord Glenelg, and move His Lordship to instruct the Governors of New South Wales and Van Diemen's Land respectively to call upon the parties, to whom the Articles therein specified were delivered, to state in what manner they were appropriated, and to report the amount of the proceeds of such of them as may have been sold by Auction, and to ascertain or fix the nature of such as may have been otherwise disposed of (according to the state in which the articles were when delivered), if they had been to be purchased on the spot.

Reports required *re* disposal of articles *ex* government ships.

I am to acquaint you that, with a view to facilitate the adjustment of Claims that may be hereafter preferred by the Board of Admiralty in regard to Articles delivered at the Colonies of New South Wales and Van Diemen's Land from Her Majesty's Ships of War or Transports, or Convict Ships, my Lords have requested the Board of Admiralty to give Orders that no deliveries of any kind of Stores (Ordnance Stores and Stores specifically consigned excepted) from such Ships should in future be permitted to be made to any Department in those Colonies other than the Commissariat, and their Lordships have desired the Commissariat Officers in Charge will cause the value of the several Articles, which are intended to be applied to the service of the Military, Civil, or Colonial Departments, to be ascertained on the spot, with reference to the cost of such Articles in the Colony, and in conjunction with the Purser (should the deliveries be made from Ships of War) or the Master of the Vessel delivering the same; further that he will insert such value in the Receipt or Certificate acknowledging the delivery of such Stores; and, in case any of the articles so delivered should not be required for the public service, or should be damaged or unfit for use (in which latter case the Board of Survey should determine the fact), the Commissariat officer should apply to the Officer Commanding for his Authority to cause such Articles to be immediately sold by auction, and the net proceeds inserted in the Receipt granted to the Purser or Master of the Vessel delivering the same.

Instructions *re* disposal of articles *ex* government ships.

In the event of the Articles, so delivered over to the Commissariat, or any parcels of them, being wanted by other Public Departments, the same should be issued, under duly authorized Requisitions, and the stated value being paid into the Military Chest, in those cases in which the expence of the Service, in respect of which

1838.

3 Jan.

Instructions  
re disposal of  
articles *ex*  
government  
ships.

the Articles are issued, is not defrayed from the Military Chest in the first instance, or, in the event of their not being so required and being sold by Auction, the net proceeds would then be accounted for in the usual manner.

My Lords request you will submit to Lord Glenelg the expediency of giving directions to the Governors of those Colonies respectively to issue such instructions, in this respect, as may be necessary under their local Authority.

I am, &amp;c.,

A. Y. SPEARMAN.

[Sub-enclosure No. 1.]

No. 27.

Bazzels with  
chains *ex* ship  
*Lady Nugent*.

AN Account of Bazzels with Chains delivered from Convict Ships into the charge of the Superintendent of Convicts at Goat Island, New South Wales, between 1st April and 31st December.

Date of Receipt. 1835.	From what Ship.	Admiralty, 9th August, 1836. Number of Bazzels with chains. Prs.
27 April	Lady Nugent	44

JAMES MULL.

## RECEIPT.

Goat Island, Port Jackson, 27th August, 1835.

RECEIVED from Mr. T. H. Faurett, Master of the *Lady Nugent*, the Articles under-mentioned:—44 pair of Bazzels with Chains.

D. KENNY, Superintendent of Convicts.

[Sub-enclosure No. 2.]

## RECEIVED FROM THE LADY NUGENT:

Sydney, 24th April, 1835.

Receipt for  
religious books  
*ex* ship  
*Lady Nugent*.

10 Bibles;  
31 Testaments;  
64 Prayer Books;  
70 Psalters.

I HEREBY certify the above to be a true copy.—OLIVER SPROULE, Surgn. Supt.  
Signed.—WILLIAM COOPER.

[Sub-enclosure No. 3.]

No. 24.

Account of  
religious books  
*ex* convict  
ships.

AN account of Religious Books returned from Convict Ships and delivered into the charge of the Revd. William Cooper, Assistant Chaplain, Sydney, New South Wales, between 1st April and 31st Decr., 1835.

Admiralty, 9th August, 1836.

Date of Receipt.	From what Ship.	Bibles.	Testaments.	Prayer Books.	Psalters.
1835.		No.	No.	No.	No.
24 April .....	Lady Nugent.....	10	31	64	70
31 July.....	Marquis of Huntley.....	19	40	56	74
31 „ .....	Westmoreland .....	13	27	50	56
24 September.....	Mary.....	6	23	5	40
23 October .....	Backwell.....	7	16	33	39
16 November .....	Mary Ann .....	18	39	76	79
		73	176	284	358

JAMES MULL.

[Sub-enclosure No. 4.]

No. 25.

STATEMENT shewing the number of Religious Books delivered from Convict Ships at Sydney between the 1 January and 31 March, 1836.

1838.  
3 Jan.  
Account of religious books  
ex convict  
ships.

Admiralty, 10 October, 1836.

Date.	Ships name.	To whom delivered.	Bibles.	Testaments.	Prayer Books.	Psalters.	Primers.
1836. 9 March	Susan .....	W. Cowper Assist- ant Chaplain.	20	37	77	78	17
25 "	Recovery	do.	1	36	68	72	17
			21	73	145	150	17

J.T.B., For Comptroller of Victualling.

[Sub-enclosure No. 5.]

No. 26.

STATEMENT of Religious Books delivered to the Chaplain Genl. at Sydney from Male or Female Convicts on their arrival from this country, made out from accounts received into office between the 1 October and 31 Decr., 1836.

Department of the Comptroller for Victuallg. and  
Transport Service, 15 February, 1837.

Date.	From what ship.	By whom received.	Bibles.	Testaments.	Prayer Books.	Psalters.
1836. 25 March	Roslin Castle .....	W. Cowper Assist- ant Chaplain.	7	26	28	52
13 June ...	Surry .....	do.	1	19	46	60
4 July ...	Strathfieldsay .....	do.	15	19	35	65
28 June ...	Thomas Harrison...	do.	—	56	2	7
			23	101	111	184

JAMES MULL.

ACTING GOVERNOR SNODGRASS TO LORD GLENELG.

(Despatch No. 4, per ship North Briton.)

My Lord, Government House, 4th January, 1838.

4 Jan.

With reference to your Lordship's Despatch of 15th August, 1836 (without number) addressed to Sir Richard Bourke, and to other correspondence relating to property left in New South Wales by the late Michael Byrne, and also by a person named Kennedy, deceased, I have the honor to acquaint your Lordship that the Colonial Secretary has fully communicated with the Colonial Agent General in the former matter by a letter, dated 3rd July, 1837, and in the latter by a letter dated 3rd December, 1836.

Reports  
transmitted  
re deceased  
estates.

I have, &amp;c.,

K. SNODGRASS.

1838.  
5 Jan.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 63, per ship Maria; acknowledged by  
Sir George Gipps, 15th August, 1838.)

Sir, Downing Street, 5th January, 1838.

Petition  
received from  
G. Wentworth.

I have received Sir Richard Bourke's dispatch No. 74 of the 2d August, transmitting a Petition from Mr. George Wentworth for a Grant of Land in New South Wales on the ground of an application, which he addressed to General Darling in 1830, followed by a reference to the Land Board and a Report from that Board in his favor in February, 1831.

It appears that, notwithstanding this Report, no grant was made to Mr. Wentworth, altho' his claim was preferred and investigated before the promulgation of the present Regulations for the disposal of land.

Inability of  
R. Darling  
to report  
on claim.

On the receipt of this application, I felt it my duty to enquire of General Darling whether he had any recollection of the circumstances under which Mr. Wentworth failed to receive the land, to which by the Regulations then in force he would seem at the time to have had a fair claim. General Darling having informed me that he has no knowledge or recollection of the case, I have no means of forming an opinion on the validity of the present claim except from the facts stated in the Petition, of the general accuracy of which there does not seem to be any question.

Validity of  
claim affected  
by delay in  
application.

Under these circumstances, had this claim been preferred within a short period after the Report of the Land Board or even soon after the alteration of the Government Regulations in 1831, I should have felt myself bound to admit it; but the long delay, which has been suffered by Mr. Wentworth to intervene between the Report of that Board and the assertion of his claim, of which I find no explanation, appears to me materially to affect its validity.

The acquiescence of the applicant for six years, not in a refusal to make him a grant of land (for he does not seem to have made a direct application or to have received a direct refusal until December, 1836), but in the failure of the local Government to issue to him an order for selection, raises a strong presumption that there must have been some circumstances, altho' no record of them now exists, which were sufficient to account for the Report of the Land Board not being followed up as in ordinary cases at that period by a Grant. Unless, therefore, this delay on the part of Mr. Wentworth can be satisfactorily explained, I should feel myself unable to admit the existence of his right.

Some limit must necessarily be placed to the time within which applications founded on claims established before the introduction of the new Regulations in 1831 are to be preferred, and, where due diligence has not been used in prosecuting any such claim, the Applicant must submit to the consequences of his own neglect. There may of course be circumstances of which I have no knowledge, which would exempt Mr. Wentworth from the operation of this rule; but, until I am acquainted with them, I am unable to sanction a compliance with his request.

1838.  
5 Jan.

Necessity for  
limitation  
in time for  
applications.

I have, &c.,  
GLENELG.

ACTING GOVERNOR SNODGRASS TO LORD GLENELG.

(Despatch No. 7, per ship North Briton.)

My Lord, Government House, 7th January, 1838.

7 Jan.

I have the honor to acquaint Your Lordship that the bearer, Dr. Roberts of the Royal Navy, has received the usual instructions (subject to your Lordship's approval and confirmation) to select and bring out Emigrants to this Colony from the West of Scotland.

Nomination of  
G. Roberts as  
surgeon to  
select  
immigrants.

I have the more confidence in submitting the name of Dr. Roberts to your Lordship for the employment in question, as he has derived experience from his previous superintendence of the Emigrants, who recently arrived from the Isle of Skye by the ship "William Nichol" and holds Sir Richard Bourke's certificate of his satisfactory performance of the duty.

I have, &c.,  
K. SNODGRASS.

ACTING GOVERNOR SNODGRASS TO LORD GLENELG.

(Despatch No. 8, per ship North Briton.)

My Lord, Government House, 8th January, 1838.

8 Jan.

The accompanying opinions of the Attorney General, in conjunction with Mr. Kinchela, formerly Attorney General and since acting Puisne Judge in this Colony, were taken by desire of Sir Richard Bourke before his departure from this Colony upon the important question of the validity of Grants of Land issued by the Governor in the name of King William IV during the interval between His Late Majesty's decease and the receipt of intelligence of that event in this Colony.

Transmission  
of opinions *re*  
validity of  
lands granted  
after demise of  
William IV.

Your Lordship will perceive that, although both these Learned Gentlemen are of opinion that such Grants are valid, they

1838.  
8 Jan.

Necessity for  
validating act.

suggest that for quieting all apprehensions on this subject, they be confirmed by an Act either of the Imperial Parliament or of the Local Legislature, with such previous consent and authority on the part of Her Majesty as, in case the latter mode of proceeding be adopted, will be essential to its validity.

It only remains for me to submit the case for your Lordship's consideration, with this one additional suggestion, however, that, if a legislative measure be adopted, it may be convenient to preclude the recurrence of a similar inconvenience by some general clause, having a prospective operation. I have, &c.,

K. SNODGRASS.

[Enclosures.]

[Copies of these opinions are not available.]

ACTING GOVERNOR SNODGRASS TO LORD GLENELG.

(Despatch marked "Separate," per ship North Briton.)

My Lord, Government House, 8th January, 1838.

I have the honor to inform Your Lordship that, Sir Richard Bourke having left the Colony in the ship "Samuel Wynter" bound for Valparaiso on the 5th Ultimo, I, as the Senior officer of His Majesty's Land Forces next in command in New South Wales, in conformity with the Royal Instructions, assumed the administration of the Government of this Colony, and took and subscribed the usual oaths before the Executive Council on the following day. I have only to add that it was Sir Richard Bourke's intention\* to proceed from Valparaiso across the Pampas to Buenos Ayres, and thence to embark for England. This is the first opportunity which has occurred of apprising your Lordship of his departure since it took place, with the exception of the "Louisa" Whaler, which was not considered eligible, as it was understood the Master intended to avail himself of any opportunity which offered on the passage of completing his cargo of oil.

By some of the numerous ships soon about to sail for London with wool, I shall have again the honor of addressing Your Lordship. I have, &c.,

K. SNODGRASS.

ACTING GOVERNOR SNODGRASS TO LORD GLENELG.

(Despatch No. 9, per ship Augusta Jessie.)

My Lord, Government House, 9 Jany., 1838.

At the request of Mr. James Anderson, the Assistant Superintendent of the Sydney Botanic Garden, I have the honor to forward a Memorial which he has addressed to your Lordship,

\* Note 63.

Departure of  
Sir R. Bourke.

Administration  
assumed by  
K. Snodgrass.

Intended  
journey of  
Sir R. Bourke.

9 Jan.

Transmission of  
memorial from  
J. Anderson.



applying for the appointment of Superintendent on the vacancy arising by the resignation of Mr. Cunningham.

1838.  
9 Jan.

The recommendation of the Committee of the Garden, and that of Capt. King, R.N., attached to the memorial, render it unnecessary for me to add anything in order to entitle the application to the most favorable consideration which circumstances will admit.

Testimony in  
favour of  
application.

I have, &c.,

K. SNODGRASS.

[Enclosure.]

THE Memorial of James Anderson, Assistant Superintendent of the Government Botanic Garden, Sydney, New South Wales, Praying, that he may receive from Your Lordship the appointment of Superintendent of that Establishment, vacant by the Resignation of Allan Cunningham, Esqr.

Memorial of  
J. Anderson  
requesting  
appointment as  
superintendent  
of botanic  
garden.

To the Right Honorable Lord Viscount Glenelg, Her Majesty's Principal Secretary of State for the Colonies, etc., etc., etc.

Humbly Sheweth,

That Memorialist has acted in his present situation as Assistant Superintendent of the Botanic Garden, Sydney, for two years and four months; and that, during one year and six months of that period, from September, 1835, till February, 1837, the whole charge of that department devolved upon Memorialist; as it will also do during the present vacancy, till your Lordship pleasure is known;

That Memorialist has had much practical experience of his profession in this Colony, having arrived in 1832, and from that time till 1835 was wholly engaged in Botanical pursuits;

That Memorialist's experience in other countries is extensive, having passed seven months in 1821 at Sierra Leone, Cape Coast Castle, and the Island of Ascension; and sixteen months in Rio Janeiro and Valparaiso, in 1823 and 1824, engaged in the collection of Botanical Specimens.

That Memorialist begs to direct your Lordship's attention to the circumstance that Memorialist accompanied Capt. P. P. King, R.N., in H.M.S. Adventure, on the whole of the extensive Survey of the Coast of Magellan, for a period of five years, as Botanical Collector on the voyage.

That Memorialist, having learned that the Principal Superintendent of the Botanic Garden has voluntarily resigned that Situation, takes the liberty to Solicit your Lordship's attention to the above circumstances and to the recommendations and certificates hereunto annexed in Memorialist's favour; and most respectfully requests that Your Lordship will be graciously pleased to put a favorable construction on his past services, and recommend him to Her Majesty for the appointment of Superintendent of the Botanic Garden, Sydney;

That Memorialist trusts His long service, His Botanical experience acquired in various Countries, and his Capability to conduct the Botanical Department with efficiency, for the advantage of the

1838.  
9 Jan.

Colony and for the collection and transmission to the Mother Country of rare and valuable Plants, will induce your Lordship to Grant the Prayer of this Memorial, and Memorialist will ever Pray,  
Sydney, January, 1838. JAMES ANDERSON.

Testimony in  
favour of  
application.

THE foregoing Memorial was presented at a General Meeting of the Committee of the Australian Museum and Botanical Garden of Sydney; and it was unanimously considered that the appointment of Mr. James Anderson to the Superintendance of the Botanical Garden would be advantageous to that Institution.

The Committee are anxious to bear testimony to the attention and Zeal always displayed by Mr. Anderson, when placed in charge of the Garden, during the absence of the Superintendent at various times in the Interior, and at New Zealand, and also for the period between Mr. Richard Cunningham's death and the appointment of Mr. Allan Cunningham; and therefore feel great pleasure in recommending the Prayer of the Memorialist;

ALEXR. MCLEAY. WM. MACARTHUR.  
PHILLIP P. KING. GEORGE MACLEAY.  
JOS. THOMSON.

I FURTHER Certify, that Mr. Anderson's Conduct, whilst under my Command, during the Survey of the Straits of Magalhaens and the Coasts of Patagonia, was most zealous and active, and in my opinion, on that account, highly deserving of the favorable consideration of her Majesty's Govt. PHILLIP P. KING, Capt., R.N.

ACTING GOVERNOR SNODGRASS TO LORD GLENELG.

(Despatch No. 10, per ship Augusta Jessie; acknowledged by lord Glenelg, 5th July, 1838.)

10 Jan.

My Lord, Government House, 10th January, 1838.

Transmission of  
memorial from  
Revd. J.  
McGarvie.

I have the honor to transmit, at the request of the Rev. J. McGarvie, a presbyterian Minister of one of the Scots Churches in Sydney, an application for a Grant of Land under the circumstances which he details. Those circumstances are, I believe, correctly stated by him, and I am bound, in transmitting his Memorial, to add that his character and conduct as a Minister of Religion and useful colonist have been uniformly such, since his arrival in 1826, as to entitle his claim to every consideration which on this ground can be extended to it.

I have, &c.,

[Enclosure.] K. SNODGRASS.

Memorial of  
Revd. J.  
McGarvie  
soliciting  
land grant.

THE Memorial of the Revd. John McGarvie, A.M., Minister of St. Andrew's Scots Church, Sydney, New South Wales, Praying a Grant of Land, or Compensation in lieu thereof, To the Right Honorable Her Majesty's Principal Secretary For the Colonies, etc., etc., etc.,

Humbly sheweth,

That Memorialist arrived in 1826 and has been a Minister of the Colony ever since, having been stationed at Portland Head as Presbyterian Minister of the District of the Hawkesbury from arrival till 1832, and from 1832 till the present time in Sydney.

That, at the period of Memorialist's arrival, Ministers of Religion in Virtue of their Office were allowed one Grant of Land, amounting to Twelve Hundred and Eighty Acres at the end of five Years, and an equal quantity at the end of Ten Years; and in 1828 The Revd. Dr. Lang, Minister of the Scot's Church, Sydney, received a Grant to that Amount on the usual Conditions;

1838.  
10 Jan.

Memorial of  
Revd. J.  
McGarvie  
soliciting  
land grant.

That, by your Lordship's Despatch to Sir Richard Bourke, dated 14th February, 1836, your Lordship was graciously pleased to authorise His Excellency to accede to the Claims of certain Episcopal Ministers who arrived in 1829, three Years subsequent to the arrival of Memorialist, and the Legislative Council were pleased to vote the sum of nearly Eight Thousand pounds by way of compensation for such Claims, Your Lordship having stated in that Despatch "That all the Chaplains holding their appointments in the Colony at the time when Sir George Murray's arrangement was promulgated, as well as any who received their appointments while that arrangement continued in force, are entitled to the compensation proposed by your Lordship in that Despatch."

That, in 1837, Memorialist had the honor to submit to His Excellency the Governor his Claims for a Grant of Land or for Compensation, and received a gracious reply expressive of His Excellency's sense of the merits of Memorialist's Claim and of His Excellency's "willingness to comply with the request made, had the same been in his power, without referring in the first instance to your Lordship."

That Memorialist had the honor to receive from His Excellency a Letter, dated 1st August, 1837, in which it is stated "That His Excellency will not stand in the way of any application that may be made to your Lordship in Memorialist's favor, and is sorry that in this case he can do nothing from himself."

That Memorialist has served as a Clergyman in this Colony for nearly Twelve Years in the effective and uninterrupted discharge of his Ministerial duties, without receiving any indulgencies granted to other Ministers.

That Memorialist did not receive outfit on leaving the Mother Country, as Ministers of the Church of Scotland do who now arrive in the Colony.

That Memorialist has had a Salary of only One Hundred Pounds per Annum inadequate for his comfortable Maintenance.

That Memorialist has been instrumental in founding Two Churches, 1st. Portland Head having a Glebe and House, purchased in 1828 at a cost of £320, and 2d. St. Andrew's Scots' Church, Sydney, erected at an expence of £2,224, which Church is not encumbered with any Debt.

That Memorialist trusts to the justice of His Claim, and to the principle recognised by your Lordship in the case of the Clergymen of the Church of England, who arrived in 1829 and who in the present Year have received ample compensation for their Claims for Land, and to the fact that Clergymen, arriving prior to 1829, received such Grants including the Senior Minister of the Scots Church, Sydney; and Memorialist respectfully solicits your Lordship's favorable attention to the claim now made for a Grant of Land, or for Compensation in lieu thereof by an abatement in the purchase of Land at the minimum price.

That Memorialist is the only Minister of the Church of Scotland, resident in the Colony for five years prior to 1831 (when the change

1838.  
10 Jan.  
Memorial of  
Rev. J.  
McGarvie  
soliciting  
land grant.

took place in the mode of disposing of Crown Land), who has not received the usual indulgence granted in this respect to Clergymen; and Memorialist hopes, that your Lordship will now readily grant the Prayer of this Memorial from the consideration that, by putting a favorable construction on Memorialist's Claim, no future Claim can be made by any Minister who arrived before that period, either for Land or Compensation, The Claims of the Church of Scotland being thus extinguished prior to 1831.

Memorialist therefore humbly Prays that Your Lordship will be graciously pleased to authorise His Excellency the Governor to make to Memorialist a Grant of Twelve Hundred and Eighty Acres of Land for five Years' Service prior to 1831, and such further Compensation for additional Service, as to your Lordship may appear just and expedient; and Memorialist will ever pray.

JOHN MCGARVIE, Minr.,  
Sydney, 19th Decr., 1837. St. Andrew's Church, Sydney.

ACTING GOVERNOR SNODGRASS TO LORD GLENELG.

(Despatch No. 11, per ship Augusta Jessie.)

11 Jan.  
Transmission of  
memorial from  
R. Uther.

My Lord, Government House, 11 January, 1838.

I have the honor to transmit a Memorial which Mr. Reuben Uther has addressed to your Lordship, praying that he may receive a Grant of Land under the regulations in force before the year 1831.

Former  
refusal of  
land grant.

The answer, which by direction of Sir Richard Bourke was returned to Mr. Uther's application, when made in the first instance to this Government, will place your Lordship in possession of the nature of his claim and the reason for its necessary rejection, unless the grant be specially authorised by your Lordship. I have, therefore, the honor to transmit a copy of that letter as the most satisfactory report I can make on the Memorial under transmission.

I have, &c.,

K. SNODGRASS.

[Enclosure.]

Memorial of  
R. Uther  
soliciting  
land grant.

THE Humble Memorial of Reuben Uther, of Sydney, in the Colony of New South Wales, Hat Manufacturer,  
To The Right Honorable The Principal Secretary of State for the Colonial Department, etc., etc.,

Humbly Sheweth,

1. That your Memorialist arrived in the said Colony in the year 1807, as an Emigrant Settler from England, and, with the exception of a short visit to his native Country, has continued to reside therein ever since.

2. That in the year 1812, your Memorialist succeeded, after great exertions and considerable outlay of Capital, in establishing in Sydney aforesaid a Manufactory of Hats from Colonial material, which, being nearly the first attempt of the kind that had been made since the foundation of the Colony, was generally esteemed by the inhabitants as a most useful and meritorious undertaking.

3. That, at that early period in the history of Australia, when her commercial intercourse with the Mother Country was extremely tardy and precarious, Governor Macquarie attached so much importance to the introduction of domestic manufactures, that it was His Excellency's practice to reward the successful enterprise of individuals in such pursuits with free Grants of Crown Lands; and, in conformity with that practice, His Excellency was pleased to make to your Memorialist, as a bounty for his services to the public in his aforesaid Manufactory, a free Grant of four hundred (400) acres.

4. That, upon receiving the said Grant, your Memorialist, without discontinuing his Manufactory in Sydney, proceeded to fence, clear, and cultivate the land, and to make other improvements thereon; and it was not until he had thereby expended full a thousand pounds sterling, that he was induced by circumstances beyond his control to alienate the whole four hundred acres to the late Mr. Thomas Rose of Appin, who made thereon many very expensive improvements and occupied the same as a homestead until his decease.

5. That, in the year 1825, your Memorialist, leaving his aforesaid Manufactory under the care of a competent Superintendent, proceeded on a visit to England where he remained until the subsequent year.

6. That, during the said visit, your Memorialist made an application to the Right Honorable the Secretary of State for the Colonies, setting forth the circumstances of his case, and praying that His Lordship would be pleased to furnish him with an Order for a Grant of Land in the said Colony; with which Application His Lordship was pleased to comply; and, upon your Memorialist's return to the Colony in the year 1826, he accordingly brought with him written instructions from Downing Street to Governor Darling, dated 5th September, 1825, to the effect that His Excellency was to make to your Memorialist a free Grant of Land, proportioned in extent to the amount of capital which he could apply to the improvement thereof, and upon the terms and conditions of the Regulations at that time in force.

7. That, upon his delivering the said order to Governor Darling, in the month of January, 1827, your Memorialist was desired by His Excellency to appear before the Land Board for the purpose of proving the amount of his available capital; and your Memorialist appeared before the Board accordingly; and, by a Certificate of his Cash credits at the Bank of New South Wales, and the personal testimony of Robert Campbell, Junior, Esquire, of Bligh Street, he proved to the entire satisfaction of the Board that he was entitled, by the amount of Capital he bona fide possessed, to a Maximum Grant of two thousand, five hundred and Sixty Acres. The correctness of this Statement may be proved by reference to the Records of the Land Board, and your Memorialist begs respectfully to refer your Lordship to the Certificate of the said Mr. Campbell, hereunto subjoined. *Vide Appendix A.*

8. That the decision of Governor Darling, upon the Report of the Land Board, was communicated to your Memorialist by a Letter from the Honorable the Colonial Secretary, dated the 20th February, 1827, informing him, by direction of His Excellency, "that, in present circumstances, he could only be allowed to *rent*, under the 16th Article of the Government Order, No. 35, of 1826." *Vide Appendix B.*

1838.  
11 Jan.

Memorial of  
R. Uther  
soliciting  
land grant.

1838.  
11 Jan.  
Memorial of  
R. Uther  
soliciting  
land grant.

9. That, on referring to the said Government Order (copy whereof is subjoined in *Appendix C*), your Memorialist could not but feel greatly disappointed and aggrieved at a decision so unexpected and unjust, since his application was *not*, as by the decision was assumed, either for a "*Reserve of Land*" or for a "*Grant in Extension*," but for a *Primary Grant*, proportioned to his Capital as virtually a newly-arrived Emigrant, and under the *Special Order of His Majesty's Secretary of State*; his Grant of four hundred acres, mentioned above in paragraph 3, having been given him expressly and exclusively as a *Bounty* for his services as a Colonial Manufacturer.

10. That this decision, contrary as it was to reason, to justice, and to facts, appeared to your Memorialist nevertheless to be a final and conclusive rejection of his claim, and he therefore took no further steps in reference thereto; but, having recently ascertained, by the Government Notice of the 27 June last, founded upon instructions from your Lordship, that His Majesty's present enlightened Government are ready to afford redress to parties whose claims to lands are just and reasonable, your Memorialist addressed a Memorial to His Excellency Sir Richard Bourke, K.C.B., dated the 21st August last, setting forth the foregoing facts, and humbly praying for such enquiry into the truth thereof as to His Excellency might seem proper, with a view to his receiving the Grant of Land to which he was entitled, as aforesaid, under the Regulations of 1826-7, and in pursuance of the Order of the Right Honorable the Secretary of State.

11. That, in reply to the said Memorial, your Memorialist has had the honour to receive a Letter from the Honorable the Colonial Secretary, dated the 23rd October ultimo, informing him, by direction of the Governor, that His Excellency could not, under the circumstances, entertain his application, his claim under the letter of the Secretary of State, of date the 5 September, 1825, having been negatived by the local Government on 20 February, 1827, and the Regulations of 1826 and 1827 not applying to his case; His Excellency, however, recommending your Memorialist to make special application to the Secretary of State on the subject. *Vide Appendix D.*

Wherefore your Memorialist humbly prays that your Lordship will be pleased to take the premises into your favorable consideration, and to authorise and direct His Excellency the Governor of New South Wales to make due enquiry into the foregoing statements, and, upon His Excellency being satisfied of the truth thereof, to make to your Memorialist a Maximum Grant of Two thousand five hundred and sixty acres of Land.

And your Memorialist will ever pray, etc., etc., etc.,

REUBEN UTHUR.

Sydney, New South Wales, 4th November, 1837.

[Appendix A, referred to in paragraph 7.]

Certificate re  
claim of  
R. Uther for  
maximum  
land grant.

I HEREBY certify that, in or about the month of February, 1827, to the best of my recollection and belief, I attended before the Land Board of New South Wales at their Office in Sydney, as the Referee of Mr. Reuben Uther, the present Memorialist, and then and there proved, to the satisfaction of the said Board, that the said Memorialist was at that time actually possessed of bona fide property to an amount, which entitled him, under the Government Regulations then in force, to a Maximum Grant of Two thousand Five hundred and Sixty Acres of Land.

Witness my hand at Sydney aforesaid this

day of

1837.

[Unsignd.]

[Appendix B. referred to in Paragraph 8.]

COLONIAL SECRETARY MACLEAY TO MR. R. UTHUR.

1838.  
11 Jan.

Sir, Colonial Secretary's Office, 20 February, 1827.

In reply to your application for an additional Grant of Land, dated 23 January, 1827, I am directed by His Excellency the Governor to inform you that, in present circumstances, you can only be allowed to rent, under the 16 Article of the Government Order, No. 35 of 1826.

Authority for  
lease of land.

I am, &amp;c.,

ALEX. MCLEAY.

[Appendix C, referred to in Paragraph 9.]

EXTRACT from Government Order No. 35, dated 5th September, 1826.

16. Persons, desirous of obtaining "Reserves of Land" or "Grants in Extension," will make application in the prescribed form through the Colonial Secretary; and, if no objection exists, the Governor will authorise them to occupy the land they may make choice of, until His Majesty's pleasure be known, on their engaging to pay rent, in the meantime, at the rate of one pound sterling per annum for every 100 Acres.

Regulation re  
reserves and  
grants in  
extension.

[Appendix D, referred to in Paragraph 11.]

COLONIAL SECRETARY THOMSON TO MR. R. UTHUR.

Sir, Colonial Secretary's Office, Sydney, 23rd October, 1837.

I duly received and submitted to the Governor your Memorial of the 21st August, claiming additional Land; and, in reply, am directed by His Excellency to inform you that he cannot, under the circumstances, entertain your application, your claim under the letter of the Secretary of State, of date the 5th September, 1825, having been negatived by the local Government on 20th February, 1827, and the Regulations of 1826 and 1827 do not apply to your case. His Excellency however recommends your making special application to the Secretary of State on the subject.

Refusal of  
land grant.

I am, &amp;c.,

E. DEAS THOMSON.

ACTING GOVERNOR SNODGRASS TO LORD GLENELG.

(Despatch No. 12, per ship Augusta Jessie.)

My Lord, Government House, 12 January, 1838.

12 Jan.

I have the honor to acknowledge the receipt of your Lordship's Despatch of the 11th of July, 1837, No. 342, addressed to Sir Richard Bourke, referring to two petitions received by your Lordship from Mr. Mackillop, respecting the claims of certain proprietors of Stock at Port Phillip, and desiring a Report thereon.

Despatch  
acknowledged.

In reply, I beg to state that the former of these petitions is an application disposed of by the Proceedings of the Executive Council, already submitted to your Lordship in Sir Richard Bourke's Despatch dated 12th November, 1836, No. 121, the decision of which Body, in the several matters embraced thereby, your Lordship has been pleased to confirm by a Despatch dated 10th July last, No. 341.

Petitions from  
proprietors  
of stock at  
Port Phillip.

The second petition (a copy of which is enclosed) consists of a further communication in reply to the decision of the Council, as provisionally communicated to Mr. Mackillop, pending your Lordship's confirmation. Sir Richard Bourke did not consider that the grounds of that decision were at all shaken by the additional arguments resorted to, as will appear by the answer

1838.  
12 Jan.

thereto, addressed to Mr. Mackillop on the 2nd of January, 1837, the accompanying copy of which will furnish your Lordship with the most satisfactory Report which I can supply on the matter in question.

I have, &c.,  
K. SNODGRASS.

[Enclosures.]

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

ACTING GOVERNOR SNODGRASS TO LORD GLENELG.

(Despatch No. 13, per ship Augusta Jessie; acknowledged by lord Glenelg, 30th July, 1838.)

13 Jan.  
Transmission of  
letter from  
bishop of  
Australia.

My Lord, Government House, 13 Jany., 1838.

Application  
for eighteen  
clergy.

The Letter from the Bishop of Australia, of which I have the honor to transmit a copy, was addressed to Sir Richard Bourke so soon before his departure from the Colony, that it has necessarily devolved upon me to submit it for your Lordship's consideration and commands. It contains an application for eighteen clergymen of the Church of England, in addition to the nine which, in compliance with a former one, are now in course of arrival, and I have the gratification to observe that the Bishop considers such arrangements to be in actual progress for the reception of this additional number as will fully ensure their being provided immediately on their arrival with Churches and Cures, established by the union of private and public contributions, in conformity to the existing ecclesiastical arrangements of the Colony.

Your Lordship will be pleased to observe in this present application a further convincing proof that the interests of the religious community over which the Bishop presides have not suffered any deterioration by the liberal and impartial encouragement extended to others.

Upon the details of the subject, I need here add nothing to the full and explicit contents of his Lordship's letter.

I have, &c.,  
K. SNODGRASS.

[Enclosure.]

BISHOP OF AUSTRALIA TO SIR RICHARD BOURKE.

Sir, Sydney, 2nd December, 1837.

In further reference to the letter addressed to me on the 30th October by direction of Your Excellency, to which I have already had the honor to reply, and wherein a communication was made to me of the actual or expected arrival of the nine Clergymen, whose appointment was last year recommended by me, I beg to



submit to your Excellency in the first place the mode in which the services of those gentlemen have been, or will be, with your Excellency's approval disposed of. I propose to license

1838.  
13 Jan.

Stations  
proposed  
for clergy.

Rev. W. Stack to West Maitland; Rev. W. Sowerby to Goulburn; Rev. G. N. Woodd (pro tempore) to St. James's, Sydney, vice Cartwright; Rev. J. K. Walpole to Bathurst.

Of the Clergymen announced as yet to arrive, I propose to fix the stations as follows, viz. :—

1 at Sydney, St. Andrew's Parish; 1 at Brisbane Water; 1 at Mulgoa cum South Creek; 1 at Quenbeyan, for the surrounding Districts; 1 at Cook's River, New Town.

At all the above places, the inhabitants have complied with the requisite conditions of subscribing £300, and will also provide upwards of 200 or 500 names (as the case may be) of adults willing to attend the Churches.

I have the honor to submit to your Excellency a further list of places, at which the same proceedings have taken place; and, on behalf of the inhabitants of which, applications have been made to me for the appointment of Clergymen, viz. :

Proposed  
locations for  
additional  
clergy.

Prospect, with Hebersham and 7 Hills; Appin with parts of Bargo; Bungonia; Castle Hill and Dural; Dapto, in Illawarra; Patrick's Plains, with Glendon and Vane; McDonald's River and Colo; Oaks, with Burrogorang and parts of Bargo and Stone Quarry; Paterson and Township; Paterson and Allyn; junction of the Rivers, North of Trevallyn 18 miles from the Township; Richmond and Kurrajong; Scone, near Invermein; Raymond Terrace; Clarence Town; River Hunter (near Sparke's); Wingelo and Marulan; Mudgee.

I beg permission to add that I have received an application from the principal residents at Port Phillip to furnish them with assistance towards the erection of a Church, and to nominate a Resident Clergyman; and I have in reply made a proposition to the Police Magistrate for raising the amount required, in so advantageous a mode, that I cannot doubt of its being before this time carried into effect; although, from some recent interruption of intercourse, I have not received the Report of their last proceedings.

Request for  
resident  
clergyman at  
Port Phillip.

The conditions of the Act of Council may therefore be considered as having been complied with in eighteen instances, entitling the subscribers to obtain Stipends for their Clergy; and I have the honor to request that Your Excellency will submit to the Secretary of State my application for the appointment of that number (i.e., eighteen Clergymen) *in addition* to those reported as already nominated.

Request for  
nomination  
of eighteen  
additional  
clergy.

I have, &c.,

W. G. AUSTRALIA.

ACTING GOVERNOR SNODGRASS TO LORD GLENELG.

(Despatch No. 14, per ship Isabella.)

My Lord, Government House, 23rd January, 1838.

23 Jan.

I have been requested by the bearer, Dr. Robert Stewart, who came out to this Colony in charge of the Emigrants by the ship "Midlothian" from the Isle of Skye under your Lordship's

Nomination of  
R. Stewart as  
surgeon to select  
emigrants.

1838.  
23 Jan.

Nomination of  
R. Stewart as  
surgeon to select  
emigrants.

appointment, to recommend him for further employment on a similar service. As I have reason to believe that Dr. Stewart conducted with much zeal and efficiency the superintendence of the Emigrants on the voyage, I have the more readily acceded to his request, and have accordingly directed him to be furnished with instructions, subject to your Lordship's approbation to select and bring out a part of Emigrant Mechanics, Shepherds, and Farm Servants, with their families, from the counties of Sutherland, Inverness, and Ross. From his knowledge of the country and language, and his connexion with some influential persons residing there, he entertains sanguine hopes of being able to make a very eligible selection. The terms of his remuneration, he has been informed, have been left to be determined by Your Lordship.

Remuneration  
for R. Stewart  
as surgeon  
on ship  
*Midlothian*.

In the absence of any specific instructions from your Lordship as to the terms on which Dr. Stewart was engaged to bring out the emigrants by the "*Midlothian*," I have had considerable difficulty in determining the amount of remuneration to be paid to him. Dr. Stewart claims the same allowances as were paid to Dr. Roberts of the Royal Navy, who came out in charge of the emigrants by the "*William Nichol*," also from the Isle of Skye; but, on the other hand, from the expectation expressed by Mr. Elliot in the copies of the correspondence enclosed in your Lordship's Despatch of the 21st July last, No. 347, of the great saving which would ensue from the employment of private Surgeons, I am led to infer that it was not intended to grant Dr. Stewart remuneration to the extent he claims. Under these circumstances, I have authorised his receiving the sum of £80 for passage out, £100 gratuity, £15 for Lodging allowance, and £100 for his passage home, leaving to your Lordship to grant him such further allowance as the efficient and zealous performance of the duties entrusted him may seem to merit. Dr. Roberts, in addition to these allowances, will receive his full pay as a Surgeon of the Navy, at the rate of fourteen shillings a day from the date of appointment to that of his return home. It is but just to add that Dr. Stewart attended daily, during the distribution of the Emigrants he brought out, to afford them his advice and assistance in obtaining suitable employment, and in explaining to them in their own language the terms offered to them.

Reasons for  
nomination  
of R. Stewart.

In recommending Dr. Stewart for further employment in the Emigrant Service, I deem it proper to observe that, although preferring as a general rule a Surgeon accustomed to the sea and the treatment of persons on board of ship, the knowledge

and experience which he has now acquired qualify him more fully for the appointment, whilst the difficulty said to be experienced in obtaining the requisite number of Naval Surgeons renders it expedient to procure the services of other competent Surgeons.

1838.  
23 Jan.

I have, &c.,  
K. SNODGRASS.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 66, per ship Maria.)

Sir, Downing Street, 25 January, 1838. 25 Jan.

This Despatch will be presented to you by Captain Sir James Gordon Bremer,\* R.N., who has been appointed by the Lords Commissioners of the Admiralty to proceed in Command of H.M.S. "Alligator" to establish a Post on the Northern Coast† of Australia, for the purpose of giving protection to British Commerce carried on thro' Torres Straits with China and India and with the Islands of the Indian Archipelago, and of affording an Asylum for those who may be shipwrecked on that Coast.

Proposed settlement in north Australia.

Sir J. Bremer will Communicate to you the Instructions which he has received, and you will afford him every assistance in your power in carrying into effect the objects of the Expedition.

You will issue a Commission under the Seal of the Colony appointing Captain Sir J. G. Bremer, or in his absence the senior Officer in Command of the Marines, to act as Commandant with such powers as may be necessary for the order and good Government of the Post to be formed, as it is within the limits of your Government.‡

Commission to be given to Sir J. G. Bremer.

I have, &c.,

GLENELG.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 67, per ship Maria; acknowledged by Sir George Gipps, 24th August, 1838.)

Sir, Downing Street, 26 January, 1838. 26 Jan.

With reference to my Dispatch No. 377 of the 29th Sept. last, transmitting a Correspondence between this Department and the Board of Treasury respecting the gratuitous admission into the Hospitals at Van Diemen's Land of Persons in distressed circumstances, I have the honor to enclose herewith, for your information and guidance, the Copy of a further Letter on the subject, which has been addressed to my Under Secretary by desire of the Lords Commissioners of the Treasury. And I have to request that you will take such measures as may be necessary for giving effect to their Lordships' wishes, as expressed in Mr. Spearman's Letter.

Correspondence re treatment of pauper patients in hospitals.

I have, &c.,

GLENELG.

\* Note 64.

† Note 37.

‡ Note 65.

1838.  
26 Jan.

[Enclosure.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 8th January, 1838.

Referring to the communication, addressed to you by direction of this Board on 31st October last on the subject of the arrangements relating to the admission of Paupers into the Colonial Hospitals in the Penal Settlements, and to your reply of 20th November last, in which you state, by order of Her Majesty's Secretary of State for the Colonies, that his Lordship is of opinion that Convicts, who have become free Settlers, after having served the term of transportation or after having been pardoned, should be admitted into the Hospitals only on the same terms as other free Persons, that is, at the expence of the Colonial Funds, and not at the charge of the Funds appropriated for the maintenance of Convicts, I am commanded by the Lords Commissioners of Her Majesty's Treasury to request you will state to Lord Glenelg that my Lords will, with reference to the arrangements respecting the General Hospitals in New South Wales and Van Diemen's Land, and in order that the necessary Instructions may be forwarded to the Medical Officers on those stations, apprise the Secretary at War that the charge for those Paupers who, after having been Convicts, remain in the Colonies as Settlers on the expiration of their terms of transportation, or on their emancipation in any other manner, are to be defrayed from the respective Colonial Funds; and My Lords will also make a communication to this effect to each of the Officers in charge of the Military Chests on these Stations, and they request that His Lordship will give corresponding Instructions to the Officers administering the Governments of those Colonies.

Instructions  
re charge for  
pauper patients  
in hospitals.

I am further directed to transmit Copies of a Letter from Deputy Commissary General Darling of 19th May last, and of its enclosures, and, referring to such parts thereof as relate to the rate of Payment to be made for Paupers, to request that you will suggest to Lord Glenelg that the Governors of New South Wales and Van Diemen's Land should be informed that the Hospital Charge, both for assigned Servants and for Paupers, should depend upon the average Cost of the subsistence and other specific expences attending the admission of these Patients, and that it would be advisable that the Rate of Charge should be referred for the consideration of a Board of Medical or other Competent Officers.

I am, &c.,

A. Y. SPEARMAN.

[Sub-enclosure No. 1.]

DEP. COMMISSARY-GENERAL DARLING TO MR. A. Y. SPEARMAN.

Commissariat of Accounts, Hobart Town,

Van Diemen's Land, 19 May, 1837.

Sir,

With reference to my Letters No. 244 and 253, the latter covering my original observation No. 135 on the Cash Accounts of Assistant Commissary General Moodie for the month of February, 1837, relative to the payment of a Sum of £564 8s., due for Hospital treatment of free Patients for the Quarter ended 31st December last,

I have the honor to transmit herewith, for the information of the Right Honorable The Lords of the Treasury, certified Copies

Previous  
criticism of  
charge for  
pauper patients.

of Two Letters furnished by the Deputy Inspector General of Hospitals for my guidance, and addressed to him by The Colonial Secretary, on the subject of Hospital Fees from Free Paupers and Clothing to be supplied them.

1838.  
26 Jan.

With regard to the charge of two Shillings per diem for the maintenance of free Patients in the Hospitals, I beg leave to observe that this rate was fixed by the Colonial Government on the 1st August, 1832, since when no objection has been made to it, but since that portion of the expences to be defrayed from Colonial Funds, the Charge has been considered too high.

Rate of charge.

I have, &c.,

D.C.G. DARLING, D.A.C.G.

[Sub-enclosure No. 2.]

COLONIAL SECRETARY MONTAGU TO DEP. INSPECTOR-GENERAL OF HOSPITALS.

Sir, Colonial Secretary's Office, 10th April, 1837.

I am directed to inform you that The Lieutenant Governor has had under consideration in the Executive Council your communication of the 11th February last, enclosing, in accordance with my Letter of 26th August, 1836, certain Accounts of the cost of maintaining a number of free Pauper Patients in the Hospital.

His Majesty's Government having thrown the whole expence of the Police and Gaols upon the Colony, it was considered by the Secretary of State but reasonable that the Medical Department, which was kept up almost exclusively for Convict Purposes, and towards which Colonial Revenue had contributed on an average of £370 a year, should be borne entirely by the Convict Funds, and this course was further determined upon to prevent the inconvenience which had been experienced by paying the same branch of service from two distinct sources; at the same time it was deemed unreasonable to saddle the Home Government with the charge for maintaining such free objects of Charity, who never had been Convicts, as were compelled to seek admission into the Hospitals. Accordingly the communication of the 26th August last was made to you. At that time, it was contemplated the expence of this measure would be very trifling, not exceeding £200 a year.

Charge for medical department;

and for pauper patients.

Since that period, however, the influx of Pauper Emigration to the Colony has been so great, that the arrangement from which relief was anticipated would have turned out a serious burthen, if the very great and every great increasing demand submitted by you were entertained.

With regard to the Patients themselves, there cannot be a doubt that they have all been properly admitted into the Hospitals as they have been invariably recommended by a Magistrate or Clergyman and yourself; but it becomes necessary to enquire whether the charge of 2s. per diem for each is not too much; and, considering that 1s. only is charged for assigned Servants, His Excellency will not sanction under any circumstances a larger cost for the free Pauper Patients. Before even admitting, however, a demand at this rate, it is to be borne in mind that the Colony has a very large claim upon the home Government for the maintenance in the King's Orphans' Schools of the Children of Convicts, most of whom have accompanied their Parents to the Colony and whose support has thus been, as it were, forced upon the Colonial Revenue.

Reduction in charge for pauper patients.

1838.  
26 Jan.

Until this has been adjusted, it will be unnecessary to entertain the question of your demand for the Hospital treatment of the free Pauper Patients; but you will distinctly understand that, whenever a Settlement shall be made, a greater rate than one shilling per diem for each cannot be authorized.

I have, &c.,

JOHN MONTAGU.

[Sub-enclosure No. 3.]

COLONIAL SECRETARY MONTAGU TO DR. ARTHUR.

Sir, Colonial Secretary's Office, 6th May, 1837.

Charge for  
clothing for  
pauper patients  
at New  
Norfolk.

I am directed to acknowledge the receipt of your Letter of the 18th Ultimo, suggesting that some arrangement should be made for supplying Clothing to the Free Paupers in the New Norfolk Hospital, and to inform you that, as it appears upon enquiry that nineteen only of the eighty-four Invalids in this Institution came free to the Colony, the remainder having been Convicts, although now free by servitude, the Lieutenant Governor does not consider it necessary to direct a separate provision for such Persons.

All expences, connected with Persons transported to the Colony, must, you are aware, be borne by Funds applicable to Convict purposes; you will therefore have the goodness to cause requisitions to be made for the Clothing required for these 84 men in the same manner as though they were all under Sentence.

I have, &c.,

JOHN MONTAGU.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 68, per ship Maria; acknowledged by Sir George Gipps, 6th July, 1838.)

27 Jan.

Sir, Downing Street, 27 January, 1838.

Advance to  
agent general.

In pursuance of the arrangement which has been adopted for supplying the Agent General for New South Wales with the Funds required for the service of the Colonial Government in this Country, the Lords Commissioners of the Treasury have sanctioned an advance of Twelve thousand, Two hundred and Sixty seven Pounds on account of your Government to Edward Barnard, Esq. I have therefore to direct you to cause that sum to be repaid into the Military Chest of the Colony.

I have, &c.,

GLENELG.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 69, per ship Maria.)

Sir, Downing Street, 27 January, 1838.

Annual  
certificate  
required re  
R. Dulhunty.

With reference to Mr. Hay's letter to Sir Richard Bourke, dated the 29th December, 1833, respecting the annual transmission to this Country of a Certificate of the Existence of Mr. Robert Dulhunty, who is residing at New South Wales, I now

enclose the copy of a letter from the Captain Superintendent of the Royal Naval Hospital at Plymouth, stating that no such Certificate was received during the last year.

1838.  
27 Jan.

Annual certificate required *re* R. Dulhunty.

I have to request that you will give the necessary directions for ensuring the regular transmission to the Naval Hospital at Plymouth of the Certificate required once in each year.

I have, &c.,

[Enclosure.]

GLENELG.

CAPTAIN COODE TO SIR GEORGE GREY.

Sir, Royal Naval Hospital, Plymouth, 24 Jany., 1838.  
Referring to Capt. Hornby's letter of the 28th Decr., 1833, to the Secretary of State for the Colonies, requesting for the reasons therein stated that a Certificate of the existence of Mr. Robert Dulhunty, residing at Cullen Bullen in the District of Bathurst, New South Wales, might be forwarded to him annually, I beg to inform you that the said Document was not recd. during the last year, and have therefore to request that you will be pleased to instruct the Col. Secy. of N. S. Wales to forward a certificate to the above effect to this Hospital once in every year.

Non-receipt of certificate.

I am, &c.,

JOHN COODE, Captain Superintendent.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 70, per ship Maria; acknowledged by Sir George Gipps, 25th August, 1838.)

Sir, Downing Street, 29 January, 1838.

29 Jan.

I transmit to you the copy of a letter from Mrs. Durant respecting the fate of her Brother, who is stated to have been wrecked in the America Transport in Torres Straits.

I have to request that you will avail yourself of every opportunity to cause enquiry to be made as to the fate of Mr. Durant and of his Shipmate, who are stated to have been the only Survivors of the Crew of the American Transport. I have, &c.,

Report required *re* T. Durant.

GLENELG.

[Enclosure.]

MRS. DURANT TO LORD GLENELG.

My Lord, London, January, 1838.

I beg leave to inform yr. Ldship. of the loss of the American Transport on her return from N. S. Wales to London in 1831 in the Torres Straits on the Island of Tamourland, and all the crew murdered with the exception of two Boys; and I have reason to suppose they are still there or on some of the adjoining Islands. One of those Boys was unfortunately my brother, a fine lad of 15 years of age; his name is Trayton Durant; he went out with the Captain from London. I have to solicit yr. Ldship.'s intercession that you will cause an enquiry to be made to rescue them from these horrible savages, and, as some of H.M. Ships may be cruising about the Islands, they perhaps may ascertain the fate of these poor

Request for rescue of survivors from shipwreck.

1838.  
29 Jan.

fellows and, as five men of the Charles Eaton were spared and sent to Batavia, they also may perhaps be rescued and even to know the worst wd. be balm to a wounded heart. I hope and trust you will not refuse my application and believe me I shall ever be grateful.

AMELIA DURANT.

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LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 71, per ship Maria; acknowledged by Sir George Gipps, 2nd January, 1839.)

30 Jan.

Sir, Downing Street, 30 January, 1838.

Despatch with estimates acknowledged.

I have received your Predecessor's dispatch No. 70 of the 28th July last, enclosing the Estimates of the Expenditure of your Government for the year 1838, together with the Annual Appropriation Act, and the Explanatory Minute of the several heads of Expenditure.

I have referred these various documents for the consideration of the Lords Commissioners of the Treasury.

Query re appointment of crown prosecutor at quarter sessions.

In the mean time, there is one point to which I would desire to call your attention, viz., the proposed appointment of a Crown Prosecutor for the Quarter Sessions with a Salary of £600 per annum.

I should wish to receive a much more ample report than is contained in Sir Richard Bourke's dispatch above specified, or in his subsequent communication of the 1st Augt., 1837, containing his recommendation of Mr. Holden to fill the Office, as to the nature and amount of the business to be transacted at the Quarter Sessions, and of all other circumstances justifying the appointment.

I should also desire to be in possession of the opinion of the Judges and of the Magistrates holding the Sessions as to the necessity for creating such an Office.

You will intimate to Mr. Holden that, even if it should be considered proper, after receiving the further information required by this dispatch, to sanction the establishment of such an Office, he must be considered as holding it only provisionally.

I have, &c.,

GLENELG.

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LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 72, per ship Maria.)

31 Jan.

Sir, Downing Street, 31 Jany., 1838.

Consideration of civilisation of aborigines.

In transmitting to you a Duplicate copy of the last Report of the Select Committee\* of the House of Commons on Aborigines, I have the honor to communicate to you that H.M. Govt. have directed their anxious attention to the adoption of some plan for the better protection and civilisation of the Native Tribes within the limits of your Government.

\* Note 9.



With that view, it has been resolved to appoint at once a small number of persons qualified to fill the office of Protector of Aborigines. I have confined that number in the first instance to one Chief Protector, aided by four Assistant Protectors. I would propose that the Chief Protector should fix his principal station at Port Philip, as the most convenient point from whence he could traverse the surrounding country and be in personal communication with his Assistants; two of whom should occupy the country to the Northward and Eastward, and the other two be stationed to the Northward and as far Westward as the Boundaries of the Colony of South Australia.

1838.  
31 Jan.

Protectors of  
aborigines to  
be appointed.

I propose to confer the Office of Chief Protector on Mr. Robinson, who, you are no doubt aware, has for some time past been in charge of the Aboriginal Establishment\* at Flinders Island, and who has shewn himself to be eminently qualified for such an Office. I shall direct the Lt. Governor of V. D. Land to communicate my intentions to Mr. Robinson and to take the necessary measures for sending him to Sydney, if he should be prepared to undertake the Office. It appears to be a question whether Mr. Robinson would be willing to quit the Establishment at Flinders Island, unless he were accompanied by the Natives from Van Diemen's Land in whose superintendence he is at present engaged. I enclose for your general information a copy of a Despatch† from Lt. Governor Sir John Franklin, with a Report from Mr. Robinson on the state of the Native Settlements in that Island. It contains much interesting information as to the condition of the Natives under his charge and also as to his mode of treating them. You will perceive that, in this report, he strongly recommends the removal of these Natives to New Holland. The late Lt. Governor of Van Diemen's Land has expressed his Conviction that no evil consequences are to be apprehended from allowing them to accompany Mr. Robinson. In the Despatch which is now enclosed, Sir J. Franklin states that many objections present themselves to such a measure, and I should not feel myself justified in directing the adoption of it in opposition to such a Statement. If, however, the result of the personal observations of Sir John Franklin in the visit, which he stated himself to be about to make to Flinders' Island, should be such as entirely to satisfy him that the Natives might be so removed without personal risk or danger to themselves, and with their own free consent, important advantages might be anticipated from the formation in New Holland of an Aboriginal Settlement comparatively so far advanced in civilization. On this point, however, I should wish you to communicate with Sir J. Franklin, and it will be necessary to act in it with the

Nomination of  
G. A. Robinson  
as chief  
protector.

Reports *re*  
aborigines in  
Tasmania.

Proposed  
removal of  
Tasmanian  
aborigines to  
Australia.

\* Note 66.

† Note 67.

1838.  
31 Jan.

Nomination  
of assistant  
protectors.

utmost Caution and Circumspection. In the meantime I trust that Mr. Robinson may under any circumstances be induced to undertake the Office. The Gentlemen, whose names are stated in the Margin,\* have been chosen to fill the Office of Assistant Protector.

Salaries and  
allowances  
for protectors.

With regard to the expences attending the Establishment, it is proposed to assign to the Chief Protector a Salary of £500 per Annum, and to each of the Assistants £250. The four officers proceeding from this Country will also have an allowance of £100 each on account of their outfit and Passage, and, according to the General rule of this Department, they have been informed that they will receive Half Salary from the date of Embarkation.

Food and  
clothing to be  
provided for  
aborigines.

It will be necessary to make some provision to enable the Protectors to supply the natives occasionally with moderate quantities of Food and Clothing.

In fixing this Expenditure, H.M. Govt. have anticipated the Concurrence of the Legislative Council of your Government in voting the necessary Sum for meeting the Charge. The object contemplated is so important, and the obligation, which rests on the Colonists to do their utmost for the protection and civilization of the Native Tribes, so imperative, that I am convinced no further argument is necessary to induce a cheerful co-operation on their part in the measure now adopted. If the Aboriginal Establishment at Flinders Island should be broken up and transferred to New South Wales, some portion of the Expenditure might reasonably be defrayed from the Revenues of V. D. Land.

Instructions  
re duties of  
protectors.

It remains for me to explain my general view of the duties, which will devolve on the Protectors, and to refer to the points which will form the ground of Instructions which you will issue to them.

1. Each Protector should attach himself as closely and constantly as possible to the Aboriginal Tribes, who may be found in the District for which he may be appointed; attending them, if practicable, in their movements from one place to another, until they can be induced to assume more settled habits of life; and endeavoring to conciliate their respect and confidence, and to make them feel that he is their friend.

2. He must watch over the rights and interests of the Natives, protect them, as far as his personal exertions and influence, from any encroachment on their property, and from acts of Cruelty, of oppression or injustice, and faithfully represent their wants, wishes or grievances, if such representation be found necessary, thro' the Chief Protector, to the Government of the Colony. For

\* *Marginal note.*—Mr. Sivewright, Mr. Thomas, Mr. Dredge, Mr. Parker.

this purpose, it will be desirable to invest each Protector with a Commission as Magistrate.

1838.  
31 Jan.

Instructions  
re duties of  
protectors.

3. If the Natives can be induced in any considerable numbers to locate themselves in a particular place, it will be the object of the Protector to teach and encourage them to engage in the cultivation of the grounds, in building suitable Habitations for themselves, and in whatever else may conduce to their civilization and social improvement.

4. The Education and Instruction of the Children, as early and as extensively as it may be practicable, is to be regarded as a matter of primary importance.

5. In connection with the engagements, and as affording the most efficient means for the ultimate accomplishment of them, the Assistant Protector should promote to the utmost extent of his ability and opportunity the *moral* and *religious* improvement of the Natives, by instructing them in the Elements of the Christian Religion, and preparing them for the reception of Teachers, whose peculiar province it would be to promote the knowledge and practice of Christianity among them.

6. In reference to every object contemplated by the proposed Appointment, it is exceedingly desirable that the Protector should, as soon as possible, learn the language of the Natives so as to be able freely and familiarly to converse with them.

7. He must take charge of and be accountable for any provisions or clothing, which may be placed under his care for distribution to the Natives.

8. He will obtain as accurate information as may be practicable of the number of the natives within his District, and of all important particulars in regard to them.

These appear to me the principal points which demand attention in reference to this subject. But it is of course not my intention to restrict you in the Instructions, which you will have to issue to the Protector, within the topics on which I have touched, as your local knowledge and experience will doubtless enable you to supply omissions in the outline which I have given.

I have, &c.,  
GLENELG.

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ACTING GOVERNOR SNODGRASS TO LORD GLENELG.

(Despatch No. 15, per ship Isabella.)

My Lord,

Government House, 1st Feby., 1838.

1 Feb.

Immediately before leaving the Colony, Sir Richard Bourke directed the examination of the Treasury Vault, under the terms of the Royal Instructions in that behalf, and,

Examination  
of treasury  
vault.

1838.  
1 Feb.

understanding that it was his desire that a copy of the Report of the Board on that occasion should be transmitted to your Lordship, I have the honor to enclose it accordingly.

I have, &c.,  
K. SNODGRASS.

[Enclosure.]

[*A copy of this report is not available.*]

ACTING GOVERNOR SNODGRASS TO LORD GLENELG.

(Despatch No. 16, per ship *Isabella*; acknowledged by lord Glenelg, 18th July, 1838.)

2 Feb.

My Lord, Government House, 2nd Feby., 1838.

Transmission  
of letter  
from judges.

At the request of the Judges of the Supreme Court, I have the honor to forward a letter which has been addressed by them to your Lordship, on the subject of their respective Salaries, their claim to retiring allowances, and the order of precedence fixed for the two Puisne Judges by the Colonial Rules and Regulations recently published under authority of your Lordship, if intended to apply to New South Wales.

Increase in  
cost of living.

Precedency of  
puisne judges.

Most of the topics adverted to in the letter of the Judges are peculiarly for your Lordship's consideration, and require no remark from me. It may be sufficient, perhaps, if I bear testimony to the correctness of the representation contained in the Judge's letter as to the great increase of expense of living in Sydney within the last few years, and add to this my impression, with regard to the question of precedency, that the Puisne Judges will be considered below their proper level in the place assigned to them in the regulations referred to. Hitherto they have taken rank next after the Members of the Executive Council, which place I would respectfully suggest should still be allowed them.

I have, &c.,  
K. SNODGRASS.

[Enclosure.]

THE JUDGES TO LORD GLENELG.

My Lord, Sydney, New South Wales, 27th January, 1838.

Diffidence of  
judges in  
writing letter.

It is not without reluctance that we respectfully address ourselves to your Lordship on matters having so immediate a personal application to ourselves, as Judges of the Supreme Court of this Colony, as those will appear, which it is our desire to bring under your notice in this letter; but we persuade ourselves that our sufficient apology will be found in the Consideration that, in the respectability of our appointments, there is involved not merely our personal comforts, but also much which affects our public usefulness, and the honor of Her Most Gracious Majesty and the respect due to the administration of the Laws.

Institution of  
supreme court.

The Supreme Court of New South Wales was first instituted under the Statute 4 Geo. 4, c. 96, by Letters Patent\* issued on the 13 October, 1833, and was appointed "to consist of, and be holden

\* Note 68.

by and before One Judge, who should be and be called the Chief Justice, and who should take Rank and precedence next to the Governor or Acting Governor for the time being."

1835.  
2 Feb.

Sir Francis Forbes, who has lately retired from that office, was appointed to be the first Chief Justice, with a yearly salary of Two Thousand Pounds Sterling "in lieu of all fees of Office, perquisites, emoluments, and advantages," except the occupation of "An Official House or residence," without paying "any rent, and without being obliged to repair, uphold or maintain such House or official residence at his own costs and Charges."

Appointment of  
Sir F. Forbes ;

The late Mr. Justice Stephen was appointed to be a Puisne Judge of the same Court on the 5th March, 1826, by Commission under the Sign Manual of His late Majesty King George The Fourth ; And, in pursuance of a power, contained in the same Statute, to His Majesty so to Augment the number of the Judges ; and his Salary was appointed by His Majesty to be £1,500 Yearly.

of J. Stephen ;

We have also been appointed to our Offices under the provisions of the Statute 9 Geo. 4, c. 83. Continued by two subsequent Statutes which provides (amongst other things) that the Supreme Court of New South Wales "shall be holden by one or more Judge or Judges, not exceeding three"; that "the said Judges shall, from time to time, be appointed by His Majesty, His Heirs and Successors"; and that "the said Judges shall respectively be entitled to such reasonable salaries, as His Majesty, His Heirs, and Successors shall approve and direct, which salaries shall be in lieu of all fees or other emoluments whatsoever."

and of  
sitting judges.

The terms of this Statute would appear to deprive the Succeeding Chief Justice of any emoluments beyond such Salary, as His Majesty shall approve and direct, and thus his official emoluments are less than those of his predecessor, by the value of the official residence occupied by him, free of rent and repairs.

Withdrawal  
of official  
residence from  
chief justice.

It is true, with respect to this circumstance, that, by order of His Majesty's Principal Secretary of State, Chief Justice Forbes was required to pay, and did pay, rent for the house he occupied during the last two years or thereabouts, in which he held office in this Colony; but it must also be stated that in the year 1835 he received "by order of the Secretary of State" compensation for that loss by the grant in fee simple of 1 a. 0 r. 2 p. of land within the Town of Sydney, and so situated as to have recently become of very great value, not less perhaps than 5 to 6,000£, formerly occupied by him as a garden, appurtenant to his official residence. And it is also true with respect to Mr. Dowling, the present Chief Justice, that, under the Government regulations of 1827, he became possessed of a building allotment of seven Acres, granted in 1828 to him, in common with other Civil Officers of the Colony, on condition that he should build a house out of his own funds, of the value of £1,000. That allotment is situate within what have recently been declared the limits of the Town of Sydney, altho' it was not at the time of the Grant being made.

Compensation to  
Sir F. Forbes  
for loss of  
residence.

Town allotment  
granted to  
J. Dowling ;

The late Mr. Justice Stephen had the like advantage of a Town Allotment, granted to him of Eleven Acres upon a similar condition. These allotments by reason of the extension of the Town of Sydney have become valuable.

and to  
J. Stephen.

The official emoluments, however, of any future Chief Justice, and those which the present Puisne Judges enjoy, being strictly confined to their Salaries and no Augmentation having been made of

Reduction in  
emoluments for  
future judges.

1833.  
2 Feb.

them, are considerably less than those of any of their predecessors, they being precluded by the Regulations, under which the Crown Lands of the Colony are now disposed of, from obtaining any of these advantages in aid of their Salaries.

Lands  
formerly  
granted to  
officials.

Under the former Land Regulations, not only the Judges, the Law Officers of the Crown, the Sheriff, the Registrar and other Officers of the Supreme Court, but almost all the Civil Officers of the Government, obtained maximum Grants of 2,500 Acres each in the interior, as well as building allotments near Sydney, which they or their representatives now enjoy, on the conditions no doubt under which ordinary settlers hold lands in the Colony, and have had the advantage, by reason thereof, of having assigned to them Domestic, mechanical and Agricultural Convict labour to improve and cultivate their Estates.

Subject to all these comparative disadvantages, one of the Puisne Judges (Mr. Burton) has held office ever since December, 1832, and the other Judge (Mr. Willis) whose services have recently been transferred from British Guiana is now entering.

The Puisne Judges desire, however, not to be understood as requiring any such advantages to be now granted to them.

Principles  
adopted by  
W. W. Burton.

Mr. Burton, altho' he has all along felt the inferiority of his own appointment in the want of them, having nevertheless considered that the Regulation of His Majesty's Government, withholding free Grants of Land from the Judges and other Servants of the Crown in future, was a measure of policy which it would not become him, altho' he was the first Judge who ever held office in this Colony who did not receive them, to attempt by any appeal to Her Majesty's Government upon his own peculiar case to disturb. He has also never accepted the assignment of a Convict Servant.

The Principles, upon which he has acted for more than five years, are entirely approved of, and adopted by Mr. Willis.

Increase in  
cost of living.

The Salaries, however, which were attached to all the Judicial Offices in this Colony at their first creation, have become of still less value by reason of the increased cost of every necessary of life, since that period; this has become in many instances threefold, and in nearly all double, even within the last five years.

Effect of  
increase.

It was so great in the year 1833, as wholly to deprive Judge Burton, who had no other Official emoluments at the time but his salary, of the enjoyment of society and of the conveniences ordinarily attached to such a station; and they have ever been and still are, such as, whilst they demand of the Puisne Judge the entire expenditure of his Salary, do not admit of his maintaining an appearance equal either to that of the Superior Officers of his own Court, or of the second class of Attornies practising in it.

We assure your Lordship that we have been informed and believe that the office of any of the Judges in this Colony is, in consequence of the inferiority of its emoluments, not considered an object of ambition to any Gentleman at our Colonial Bar.

Problem  
of retiring  
allowance for  
judges.

We are further induced to refer to your Lordship upon a point, which no less affects the respectability of our appointments, Vitz., the uncertainty in which it would appear that our claim to a retiring allowance is involved by the "Rules and Regulations" contained in a volume, printed by "W. Clowes and Sons, Duke Street, Stamford Street, London." and apparently issuing from the head of the Colonial Department, and lately officially transmitted

to us by the Colonial Secretary of this Colony "for the use of the Judges." In the Rules and Regulations referred to (Chap. 2, s. 2), it is laid down as follows:—"It is to be understood, as a general rule, that no Colonial Officers of any Rank or description are entitled to retiring pensions."

1838.  
2 Feb.

Regulations  
re retiring  
pensions.

"2. Each Case, however, as it presents itself, must be specially considered on its own merits."

"3. Whenever a Governor may have occasion to bring under the consideration of His Majesty's Government the application of any officer for a retiring allowance on quitting the public service, he is required to furnish a detailed statement, shewing the Age of each officer, the length and nature of his Services, the Salary and emoluments of his office."

These Rules and Regulations do not appear indeed to have been permanently established, but merely intended as a "basis for future improvement." And we trust we may yet be in time to procure a reconsideration of them, and that your Lordship will feel the propriety of placing the important offices, we have the honor to hold in this Colony, upon a footing of greater respectability and independence, and more in conformity with the situation of His Majesty's Judges in England.

Request for  
reconsideration  
of status of  
judges.

It may be quite unnecessary to advert to the independence of the Judges at Westminster, or as subservient to that independence, to the liberal provision made by Parliament, for their retiring allowances, as well as their Salaries.

But we may be permitted to observe that the independence of the Judgment seat is co-extensive with the administration of English Law, and the means, by which it is supported and preserved, must be as necessary to the respectability of the Judges and the character of the Court in this Colony, as they can be in England.

Necessity for  
independence  
of judges;

It will be within the recollection of your Lordship that, when the recent additions to the Salaries and retiring Pensions of His Majesty's Justices were proposed to parliament, it was admitted, on all sides, that the public interests must materially suffer, unless adequate provision were made for the retirement of Judges, who from age or infirmity had become incapable of discharging the duties of their office.

and for  
pensions  
for judges.

And we trust we have satisfied your Lordship that, if such a contingency should Occur in the case of any of us, the present state of our appointments would leave us no alternative but to continue in office notwithstanding our inability efficiently to perform its duties.

Such however we take leave to state was not the expectation, upon which we understood ourselves to accept the offices we respectively hold; and we venture to assume also that, in appointing us to this remote and peculiar possession of the British Crown, it was not the intention of Her Most Gracious Majesty and Her Most Gracious Majesty's Predecessors to leave us no alternative between perpetual exile from our friends, or a return to Europe, after a long service, without any provision for our support.

We are not ignorant, however, that Mr. Justice Stephen, on retiring from his official labours, and also the late Chief Justice Forbes, on a very recent occasion (both indeed having served in other Colonies as well as in New South Wales) were favored by Government with Pensions, in addition to the valuable estates which they had respectively obtained from the Crown.

Pensions  
granted to  
J. Stephen and  
Sir F. Forbes.

1838.  
2 Feb.

Objections to  
precedency  
granted to  
puisne Judges.

We further request your Lordship's consideration of the general regulations with regard to Precedency contained in the publication before referred to, which appears to us to press more hardly on the *present* Puisne Judges of this Colony than probably was intended.

The Rules, we allude to, are those in Ch. 4, Sec. 2, P. 25, under the title "Precedency."

Respecting these Rules, when we remember that the Puisne Judges of this Colony must be gentlemen of five years' standing at the English Bar (both of the present Judges being in fact of more than *ten years'* standing *as Judges*, and having been practitioners in Westminster Hall), And read the Charters of Justice granted within the last few years to the Colonies of Newfoundland, The Cape of Good Hope and Ceylon, we are persuaded that these Regulations were *never intended to apply to the Colony of New South Wales*. We therefore have no doubt that your Lordship will deem it "advisable to modify this arrangement" here. In many of the West India Islands, such as Barbadoes, Antigua, and the Virgin Island, there are not *as yet* any professional Judges, and in many others, such as Jamaica, Grenada, St. Vincents, Tobago and Dominica, the Chief Justice is the only *Professional Judge*, the Puisne Judges being, for the most part, Colonists, who act without receiving any or, if any, very trifling remuneration. In the British North American Colonies also, few if any of the Puisne Judges have been at the English Bar, or even ever in England. To such Colonies, such regulations may apply. In Ceylon, and at the Cape, however, where the Judges have been selected from the British Bar, and even in Newfoundland where that may not altogether be the case, the Judges are placed in a much higher Situation than in these Rules for Precedency.

The Charters of Justice for these Colonies are in this respect as follows:—

That of Ceylon, dated 18th February, 1833, by the 10th Section (see Clark's Colonial Law, p. 547), gives the Chief Justice Precedence before all persons except the Governor; and by the 11th Section gives the Puisne Judges precedence above all persons, except the Governor, the Chief Justice, and officer commanding the Forces.

The Charter of Justice of the Cape of Good Hope, dated 4 May, 1832 (see Clark's Col. Law, Page 476/7), gives the Chief Justice Rank above all persons, excepting the Governor and Commander in Chief of the Forces; and gives the Puisne Judges, Rank and Precedence next after the Chief Justice. And the Newfoundland Charter of Justice, dated 19th Sept., 1825 (see Clark's Col. Law, Page 424), gives the Chief Justice Rank and Precedence next after the Governor; and the Assistant Judges Rank and Precedence next after the Chief Justice.

The Charter of Justice for the Supreme Court of New South Wales (13 October, 4 Geo. 4) expressly gives precedence and Rank to The Chief Justice above and before all other subjects in the Colony, except the Governor or Acting Governor for the time being, and, by the table of precedency published on the 29th July, 1829, by the directions of the Right Honorable The Secretary of State, the like Rank is given to the Chief Justice.

We trust therefore that the Judges of this Colony will not be degraded from the Rank prescribed to others in the Charters we have Cited; And we feel that we ought not to permit the office of

Precedency  
established  
by charters  
of justice.



Puisne Judge to be deprived of the Rank, which we believe it entitled to (Viz., immediately after the Chief Justice) without calling your Lordship's attention to the subject.

1838.  
2 Feb.

In conclusion we trust that your Lordship will be pleased to recommend to Her Most Gracious Majesty that the Salaries of the Judges in this Colony may be increased as follows, Viz., that of the Chief Justice to £2,500 yearly, and that of each of the Puisne Judges to £2,000 yearly.

Request for  
increase of  
salaries ;

And, inasmuch as we are convinced that such salaries will only allow of our decent and respectable maintenance in this distant, expensive, and peculiarly constituted possession of the Crown, We trust we may be assured of receiving, according to the length of our Judicial Services, retiring Pensions after a reasonable and fixed period of Service. And that those of us, who have filled a Judicial Office in other Colonies and have been moved by Her Majesty's Command, or that of Her Majesty's Predecessors to a similar situation, may be considered similarly entitled in respect to those services. And that the tenure of our Offices and our Rank and Precedence respectively may be the same as that of the Judges at the neighbouring Colony of the Cape of Good Hope, from which one of us (Mr. Burton) was by the Command of His late Majesty removed to a Puisne Judgeship in this.

and for  
retiring  
pensions.

Proposed  
tenure of office  
and precedence.

We have, &c.,

JAMES DOWLING.

W. W. BURTON.

JOHN WALPOLE WILLIS.

ACTING GOVERNOR SNODGRASS TO LORD GLENELG.

(Despatch No. 17, per ship Isabella; acknowledged by lord Glenelg, 11th July, 1838.)

My Lord,

Government House, 3rd Feby., 1838.

3 Feb.

I have the honor to transmit herewith a Memorial addressed to your Lordship by Mr. William Burnett, praying a Grant of Land without purchase.

Transmission of  
memorial from  
W. Burnett.

The case of Mr. Burnett appearing to be similar to that of Mr. Barton, whose Memorial was forwarded to your Lordship with Sir Richard Bourke's Despatch of 7th June, 1837, No. 41, it may, I trust, be deemed sufficient if I refer to that Despatch for the explanation and commentary which the Memorial requires.

I have, &c.,

K. SNODGRASS.

[Enclosure.]

THE Memorial of William Burnett of Sydney, in the Colony of New South Wales,

Memorial of  
W. Burnett  
soliciting  
land grant  
without  
purchase.

To the Right Honorable The Principal Secretary of State for the Colonies,

Humbly Sheweth,

That your Memorialist, accompanied by his Wife and four Sons, arrived in the Colony in the year 1829, under Articles of Agreement with the Australian Agricultural Company, as General Superintendent of Agriculture.

1838.  
3 Feb.

Memorial of  
W. Burnett  
soliciting  
land grant  
without  
purchase.

That, by your Memorialist's agreement with the said Company, neither he nor his Sons were permitted to acquire, hold or cultivate Land in the Said Colony during the term of that agreement.

That, at the time when your Memorialist entered into the said Agreement, it was the established Custom of the Colonial Government, under the authority of His Majesty's Ministers, to give to Emigrants and their Children Free Grants of Land, in proportion to the means brought by them into the Colony.

That, when your Memorialist emigrated to this Colony, it was with the intention of permanently Settling after the expiration of his Agreement with the said Australian Company, and in the full expectation of receiving a Maximum Grant of (2,560) Two thousand five hundred and sixty Acres for himself, as well as Grants for his four Sons, to which, by the regulations at that time existing, he was entitled.

That, during the continuance of your Memorialist's Agreement with the said Company, he neither acquired nor sought to acquire any property in Land, but zealously and exclusively devoted himself to the Service of the said Company.

That His Majesty's Government have, on the 19th March, 1836, authorised Mr. Dawson (who came out under an engagement precisely Similar to that of your Memorialist) to select a Free Grant of Land in the Colony aforesaid, which has since been confirmed to him.

That any point of difference between the case of Mr. Dawson and that of your Memorialist bearing strongly in your Memorialist's favor, he begs leave to submit the following facts to your Lordship's favorable Consideration:—

First, Mr. Dawson emigrated without a family, your memorialist with a large one.

Secondly, Mr. Dawson returned to England where he still resides. Your Memorialist, with his Wife and four Sons, two of whom are now of age, reside and intend to reside in the Colony.

That your Memorialist respectfully refers to the Certificates appended hereto, in confirmation of the several facts set forth in this Memorial.

Wherefore your Memorialist humbly prays that your Lordship will be pleased to take the premises into your favorable Consideration, with a view to his receiving a Free Grant of Land in the Colony of New South Wales, to the extent to which he and his Sons were entitled under the regulations existing on his arrival in the Colony, and which he then would have taken up, but for his Agreement with the Australian Agricultural Company.

And your Memorialist will ever pray.

W. BURNETT.

Sydney, New South Wales, 9th March, 1837.

I hereby certify that Memorialist, Mr. W. Burnett, was employed, as stated, in the Service of the Australian Agricultural Coy.; and that he was prohibited by the articles of his Agreement from holding or cultivating Land on his own account whilst so employed.

I may add that I have no doubt whatever Mr. Burnett emigrated to this Colony in full expectation of ultimately obtaining Grants of Land for himself and Sons, in accordance with the "Land Regulations" which prevailed at the time he left England; as also my

Certificates  
in favour of  
claims by  
W. Burnett.

Conviction that it is of much importance to the welfare of this Country that Families such as Mr. Burnett's be encouraged to repair to, and settle in it.

1838.  
3 Feb.

H. DUMARESQ.

Certificates  
in favour of  
claims by  
W. Burnett.

Commissioner for the A.A. Company.

Port Stephens, 30 March, 1837.

I HEREBY Certify that I know the Memorialist, Mr. William Burnett, and that he brought sufficient Capital to the Colony to entitle him to a Maximum Grant of Land, under the regulations existing at the time of his arrival.

THO. INGLIS,

late Agent of the Australian Company.

Sydney, 5th April, 1837.

ACTING GOVERNOR SNODGRASS TO LORD GLENELG.

(Despatch No. 19, per ship Isabella; acknowledged by lord Glenelg, 15th December, 1838.)

My Lord, Government House, 5th Feby., 1838.

5 Feb.

I have the honor to transmit an extract from the proceeding of the Executive Council, relative to the claim of Mr. Richard Glanville to an additional Grant of Land, under the terms of your Lordship's Despatch to Sir Richard Bourke, dated 31st July, 1836, No. 180.

Transmission  
of minute  
of executive  
council re land  
grant for  
R. Glanville.

The Council do not perceive in that Despatch any clear expression of Your Lordship's sentiments on the points raised in the present case, and have therefore desired that it be submitted for your Lordship's consideration and further commands, which is the more necessary as many similar questions will no doubt arise.

The Minute being very full, it is not requisite for me to add anything, but that I concur in the view of the case which the Council have taken.

I have, &c.,

K. SNODGRASS.

[Enclosure.]

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

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 73, per ship Maria.)

Sir, Downing Street, 6 February, 1838.

6 Feb.

I have received Sir Richard Bourke's Dispatch of the 1st of September last, in which he calls my attention to a claim preferred by the Revd. Messrs. Hetherington and Allan to a Stipend of £200 a year each, founded on an intimation assumed to have been conveyed in a letter written by my directions to Principal Macfarlane on the 10th of March.

Stipends  
claimed by  
Presbyterian  
clergy.

As the terms of that letter have been obviously misapprehended, I now enclose a Copy of it, from which you will perceive that the

1838.  
6 Feb.

Misinterpreta-  
tion of  
conditions for  
appointment  
of clergy.

only expectation held out to those Gentlemen was that they should be entitled to the Salary of £100 a Year each on their arrival, Salaries for three additional Presbyterian Ministers to that Amount having been provided on the Estimate for that Year. You will also observe that the Letter to Dr. Macfarlane enclosed a letter to Dr. Lang, in which it was explicitly stated that Her Majesty's Government could not take upon themselves to anticipate the demand, which might be made on the part of the various Congregations of Christians in the Colony for a participation in the advantages proposed for their acceptance; but that I should be prepared to receive the recommendations of the Committee of the General Assembly of the Church of Scotland on behalf of any Clergymen of that Church, who might be willing to proceed to the Colony to be appointed to any Charge to which they might be eligible, in accordance with the provisions of the Local Act, which had not then reached this Department. A Copy of this Letter was transmitted to Sir Richard Bourke in my Dispatch of the 9th February, 1837.

I now transmit to you a further Letter, addressed by my direction to Principal Macfarlane on the 1st of July, from which it will appear that Her Majesty's Government have cautiously abstained from giving any assurance of immediate employment to the Presbyterian Ministers, who were willing to proceed to New South Wales on the advice and information received by them, as to the probable demand for their services. Under these circumstances, I can only express my entire concurrence in the view taken by Sir R. Bourke of the necessity of adhering to the provisions of the Colonial Church Act.

Provisions of  
church act to  
be adopted.

I have, &c.,

GLENELG.

[Enclosure.]

SIR GEORGE GREY TO REV. DR. MACFARLANE.

Sir,

Downing Street, 10th March, 1837.

I have laid before Lord Glenelg your Letter of the 1st Instant, with the Memorial therein enclosed from the Committee of the General Assembly of the Church of Scotland for promoting the Religious interests of Scottish Presbyterians in the British Colonies.

In reply, I am directed to state that Lord Glenelg had already been led to consider the point to which you have called his attention, and that he has considered it but reasonable that the additional and important duties, which will be required from the Minister of the principal Scotch Church in each of the Colonies of New South Wales and Van Diemen's Land, should be remunerated by a higher Salary than that which will be assigned to others. His Lordship has had under his consideration a Memorial on this subject from a Committee appointed by a Public Meeting of the Presbyterian Inhabitants of Hobart Town, and its vicinity, transmitted by Colonel Arthur; and he has addressed an Instruction to the

Stipends for  
ministers of  
principal  
churches.

present Governor of the Colony, sanctioning such an increase in the emoluments of the Revd. Mr. Lillie as Minister of St. Andrew's Church, Hobart Town, as the Legislative Council of Van Diemen's Land may think reasonable.

1838.  
6 Feb.

I am further to inform you that the Revd. Dr. Lang has recently called Lord Glenelg's attention to his own position as the leading Minister of the Scotch Church in New South Wales in a Letter, of which I enclose an Extract, together with an Extract of the reply which was returned to that communication. Lord Glenelg has transmitted Copies of that Correspondence to the Governor of New South Wales for his information and guidance.

I take this opportunity of acquainting you, by Lord Glenelg's directions, that his Lordship has received from the Governor of New South Wales a communication from which it appears that, in the Financial Estimate for the present year, provision has been made for securing Salaries to eight Presbyterian Ministers in that Colony, being an addition of three to the present Establishment. The Governor of New South Wales will be informed that Mr. Hetherington and Mr. Allan have been appointed under this arrangement; and, as Lord Glenelg is not aware that any recent addition has been made to the establishment of the Presbyterian Church in the Colony, his Lordship trusts that a Salary to the extent of £100 a Year will be appropriated to these two Gentlemen immediately on their arrival in the Colony.

Salaries voted for Presbyterian clergy.

Salaries for Revds. I. Hetherington and J. Allan.

I am directed to add that there appears to have been voted by the Council of New South Wales a Sum of £240 towards the support of Presbyterian Schools, to be applied in Sums not exceeding the amount of Private Subscriptions.

I am, &c.,

GEO. GREY.

[Sub-enclosure No. 1.]

SIR GEORGE GREY TO REV. DR. MACFARLANE.

Sir, Downing Street, 1st July, 1837.

I am directed by Lord Glenelg to transmit to you, for your information and guidance, the enclosed Copy of a Letter which I have received from the Revd. Dr. Lang, and of the reply which by his Lordship's directions I have addressed to Dr. Lang.

I am, &c.,

G. GREY.

[Sub-enclosure No. 2.]

SIR GEORGE GREY TO REV. J. D. LANG.

Sir, Downing Street, 1st July, 1837.

I am directed by Lord Glenelg to acknowledge the receipt of your Letter of the 27th Ultimo, with respect to the appointment of Mr. Robt. Stewart as a Minister of the Scotch Presbyterian Church to the Ecclesiastical Establishment in New South Wales. I am to inform you in reply that, under the circumstances which you have stated, Lord Glenelg will not object to receive through Principal Macfarlane the individual recommendation of himself and the other Members of the General Assembly's Committee on Colonial Churches, should there be no regular Meeting of the Committee in the interval which must elapse before Mr. Stewart's embarkation in the event of his appointment being sanctioned.

Proposed appointment of R. Stewart as Presbyterian minister.

I am, however, to remind you that, in assuming that the number of Presbyterian Ministers recently appointed to the Colonies of

1838.  
6 Feb.

Conditions *re*  
Presbyterian  
clergy.

New South Wales and Van Diemen's Land is not yet sufficient for the present wants of those Colonies, Lord Glenelg cannot hold himself responsible for the accuracy of the information on which the Committee may proceed, nor can any guarantee be afforded by Her Majesty's Government for the immediate employment of such Presbyterian Ministers on their arrival at their destination.

In order to save time, I have been directed to transmit a Copy of your Letter to Principal Macfarlane for his information.

I have, &c.,  
GEO. GREY.

ACTING GOVERNOR SNODGRASS TO LORD GLENELG.

(Despatch No. 20, per ship *Isabella*; acknowledged by  
lord Glenelg, 16th July, 1838.)

My Lord,

Government House, 6th Feby., 1838.

Transmission  
of memorial  
from officials.

I have the honor to transmit for your Lordship's consideration a Memorial, which has been addressed to me by certain officers of this Government, who, although emigrating to this Colony pending the regulations admitting of Grants of Land without purchase, were not allowed to avail themselves of such regulations in consequence of their being severally employed in the Public Service. They now pray that, upon the resignation of their employments, their claim to grants of Land may not be prejudiced by the regulations of 1831. As no report of mine can add to the information which the records of your Lordship's Department will afford, as to the policy and objects of the rule by which these gentlemen have been excluded from the advantage open to others, I can only submit their application for your Lordship's favorable consideration.

Request for  
land grants on  
resignation.

With respect to the case of Mr. G. B. White, referred to in the Memorial, it may be proper to explain that this gentleman, who now holds the appointment of Surveyor, has lately been informed that he will be allowed, on his retiring from the Service, a Grant of Land to the extent of 1,280 acres, being the quantity which, in consideration of the capital he brought out to this Colony, Sir Ralph Darling had ordered him to receive, but which order was suspended so long as he held an appointment in the Public Service, in conformity to the usual practice of the day.

Land grant  
promised for  
G. B. White.

These circumstances appeared to bring his case within the letter of the exception to the new regulations, authorised by Lord Ripon upon their introduction.

In the present case, it is for your Lordship to determine whether the claims of the applicants are so far within the spirit of such exception as to allow of their being also with propriety complied with.

I have, &c.,  
K. SNODGRASS.

[Enclosure.]

1838.  
6 Feb.Memorial  
from officials  
soliciting  
land grants.

THE respectful Memorial of the undersigned Individuals lately and at present employed in the Public Service at Sydney, New South Wales,

To His Excellency Colonel Snodgrass, C.B., Acting Governor, etc., etc., etc.,

Sheweth.

That your Excellency's Memorialists emigrated from Great Britain to this Colony at different periods prior to the year 1830. upon the faith of the Regulations of Government respecting emigration, by which your Memorialists were respectively entitled to Grants of Land upon their arrival in the Colony.

Your Excellency's Memorialists were induced, upon their arrival in New South Wales, to accept of Situations under the Government, in which considerable advantages were held out, consequent upon the great difficulty which existed at that time in obtaining young men duly qualified for such appointments; but it was understood that, by your Memorialists accepting public situations, they would not prejudice their Claims to Grants of Land upon the resignation of their employment, but on the contrary that such service rather than prejudice their rights under those Regulations would give them superior claims for Land on quitting it, to those they possessed on their arrival in the Colony.

Upon this understanding, Your Excellency's Memorialists have served His Majesty's Government with faithfulness for periods varying from seven to thirteen years, during which time they have not received any of those advantages in Land, which (but for their engagements with the Government) they might have possessed in common with emigrants of their day; yet Memorialists were induced to remain in the service of the Public in the hope hereafter of receiving such remuneration for their past services, as would enable them to settle ultimately with better prospects of success on their respective Grants, a resource which they always deemed certain upon retirement from their situations.

In furtherance of their claims, your Memorialists would humbly submit the following Statement:—

That, previously to the administration of Sir Thomas Brisbane, it was the practice of the Government to give Grants of Land to all persons in Government employment, whether Heads of Departments or Subordinates.

That this practice was modified by Sir Thomas Brisbane, who authorized reserves for persons in the Public Service to be confirmed as Grants on leaving their employment. These Reserves were made to most of the *Heads* of Departments, who had not previously obtained Land and to the subordinate Officers of the Government, namely the Assistant Surgeons, Asst. Surveyors and Clerks.

That General Darling, who succeeded Sir Thomas Brisbane, immediately confirmed as Grants the Reserves thus made to the Heads of Departments and likewise authorized Grants to this class of persons appointed subsequently to his arrival, but that the subordinates were not then included in this arrangement.

1838.  
6 Feb.

Memorial  
from officials  
soliciting  
land grants.

That the determination of Sir Ralph Darling not to give Land to Clerks and other subordinates in Government employ became known in the early part of his administration by the reply to an application preferred by Mr. Harrison (since deceased), then Chief Clerk in the Colonial Treasury, for that indulgence, dated the 3d October, 1826 (Copy annexed), which states "that it is not intended to grant Land to any Clerk in the employment of Government, but that good Conduct during such employment will be considered as giving a *Claim* to that indulgence."

That, in consequence of this communication, any similar applications were withheld, all the parties relying on the promise that they would receive Land on retirement; and it is humbly submitted that the Government is bound to fulfil the pledge so given.

It may not be considered irrelevant and improper here to advert to the recent communications of the pleasure of Her Majesty's Government with regard to additional Grants of Land, as evincing its disposition to recognize a promise even less explicit than that which your Memorialists have brought forward.

Having as your Memorialists humbly hope set at rest all difficulties to obtaining Land with regard to those who have left the Service, they would adduce the following arguments to shew the claims of those still employed in the Public Service to be equally well founded, and that no inconvenience can possibly arise to at once admitting them.

That the Reserves made by Sir Thomas Brisbane in favor of subordinate officers, as already stated, have since been confirmed by Sir Richard Bourke with the advice of his Council by the issue of Deeds of Grant when applied for.

That, besides this evidence of the acknowledgment of their Claim to share in the advantages extended to other Public Servants, the regulations for the Sale of Land, which are open to all, permit their obtaining Land to any extent.

That, being thus considered eligible to hold Land, they would Submit that the pledge of the Government to give Land on retirement might with propriety be redeemed by authorizing their at once receiving the same; and, in urging their prayer to this effect, they would submit as affording further grounds for a favorable decision the loss they have sustained in being for a series of years debarred from those advantages, in which their fellow Colonists have partaken and which have indeed in many cases given to the latter the means of purchasing under the existing regulations, and thus benefitting themselves and augmenting the revenue of the Colony.

The Persons having such Claims must of course have been in the Service prior to the adoption of the present regulations of 1831, directing the Sale of Land only; and they are consequently few in number, probably about twelve.

That it is very desirable the System of making Grants of Land should be finally disposed of by the immediate Settlement of Claims under former regulations without waiting any indefinite term.

That, although the rule abovementioned even applied generally, yet there are instances in which they have been departed from, and of these Memorialists beg to name those Grants of General Darling



to Mr. Charles Cowper, Clerk to the Church and School Corporation (Two Grants of Land), namely 1,280 Acres in 1827, and the like extent in 1830.

That Mr. G. B. White left the Colonial Secretary's Office in 1827 and immediately obtained a Grant for 1,280 Acres. He shortly afterwards entered the Survey Department, when the order so given was cancelled; yet notwithstanding that Mr. White is still in the Survey Department, Sir Richard Bourke was pleased recently to authorize a Confirmation of the original order.

Memorialists would now humbly urge upon the consideration of Your Excellency that, after years of toil and disappointment in the Government Service, they now suffer the mortification of being deprived of those privileges, which they acquired by their emigration to the Colony, without partaking of any equivalent advantage for so serious a loss, forbid by the temporary nature of their appointments to look to their Departments as a profession and thrown upon the world with broken energies; it may fairly be affirmed that few cases of greater hardship can be shewn than that which Memorialists now present to your Excellency's notice.

Your Excellency's Memorialists, being confident that your Excellency would take a just and feeling view of their case, are therefore induced to solicit that your Excellency will favorably recommend to the Right Honorable the Secretary of State for the Colonies that Memorialists may now, even at this late date, be restored to the same Claims for Land which they possessed on their arrival in the Colony, and prior to the joining the Public Service, by immediately obtaining Grants of Land.

And your Memorialists as in duty bound will ever pray.

RALPH HINDMARSH, Served in the Commissariat from July, 1828, to October, 1836. Resigned.

PHILLIP LAUNDER FELL, Served in Commissariat from September, 1827, to February, 1835. Resigned.

JAMES SCOTT HINDMARSH, Served in Commissariat from May, 1829, to October, 1837. Resigned.

VALENTINE FITZSIMONS, Served in the Commissariat of Accounts from October, 1830, and still employed in the same Department.

J. MACDONALD, Served in the Commissariat from January, 1828, to Jany., 1836. Transferred to Ordnance from the latter date and still serving in same Dept.

JAMES ALDERSON, Second Clerk in the Auditor General's Department. Appointed on the 1st October, 1828.

HENRY D. KEMP, Served in the Commissariat, Private Secretary's Office, Council Chamber, and Post Office, successively, from February, 1828, and still employed as Accountant in the latter Department.

G. W. NEWCOMBE, In Colonial Secretary's Office since August, 1826.

GEO. TOMLINS, Served as a Treasury Clerk in the Commissariat of Accounts from October, 1824, until 24 June, 1827; appointed Chief Clerk in the Auditor General's 25 June, 1827, which appointment he still holds.

Sydney, New South Wales, 28th December, 1837.

1838.  
6 Feb.

Memorial  
from officials  
soliciting  
land grants.

1838.  
6 Feb.

[Sub-enclosure.]

COLONIAL SECRETARY MACLEAY TO MR. J. S. HARRISON.

Colonial Secretary's Office,  
Sydney, 3rd October, 1826.

Sir,

I am directed by His Excellency the Governor to inform you, in reply to your letter of the 1st Instant, that it is not intended to grant Land to any Clerk in the employment of Government, but that good conduct during such employment will be considered as giving a Claim to that indulgence.

I am, &c.,  
ALEX. MCLEAY.

Refusal of  
land grant to  
J. S. Harrison.

ACTING GOVERNOR SNODGRASS TO LORD GLENELG.

(Despatch No. 21, per ship Isabella; acknowledged by  
lord Glenelg, 25th August, 1838.)

7 Feb.

My Lord,

Government House, 7th Feby., 1838.

Claims by  
W. Elyard and  
G. W. Newcombe  
to increase of  
salary.

The accompanying applications have been addressed to this Government by Mr. Wm. Elyard and Mr. G. W. Newcombe, the two senior clerks in the office of the Colonial Secretary, containing statements of their reasons for considering themselves entitled to augmentations of salary. These statements are fair and explicit and no useful end would therefore be answered by my fully recapitulating them here. Their services have been long and laborious, and the attestation of the late Colonial Secretary, as well as the present, to their diligence and efficiency appear to me to entitle their case to the most favorable consideration. As it is, however, one of a very peculiar nature and based chiefly upon the nonfulfilment of a regulation which was established so long ago as 1826, it appears to me proper to submit it for your Lordship's decision. A compliance with the application of these gentlemen would indeed seem also to be quite in accordance with the spirit of the recent regulations, which it was found necessary to establish in the past year with a view to obtain a more efficient and respectable class of clerks for the Public offices in the Colony, and which are now under reference to Her Majesty's Government for confirmation. The last mentioned regulations have fixed the salary of a clerk entering the first class at £300, to be augmented £20 annually until it reach a maximum of £400. The questions to be decided on the present applications are first, whether the salaries of Messrs. Elyard and Newcombe may be paid to them according to the regulations of 1826, to the full benefit of which Your Lordship will perceive the late Colonial Secretary has certified that he considers them entitled, and secondly, independently of this claim, whether they may not at once be rated at the maximum of £400 per annum, under the regulations of 1837, in consideration of their past services. The former entered the Colonial Secretary's office in 1822, and the latter in 1826, and both have rendered services that may be

estimated as those of first class Clerks for a much longer period than the five years required for the transition of the salary from its minimum of £300 to its maximum of £400, under the regulations of 1837 already referred to.

It is true that, in the application of these regulations to clerks already in the service, no retrospective advantage has been given to them prior to the 1st of January, 1837; but, as the gentlemen in question are the only parties now in office who would be entitled to claim under them, it may be proper to add that no inconvenient precedent can arise from a favorable decision upon their applications.

I have, &c.,

[Enclosures.]

K. SNODGRASS.

[Copies of these applications are not available.]

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ACTING GOVERNOR SNODGRASS TO LORD GLENELG.

(Despatch No. 23, per ship Isabella; acknowledged by lord Glenelg, 6th July, 1838.)

My Lord, Government House, 7th Feb., 1838.

I have the honor to forward a Memorial which Mr. Henry Howey has addressed to your Lordship, praying an additional Grant of Land under the circumstances narrated. The facts I have no reason to doubt, as I believe Mr. Howey to be a most respectable man, and entitled to such consideration as your Lordship may think the nature of the case will admit of.

I have, &c.,

K. SNODGRASS.

1838.  
7 Feb.  
Claims by  
W. Elyard and  
G. W. Newcombe  
to increase of  
salary.

Application by  
H. Howey for  
additional  
land grant.

[The memorial was not transmitted with this despatch.]

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ACTING GOVERNOR SNODGRASS TO LORD GLENELG.

(Despatch No. 22, per ship Isabella, acknowledged by lord Glenelg, 31st August, 1838.)

My Lord, Government House, 8 Feb., 1838.

I have the honor to forward herewith a communication which has been addressed to your Lordship by Mr. James Mitchell on the subject of his removal from the office of Colonial Surgeon. As Sir Richard Bourke will be in England upon the arrival of this Despatch, I feel that it will be more satisfactory, as well as convenient, to leave to him such explanation as the case may be thought to require, and will not, therefore, trouble your Lordship with any comments.

I have, &c.,

K. SNODGRASS.

[Enclosure.]

[A copy of this paper is not available.]

8 Feb.

Transmission of  
statement from  
J. Mitchell.

1838.  
10 Feb.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 74, per ship Maria.)

Sir, Downing Street, 10 February, 1838.

Transmission of  
bond given by  
sureties for  
C. D. Riddell.

In consequence of the consolidation of the Office of Collector of Internal Revenue with that of Treasurer of New South Wales, Her Majesty's Government have required further security from Mr. Riddell's Sureties under the Bond previously executed in his behalf as Treasurer of the Colony.

I transmit, for your information, a Copy of the new Bond which you will place amongst the Archives of your Government.

I have, &c.,  
GLENELG.

[Enclosure.]

COPY OF BOND.

Bond of  
Sir J. M. and  
M. Riddell as  
sureties for  
C. D. Riddell.

KNOW all Men by these Presents that We, Sir James Milles Riddell of Moray Place in the City of Edinburgh in that part of the United Kingdom called Scotland, Baronet, and Margaretta Riddell of the same Place Widow, are held and firmly bound unto our Sovereign Lady Victoria, by the Grace of God of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, in the Sum of Five thousand Pounds each of lawful Money of Great Britain, to be paid to our Sovereign Lady the Queen, her Heirs or Successors. For which several and respective Payments to be well and faithfully made, we severally and respectively, and not the one for the other of Us, bind ourselves and our several and respective Heirs, Executors and Administrators and every of them firmly by these Presents.

Sealed with our Seals and dated the Twentieth day of January in the year of our Lord One thousand, eight hundred and thirty eight.

WHEREAS Campbell Drummond Riddell, Esquire, was, on or about the first day of August in the year One thousand, eight hundred and twenty nine, appointed Treasurer of New South Wales, and was also, on or about the second day of January in the Year One thousand, eight hundred and thirty seven, appointed Collector of Internal Revenues in the said Colony; Now the condition of the above written obligation is such that, if the said Campbell Drummond Riddell hath hitherto, since his said Appointments, faithfully demeaned himself in and diligently performed all the duties of his said Offices respectively, And shall and do henceforth from time to time and at all times, as long as he shall continue to be such Treasurer and Receiver, well and faithfully demean himself in and diligently perform and execute all the duties and business, which ought to be done and performed and executed by him the said Campbell Drummond Riddell, as such Treasurer and Receiver as aforesaid, according to such Orders, directions or Instructions as have been given to him, or which he shall from time to time receive from Her Majesty, or the Governor or Lieutenant Governor for the time being of New South Wales, or from such other Person

or Persons as hath or have been, or is or are, or shall be duly authorized to give such orders, directions or Instructions to him the said Campbell Drummond Riddell, and hath heretofore honestly, faithfully and diligently conducted himself, and shall and do honestly, faithfully and diligently conduct himself as such Treasurer and Receiver towards our said Lady, the Queen, her Heirs and Successors, and the Governor or Lieutenant Governor for the time being of New South Wales in all transactions, businesses and matters of Account whatsoever, which have been or are or may be under the management of or intrusted to him the said Campbell Drummond Riddell, as such Treasurer and Receiver as aforesaid, and also hath heretofore well and truly paid or caused to be paid and applied, and do and shall from time to time henceforth well and truly pay or cause to be paid and applied all Monies, Coins, Notes, Commissariat and other Bills and Securities, and Store and other Receipts whatsoever, which may be paid to, or which have been or shall be received by, or otherwise come to the hands of the said Campbell Drummond Riddell, or with which he is or shall or may become justly chargeable as such Treasurer and Receiver as aforesaid, according to such Orders, directions or Instructions, as have been or shall from time to time be given to him the said Campbell Drummond Riddell by Her Majesty, or by the Governor or Lieutenant Governor for the time being of New South Wales, or by such other person or persons as hath or have been, or is or are or shall be duly Authorized to give such orders, directions or Instructions, and hath not hitherto in any wise taken to his own Use, misapplied, lent, embezzled or made away with, neglected to account for, or by his wilful default lost or hazarded, and shall not henceforth misapply and embezzle or make away with, neglect to account for, or by his wilful default lose or hazard any such Monies, Coins, Notes, Commissariat and other Bills or Securities, and Store and other Receipts as aforesaid, or any of them, or any part or parts thereof respectively; And, if the said Campbell Drummond Riddell, his Heirs, Executors and Administrators, hath hitherto kept, and shall and do henceforth from time to time keep a true and correct account of all Monies, Coins, Notes, Commissariat and other Bills and Securities, and Store and other receipts, which have been or shall be received by him as such Treasurer and Receiver as aforesaid, and hath rendered and shall henceforth render the same to Her Majesty, her Heirs and Successors, or to the Governor or Lieutenant Governor for the time being of New South Wales, when thereunto required, and hath produced and given, and shall produce and give authentic Vouchers for all Payments, made and to be made by him the said Campbell Drummond Riddell as such Treasurer and Receiver as aforesaid, and shall forthwith well and truly pay or cause to be paid to Her Majesty, her Heirs and Successors, or to the Governor or Lieutenant Governor of New South Wales for the time being, or to such person or persons as the said Governor or Lieutenant Governor for the time being shall appoint to receive the same the balance (if any), which shall appear to be due from him thereon, And deliver up to Her Majesty, her Heirs or Successors, or to the Governor or Lieutenant Governor of New South Wales for the time being, or to such person or persons as the said Governor or Lieutenant Governor shall appoint to receive the same, all such Papers, Books, Writings and other things appertaining to his said Offices of Treasurer and Receiver, as the

1838.  
10 Feb.

Bond of  
Sir J. M. and  
M. Riddell as  
sureties for  
C. D. Riddell.

1838.  
10 Feb.

Bond of  
Sir J. M. and  
M. Riddell as  
sureties for  
C. D. Riddell.

Governor or Lieutenant Governor of New South Wales for the time being shall direct, Then the above written Obligation to be void; otherwise the same shall remain in full force and Virtue.

Signed, Sealed and delivered by the said Sir James Milles Riddell in the presence of Richd. Mackenzie of Edinburgh, Writer to the Signet. JS. MILLES RIDDELL (L.S.).

Signed, Sealed and delivered by the said Margareta Riddell in the presence of Richd. Mackenzie of Edinburgh, Writer to the Signet. MARGARETTA RIDDELL (L.S.).

ACTING GOVERNOR SNODGRASS TO LORD GLENELG.

(Despatch No. 24, per ship Isabella; acknowledged by lord Glenelg, 3rd September, 1838.)

17 Feb.

Memorial from  
Presbytery *re*  
action of Revd.  
J. D. Lang.

My Lord,

Government House, 17th Feb., 1838.

I have the honor to forward herewith a Memorial which the Presbytery of New South Wales have addressed to Your Lordship upon the subject of certain proceedings\* of the Rev. Dr. Lang, by which they consider he has ceased to be a Minister of the Church of Scotland. As several of the Presbyterian Ministers, who have recently arrived in the Colony under the sanction of Her Majesty's Government and in the expectation of salaries from the Colonial Revenue, have united in Dr. Lang's proceedings, and as the condition on which their appointments are authorised by your Lordship's Despatch to Sir Richard Bourke of the 14th July, 1837, No. 344, requires their adhesion to the Church of Scotland, I have therefore found it necessary at once to determine in their regard the same point which the Presbytery have raised with respect to Dr. Lang, and have taken upon it the opinion of the Executive Council. The accompanying Extract of proceedings will shew that the Council concur in thinking that the six Clergymen therein mentioned stand at present unconnected with the Church of Scotland in New South Wales, and I have therefore found it necessary to decline issuing the salaries applied for by Dr. Lang on their behalf until they conform to your Lordship's instructions.

Opinion of  
council *re*  
status of clergy.

Decision  
required *re*  
salaries of  
clergy.

In order to decide fully on the Memorial of the Presbytery it will, however, be necessary not only to consider whether the condition in question shall be adhered to with regard to those who may now or hereafter apply for salaries as Presbyterian Clergymen, but also whether the salary hitherto issued to Dr. Lang himself shall be discontinued, in consequence of his disclaiming the authority of the General Assembly of the Church of Scotland by establishing in this Colony a Synod of Ministers acknowledging no appeal to the body. As Dr. Lang was

\* Note 69.

appointed and his salary fixed before the new Ecclesiastical arrangements were introduced, I have not felt myself authorised in interfering in this case pending your Lordship's decision on the whole matter, and he will therefore for the present draw his Salary as before.

1838.  
17 Feb.  
Salary of Revd.  
J. D. Lang.

I have, &c.,  
K. SNODGRASS.

[Enclosures.]

[A copy of the memorial is not available; a copy of the minute of the executive council will be found in a volume in series II.]

ACTING GOVERNOR SNODGRASS TO LORD GLENELG.

(Despatch No. 25, per ship Isabella; acknowledged by lord Glenelg, 16th July, 1838.)

My Lord, Government House, 18 Feby., 1838.

18 Feb.

At the request of Mr. Edwin Hickey, I have the honor to forward a Memorial which he has addressed to your Lordship praying for a Grant of Land.

Application by  
E. Hickey for  
land grant.

The case of Mr. Hickey appearing to fall within the same description as that of the gentlemen whose memorial was forwarded with my Despatch of the 6th instant, No. 20, it may be sufficient to express my belief of the facts stated by Mr. Hickey without troubling your Lordship with any further remarks on the claim founded thereon.

I have, &c.,  
K. SNODGRASS.

[Enclosure.]

[A copy of this memorial is not available.]

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 76, per ship Amelia Thompson; acknowledged by Sir George Gipps, 19th October, 1838.)

Sir, Downing Street, 19th Feby., 1838.

19 Feb.

I have received an application from a person named Eliza Foley for compensation for the loss of a Trunk, which appears to have been embarked in the Lady Macnaughton, Emigrant Ship, and carried on to New South Wales, the Owner having disembarked before the Sailing of the Vessel, and when it was impossible to recover the Trunk from amongst the other Luggage in the Hold.

Compensation  
claimed by  
E. Foley for  
loss of trunk.

I have to request that, if the property should have been left in the Custody of the Local Government, you will send it Home consigned to the Colonial Agent. If the Trunk should have been destroyed with other Articles in the Ship in order to

1838.  
19 Feb.

prevent Contagion, you will endeavour to form some estimate of its value, which is stated by the Applicant to be £35. I should be glad to receive some Communication from you on this subject at your earliest convenience.

I have, &c.,

GLENELG.

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ACTING GOVERNOR SNODGRASS TO LORD GLENELG.

(Despatch No. 26, per ship Isabella.)

My Lord, Government House, 19th Feby., 1838.

Nomination of  
T. Galloway  
as surgeon  
to select  
emigrants.

Dr. Thomas Galloway of the Royal Navy, the bearer of this Despatch, being about to return to England, after having brought out the Emigrants by the ship "Augusta Jessie" a service which he has ably and zealously performed, I have the honor to recommend him to your Lordship for further employment of the same nature. Instructions have accordingly been issued to him, subject to your Lordship's further commands, for the selection of additional Emigrants from the counties of Hampshire and Sussex, and for his guidance in taking charge of them for the voyage to this Colony.

I have, &c.,

K. SNODGRASS.

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LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 75, per ship Amelia Thompson.)

Sir, Downing Street, 20 February, 1838.

20 Feb.

Requisition  
for medicines  
and hospital  
stores to be  
fulfilled.

A requisition has been forwarded to the Lords Commissioners of the Treasury by the Secretary at War for Medicines and Hospital Stores for the Service of the Convict Establishments in New South Wales. Their Lordships have authorized the transmission of the Articles required, provided they are not of an unusual or unnecessary description.

All future Requisitions for Articles to be supplied from this Country for the use of the Convict Establishments must be submitted by you to this Departemnt with such explanation or information as may appear necessary.

I have, &c.,

GLENELG.

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ACTING GOVERNOR SNODGRASS TO LORD GLENELG.

(Despatch No. 27, per ship Isabella; acknowledged by lord Glenelg, 16th July, 1838.)

My Lord, Government House, 20th Feb., 1838.

Transmission of  
memorial from  
L. Duguid.

At the request of Mr. Leslie Duguid, I have the honor to transmit a Memorial which he has addressed to Your Lordship, praying that he may receive an additional grant of 2,560 acres



in fulfilment of a promise he received from Under Secretary Wilmot Horton in the year 1824 that, on his return to New South Wales, he should receive additional land in proportion to his capital.

1838.  
20 Feb.

It appears that Mr. Duguid afterwards made two applications for additional land, the one to Sir T. Brisbane in 1825, which was rejected on the ground that the improvements required by the regulations were not affected on the original grant, the other to Sir Ralph Darling in 1829, which was refused on the ground that Mr. Duguid could not receive land while employed in a house of Business or other public establishment.

Refusal of former applications for land grant.

Mr. Duguid, having fulfilled all necessary conditions both as regards improvements and residence, has renewed his claim, and, being submitted to the Executive Council, your Lordship will perceive by the accompanying Minute that they are of opinion that Mr. Duguid is entitled to an additional grant of 560 acres, that being the quantity for which he himself applied at the times already stated. Mr. Duguid contends that he is entitled to 2,560 acres that being the quantity to which his capital, the criterion pointed out by Sir W. Horton's letter, would have entitled him, and he explains his asking for 560 only by stating that he considered himself entitled to that quantity independently of any express promise, according to the practice adopted in all other cases where 2,000 acres only had been allotted, in lieu of the 2,560 fixed by the later regulations as the maximum of a Primary Grant.

Opinion of executive council *re* claim.

Land claimed by L. Duguid.

It may be proper to mention that the Council were divided on this question, and, although the point was not decided by the majority in Mr. Duguid's favor, I think it is so far doubtful that it cannot be regarded as any unreasonable importunity on Mr. Duguid's part to submit it for your Lordship's final decision.

I have, &c.,

K. SNODGRASS.

[Enclosure marked A.]

THE Memorial of Lesslie Duguid, a free settler in  
New South Wales,

Memorial of L. Duguid .  
soliciting  
land grant.

To the Right Honorable Lord Glenelg, His Majesty's Principal  
Secretary of State for the Colonies,

Humbly Sheweth,

That Memorialist, being then a minor, emigrated to this Colony in 1822, and obtained a grant of 2,000 acres of Land, on condition of maintaining 20 convict servants, an estimate made according to his then means.

That Memorialist having invested the whole of such means returned to England with the consent of the Colonial Government.

That, having become possessed of greatly increased means on becoming of age, memorialist obtained from the Right Honble, the

1838.  
20 Feb.

Memorial of  
L. Duguid  
soliciting  
land grant.

Secretary of State an order\* for an additional grant of Land "proportioned to his encrease of Capital" and returned to the Colony.

That Memorialist, having complied with the conditions of his primary grant, brought forward his claim to such additional grant as will appear from the documents attached to his Memorial to Sir R. Bourke dated 26 January, 1837, and which claim, at the end of 12 years from the original promise, has been considered to entitle him to 560 acres only, while emigrants of 1827 are daily receiving additional grants in proportion to improvements and capital.

That the addition of 560 acres to original grants of 2,000 was made generally throughout the Colony to first class Settlers in 1829, for improvements on primary grants, and which extension, tho' refused to Memorialist on the ground of non-residence only, ought not in common justice to bar Memorialist's claim to a grant of Land founded on a Specific and unsatisfied order, the qualification for which was stated to be Capital.

That the Colonial Government, while recognising the criterion of Memorialist's claim, viz., Capital, have decided this case without reference to it or to precedents brought forward by Memorialist; precedents which under similar authority, viz., a promise of the Secretary of State, have sanctioned additional grants of 2,560 acres each to Messrs. Scott and Mr. Jas. Webber, in each of whose cases the additional 560 acres, to which Memorialist is alone considered to be entitled, had previously been granted.

Memorialist therefore humbly prays your Lordship will be pleased to take this claim into your Lordship's consideration and generously fulfil the original intention of Earl Bathurst by placing Memorialist on the same footing as the Emigrants of 1827.

LESSLIE DUGUID.

Sydney, New South Wales, 17th February, 1838.

[Enclosure marked B.]

EXTRACT from Minute No. 1 of the Proceedings of the Executive Council, dated 3d January, 1838, relative to an Application from Mr. Lesslie Duguid for an Additional Grant of Land.

PRESENT:—His Excellency the Acting Governor; The Right Reverend the Lord Bishop of Australia; The Honorable the Colonial Secretary; The Honorable the Colonial Treasurer.

His Excellency the Acting Governor laid before the Council a Memorial from Mr. Lesslie Duguid, soliciting to be allowed a Grant in Extension of Two thousand, five hundred and sixty acres of Land, in addition to his Primary Grant of Two thousand acres received in the year 1822; founding his claim upon an Order of the Right Honorable the Secretary of State, given in October, 1824, which authorised his obtaining "An additional Grant of Land in proportion to his increased Capital"; as stated to him in Sir Wilmot Horton's note, dated 16th October, 1824, laid before the Council.

It appears from various documents, connected with this application, that the additional Grant so authorised for Mr. Duguid had been refused in 1825 by Sir Thomas Brisbane, because the Improvements required by the then existing regulations had not been effected on his Primary Grant; and, to a renewed Application in

\* Marginal note.—See Mr. Under Secty. Horton's note of 16 Oct., 1824.

Minute of  
executive  
council re  
claim of  
L. Duguid to  
land grant.

the year 1829, under the same authority, for an Additional Grant of Five hundred and Sixty Acres, Sir Ralph Darling replied "that it could not be complied with, if Mr. Duguid was then employed in a House of Business or any Public Establishment." Mr. Duguid was then in the service of the Bank of Australia.

According to the terms of the Under Secretary of State's note to Mr. Duguid, "available capital" was to form the criterion of his qualification for Additional Land; and he states, in his Application of 28th February, 1829, that his Capital amounted to Five hundred pounds, exclusive of a considerable quantity of Live Stock; the truth of which statement does not appear to have been disputed.

Upon which ground, the Council are of opinion that an Additional Grant of Five hundred and Sixty acres should be allowed to Mr. Duguid, being the quantity to which he considered himself entitled, and for which he applied in the year 1829; and which, together with his Primary Grant of two thousand acres, makes up the utmost quantity, which, by the regulations of 5th September, 1826 (then in force), could be granted without purchase to any Individual.

The Lord Bishop of Australia dissented from the above opinion of the Council, because, although Mr. Duguid received from the Secretary of State in 1824 an Order for obtaining an Additional Grant, yet that Order must necessarily have been and by the receiver must have been understood, to be dependent on his fulfilling the conditions upon which Land was at that time granted.

According to the Regulations subsisting from 1824 to 1831, those conditions were two, viz., Improvement of the previous Grant, and Personal residence. The application was refused in the first instance by Sir Thomas Brisbane on the ground of the first of the above conditions not having been complied with; and the renewed application to Sir Ralph Darling in 1829 was negatived, because the Applicant was not in a condition to comply with the latter; nor does it appear that he was ever so circumstanced, as to be able to meet both the appointed conditions at the same time, until after the System of granting Land was abolished. His Lordship objected to his obtaining additional Land, upon the principle that no such claim can now be admitted, unless it be proved to have been a well founded valid claim *previously* to the date at which the practice of disposing of Land was changed from the mode of Grants to that of Sale.

EXTRACT from Minute No. 4, dated 12th January, 1838.

PRESENT, as in the former Minute.

The Minute of proceedings on the third Instant having been read, the Colonial Treasurer stated that, on further consideration of Mr. Duguid's Case, he desired to withdraw his former opinion, and to unite in the dissent of the Lord Bishop of Australia; the Minute was then confirmed.

True Extracts.—WM. MACPHERSON, Clerk of Councils.

Council Office, Sydney, 4th April, 1838.

[Enclosure A 1 to Minute No. 1 of 1838.]

MR. L. DUGUID TO THE COLONIAL SECRETARY.

Sir,

Sydney, 26th Jan., 1837

I do myself the honor to request you will lay before His Excellency the Governor the enclosed Memorial, and am,

Sir, Your &c.,

Submission of memorial.

LESSLIE DUGUID.

1838.  
20 Feb.

Minute of executive council re claim of L. Duguid to land grant.

1833.  
20 Feb.

Memorial of  
L. Duguid  
soliciting  
land grant.

[Enclosure A 2 to Minute No. 1 of 1838.]

THE Humble Memorial of Lesslie Duguid, a Free Settler,  
To His Excellency Major General Sir R. Bourke, K.C.B., etc., Governor of  
New South Wales,

Humbly Sheweth,

That Memorialist arrived in this Colony in 1822, and, in conformity with Instructions from the Secretary of State, received from His Excellency Sir Thomas Brisbane, a Grant of 2,000 Acres of Land, "being in proportion to the means possessed of bringing the same into cultivation, and on the condition of maintaining one Convict for every 100 Acres," a Condition which has been amply performed by Memorialist.

That Memorialist having invested the whole of his funds in the Colony returned to England in 1823, where, having become possessed of greatly increased means under the Will of his Father, Memorialist applied to the Secretary of State for an additional Grant of Land in proportion to those means, the then standard of granting lands in this Colony.

That this application was favorably received by the Secretary of State, who transmitted to Memorialist, along with the Note from Sir W. Horton hereunto annexed, "a Letter to the Governor of New South Wales authorising him to make to him (Memorialist) an additional Grant of Land, proportioned to his increase of Capital," which Capital entitled Memorialist to a Maximum Grant.

That the order for this additional Grant of Land to Memorialist is still unsatisfied, Sir Thomas Brisbane having postponed acting on it until further improvements had been made on Memorialist's original Grant, and General Darling, under whose Government Memorialist again brought forward this Claim, having also deferred acting on it owing to the Regulations in regard to "non residence" which Memorialist could not comply with.

That these objections are now removed by the Modification of the Regulations, and by Memorialist's original Grant being highly improved.

That Memorialist would have earlier brought forward this Claim but for an impression that no Land could, under the existing Regulations, be alienated from the Crown, except by purchase at public Sale, an impression which has been removed by Your Excellency's recognition and liberal consideration of the intentions of the Rt. Honorable the Secretary of State, and promises of former Governors.

Memorialist therefore humbly prays Your Excellency will take this claim into your favorable consideration, and order Memorialist a Grant of four Sections of Land, which Memorialist considers he was and is entitled to under the Authority of the Secretary of State, the opportunity of which has only been deferred.

And Memorialist as in duty bound will ever Pray, etc., etc.,  
Sydney, 26th Jan., 1837.

LESSLIE DUGUID.

[Enclosure A 3 to Minute No. 1 of 1838.]

UNDER SECRETARY HORTON TO MR. L. DUGUID.

Land grant  
authorised for  
L. Duguid.

MR. WILMOT HORTON presents his Compliments to Mr. Duguid, and, in reply to his application of the 29th Ultimo, transmits to him a letter\* to the Governor of New South Wales authorising him to make to him an additional Grant of Land proportioned to his increase of Capital.

Downing Street, 16th October, 1824.

[Enclosure A 4 to Minute No. 1 of 1838.]

COLONIAL SECRETARY GOULBURN TO MR. L. DUGUID.

Sir,

Colonial Secretary's Office, 27th May, 1825.

Details  
required from  
L. Duguid.

In reply to the letter from the Colonial Office of which you have been the bearer, I am directed by the Governor to have the honor of enquiring the improvements, which have taken place on the Land already allotted to you, in order to enable His Excellency to judge whether you have conformed to the conditions of your present Grant so as to entitle you to the extension which Earl Bathurst is in that event desirous of conferring upon you.

I have, &c.,

F. GOULBURN.

[Enclosure A 5 to Minute No. 1 of 1838.]

COLONIAL SECRETARY GOULBURN TO MR. L. DUGUID.

Sir,

Colonial Secretary's Office, 1st October, 1822.

Land to be  
granted to  
L. Duguid.

In compliance with a Letter which this day received from the Colonial Office in Downing Street, I am directed by His Excellency Sir Thomas Brisbane to acquaint you that a Grant of Land will be made to you in proportion to the means, which

you may possess of bringing the Same into Cultivation, immediately on your sending in a Statement to this Office of the number of Convicts, those means will enable you to take permanently off the Stores.

1838.  
20 Feb.

I have, &c.,  
F. GOULBURN, Col. Secretary.

[Enclosure A 6 to Minute No. 1 of 1838.]

MR. L. DUGUID TO COLONIAL SECRETARY MACLEAY.

Sir, Lochinvarr, Hunter's River, 31 Decr., 1827.

Having heard by common report that the Asst. Surveyor, at present attached to this River, is, after completing the Survey of the quarter to which he is now engaged, destined for the Survey of Lands in the Upper Districts, I am in justice to myself induced to represent to you, for the consideration of His Excellency, the unfinished State in which my farm now remains. Request for survey of land grant.

By the approved award of Messrs. Field and Wemyss, bearing date the 22nd June, 1823, I was entitled to the sections of Land of which I have since been in possession, but neither the Northern, Western, nor Southern boundaries of which are defined, making in all nearly five miles which I am thus precluded from fencing, or Claiming as my own.

Having repeated the Application I originally made to the Surveyor General on the Subject, it therefore only remains for me, in making this Statement, to express the hope that His Excellency may see fit to direct that a farm so long located may now be measured as soon as circumstances will admit.

I have, &c.,  
LESSLIE DUGUID.

[Enclosure A 7 to Minute No. 1 of 1838.]

SURVEYOR-GENERAL MITCHELL TO COLONIAL SECRETARY MACLEAY.

Sir, Surveyor General's Office, 22nd february, 1828.

I have the honor to acknowledge the receipt of your letter, dated 2nd February, A No. 28/42, enclosing an application from Mr. L. Duguid, in which he states that he is prevented from completing the necessary improvement of his Land at Hunter's River from the circumstances of three of the Sides being still undefined, and Soliciting therefore that these may be measured off before Assistant Surveyor Finch removes to the Upper District of the River. Letter acknowledged.

In the absence of the Surveyor General, I have now the honor to return that application, and to State for the information of His Excellency the Governor that I am preparing instructions for an Assistant Surveyor, who is to proceed to Newcastle, there to commence the measurement and description of all Lands on both Banks Hunter's River, which have not yet been measured and described. I calculate that he will reach Mr. Duguid's Land in about two (2) weeks after his arrival in that Country. Surveyor to measure grants.

I have, &c.,  
T. L. MITCHELL, S.G.

[Enclosure A 8 to Minute No. 1 of 1838.]

MR. L. DUGUID TO THE COLONIAL SECRETARY.

Sir, Sydney, 28th february, 1829.

Enclosed I take the liberty to transmit to you an Application for an additional Grant of 560 Acres of Land, which I have the honor to request you will do me the favor of Submitting to the favorable Consideration of His Excellency the Governor. Application for land grant.

I likewise use the liberty of enclosing (in the State I received it) a note from Mr. W. Horton addressed to me in London, and accompanying a letter to Sir Thomas Brisbane, under which I applied for an extension of Grant in 1825 in proportion to the Capital I possessed beyond a valuable Stock, but which the Governor declined acting under from the circumstance of no improvement of my land having been effected during my absence in England.

The improvements, which have since taken place, I now beg to submit to the consideration of His Excellency.

Eighty Acres out of the 120 cleared have been under Cultivation, and, besides the fencing now erected, the whole property is in the course of being enclosed.

I therefore trust His Excellency may see fit to accede to my request by granting me an addition of 560 Acres (making in all 2,560 Acres) which indulgence has I understand been extended to Settlers, who received the same quantity from Sir Thomas Brisbane and whose improvements have been Similar.\*

I have, &c.,  
LESSLIE DUGUID.

\* Marginal note.—Cannot be complied with, if he is employed as a Clerk in a House of Business or any Public Establishment.—R.D., 15th April.

1838.  
20 Feb.

[Enclosure A 9 to Minute No. 1 of 1838.]

APPLICATION of\* Lesslie Duguid for an additional Grant of Land without purchase.

Application by  
L. Duguid  
for additional  
land grant.

Sir, I beg you will be pleased to submit to His Excellency the Governor, my request to receive Five hundred and Sixty Acres of Land, as an additional Grant without purchase under the existing Regulations.

I am now in possession of Land to the following extent,† viz. :—

By Grant .....	2,000 Acres.
By purchase off the Crown .....	.....
By Reserve .....	.....
By Private purchase, Gift, or Inheritance .....	.....

of which 120 Acres are cleared. Total ..... 2,000 Acres.

I also possess Live Stock as under, viz. :

Horses .....	2
Horned Cattle .....	100
Sheep .....	1,400

and available money Capital to the amount of Five hundred Pounds.

I have erected Buildings on the Lands of the following description and value,§ viz. :

Overseer's Cottage, Barn, Dairy, Corn house and Huts, value about one hundred and Fifty Pounds—£150.

I have completed two Miles of Fence, and have employed and maintained during the last year fourteen Convict and four free Servants. I have. &c.,

LESSLIE DUGUID.

To be reported whether Mr. Duguid is indebted to the Government or not.

Noted. Depy. Commry. Genl. Blank Cover, 2 March, 1829.

No Claim appears against Mr. Duguid in the Records of this Office.

JAMES LAIDLAY,

Commissariat Office, Sydney, 3rd March, 1829.

No Claim appears against Mr. Duguid in the Records of this Office.

JAMES BUSBY, Col. Int. Rev.

Internal Revenue Office, Sydney, 4th March, 1829.

It does not appear from the Records in this Office that any Sum is due to Government by the within named Applicant Mr. Lesslie Duguid.

Audit Office, Sydney, 10th March, 1829.

WM. LITHGOW.

[Enclosure A 10 to Minute No. 1 of 1838.]

MINUTE No. 42.

Government House, 1st April, 1830.

Details  
required from  
J. P. Webber.

LET Mr. James Webber be called on to State what available Capital he possesses, as giving him a Claim to an additional Grant of Land, his friends having made application to the Secretary of State that he should receive a further Grant.

Let him state at the same time, the quantity he now possesses, as also the Live-Stock and the improvements made on the Land he at present holds.

RA. DARLING.

[Enclosure A 11 to Minute No. 1 of 1838.]

Application by  
J. P. Webber  
for additional  
land grant.

APPLICATION of James Philips Webber for an Additional Grant of Land without purchase.

Sir, Paterson's River, 1st May, 1830.

I beg you will be pleased to Submit to His Excellency the Governor, my request to receive five Thousand acres of Land, as an additional Grant without purchase, under the existing Regulations.

I am now in possession of Land to the following extent, viz. :—

By Grant .....	2,000 Acres.
By Purchase off the Crown .....	1,280
By Reserve .....	.....
By Private Purchase, Gift, or Inheritance .....	.....

of which 350 Acres|| are cleared. Total ..... 3,280 Acres.

\* *Marginal note.*—Write Christian name and Surname legibly and at full length.

† *Marginal note.*—State accurately the usual place of residence that the reply may be duly forwarded.

‡ *Marginal note.*—Not indebted to the Government.—T.C.H.

§ *Marginal note.*—Here describe the several Buildings and their value.

|| *Marginal note.*—Let him receive four *Square Miles* as an additional Grant, on reference to Sir George Murray's Letter of 15 Sept., 1829.—R.D., Oct. 27.

I also possess Live Stock as under, viz.:

Horses .....	4
Horned Cattle .....	350
Sheep .....	2,800

1838.  
20 Feb.

and available Money Capital to the Amount of £1,000;  
and available produce Capital to the Amount of £4,200.\*

Application by  
J. P. Webber  
for additional  
land grant.

I have erected Buildings on the Lands of the following description and value†  
viz.:-

House .....	£500	Tobacco Sheds .....	£100
Barn .....	100	Press houses, etc. ....	100
Dairy, Store, Granary .....	180	Maize Barns and Small Buildings .....	70

I have completed eight Miles of Fence, and have employed and maintained during the last year Thirty four Convict and Three free Servants.‡

I have, &c.,  
JAMES P. WEBBER.

[Enclosure A 12 to Minute No. 1 of 1838.]

MR. J. P. WEBBER TO THE COLONIAL SECRETARY.

Sir, Paterson's Plains, Hunter's River, 16th August, 1830.

Referring to your Letter of April 14th, 1830, and to my reply of May 1st, respecting a Communication from the Secretary of State relative to an additional Grant of Land to be given to me, I have the honor to request that you will submit my earnest Solicitation to His Excellency the Governor, to be favored with the communication of His Excellency's Intentions respecting it. I have, &c.,

Request by  
J. P. Webber  
for decision.

JAMES P. WEBBER.

[Enclosure A 13 to Minute No. 1 of 1838.]

MR. J. P. WEBBER TO THE COLONIAL SECRETARY.

Sir, Paterson's Plains, Hunter's River, 18th October, 1830.

Referring to my Letters of May 1st and 16th August, relating to an additional Grant of Land which the Secretary of State had been pleased to authorise to be made to me, I have the honor to request that you will be pleased to convey my most earnest entreaty to His Excellency the Governor to be favored with an answer to them.

I have, &c.,  
JAMES P. WEBBER.

[Enclosure A 14 to Minute No. 1 of 1838.]

MR. J. P. WEBBER TO THE COLONIAL SECRETARY.

Sir, Paterson's Plains, Hunter's River, 1st March, 1831.

Referring to an Order for an additional Grant of Land to be given to me, dated November 3rd, 1830, I have the honor to request that His Excellency the Governor will be pleased to extend the time allowed for making the Selection to an additional period of four Months, I having been unable to fix upon a Spot within the prescribed time.

I have, &c.,  
JAMES P. WEBBER.

Request for  
extension of  
selection.

[Enclosure A 15 to Minute No. 1 of 1838.]

MR. J. P. WEBBER TO THE COLONIAL SECRETARY.

Sir, Paterson's Plains, 4th August, 1827.

I have the honor to acquaint you, for the information of His Excellency the Governor, that, having completed the conditions attached to my Grant of Land of 2,000 Acres, I am desirous of having it extended to the quantity now permitted to be given to a Settler, and beg that His Excellency will be pleased to take my request into consideration.

Request for  
additional  
land grant.

I beg to add that I have been compelled to purchase Land in order to maintain the Stock that I possess.

I have, &c.,  
JAMES P. WEBBER.

[Enclosure A 16 to Minute No. 1 of 1838.]

MR. J. P. WEBBER TO THE COLONIAL SECRETARY.

Sir, Paterson's Plains, Hunter's River, 16th October, 1827.

In conformity with the direction contained in your letter of the 15th August, I have the honor to renew my application for an additional Grant of Land according to the prescribed Regulation.

I have, &c.,  
JAMES P. WEBBER.

\* Marginal note.—3,500 Burks Maize @ 5s., £875; 500 Bls. wheat @ 8s., £200; 500 Bls. Barley @ 5s., £125; 40,000 lbs. tobacco @ 1s. 6d., £3,000.

† Marginal note.—Here describe the Several Buildings and their value.

‡ Marginal note.—Let him receive 560 acres as an Additional Grant and inform him the Regulations do not permit of my granting him more.—R.D., June 9.

1838.  
20 Feb.

[Enclosure A 17 to Minute No. 1 of 1838.]

MR. J. P. WEBBER TO THE COLONIAL SECRETARY.

*This enclosure was a repetition of A 18 with the omission in the list of improvements of "Maize Barn £25" and of all endorsements.]*

[Enclosure A 18 to Minute No. 1 of 1838.]

APPLICATION of\* James Philips Webber for an additional Grant of Land without purchase.

Application by  
J. P. Webber  
for additional  
land grant.

Sir,

† Paterson's Plains, Hunter's River, 16th October, 1827.

I beg you will be pleased to Submit to His Excellency the Governor my request to receive five hundred and Sixty Acres of Land as an additional Grant without purchase, under the Regulations Contained in the Government Order No. 35, dated 5th September, 1826.

I am now in possession of Land to the following extent, ‡ viz. :—

By Grant .....	2,000 Acres.
By Purchase off the Crown .....	1,280
By Private Purchase, Gift, or Inheritance .....	.....
By Reserve .....	.....
Total .....	3,280 Acres

of which 250 Acres are cleared.

I also possess Live Stock as under, viz.:

Horses .....	3
Horned Cattle .....	130
Sheep .....	1,300

and available Money Capital to the Amount of £

I have erected Buildings on the Lands of the following description and value, viz.:

House .....	£500	House for Servants .....	£20
Barn .....	100	Two Small Do. ....	20
Maize Barn .....	25		
Kitchen .....	15		

I have completed Three and a quarter Miles of fence, and have employed and maintained during the last year Twenty Three Convict and no free Servants.

I have, &c.,

JAMES P. WEBBER.

To be reported whether Mr. James P. Webber is indebted to the Government or not.

*Noted.*

Dep. Comm. Genl. Blank Cover, 24th July, 1829.

Deputy Commissary General Wemyss transferred to this Office a Statement, dated 7th April, 1825, in which Mr. James P. Webber stands indebted to the Government for the Services of Convicts to the extent of two hundred and Thirty eight Bushels of Maize.

Mr. Scott, late in charge of the Commissariat at Newcastle, has however just handed me a letter (of which the accompanying is a Copy) addressed to him by Depy. Commy. Genl. Wemyss on the 18th January, 1827, from which it would appear that the debt in question had been liquidated Subsequently to the receipt of the Said Statement.

JAMES LAIDLEY, D.C.G.

Commissariat Office, Sydney, 27th July, 1829.

DEP. COM.-GENL. WEMYSS TO MR. WILLIAM SCOTT.

Sir,

Commissariat Office, Sydney, 18th Jany., 1827.

Mr. Webber has addressed me a letter of which the enclosed is a Copy: Be pleased to issue the allowance he claims, as I presume his Statement is correct.

I am, &c.,

WM. WEMYSS, D.C.G.

A true Copy :—JAMES LAIDLEY, D.C.G.

MR. J. P. WEBBER TO DEP. COM.-GENL. WEMYSS.

Sir,

Paterson's Plains, Hunter's River, 13th Jany., 1827.

I have the honor to inform you that, on making application to Mr. Scott the Storekeeper at NewCastle for the balance of commutation Money due me as a Magistrate, I was informed that, in consequence of my being indebted to Government, he could not pay it.

\* *Marginal note.*—Write Christian and Surnames legibly and at full length.

† *Marginal note.*—State accurately the usual place of residence that the reply may be duly forwarded.

‡ *Marginal note.*—not indebted to the Govt.—T.C.H.



I annex a Memorandum of the Items by which the debt has been discharged and will trouble you to forward an order to Mr. Scott to pay what is due to me.

1838.  
20 Feb.

I have, &c.,

JAMES P. WEBBER, J.P.

Amount of debt, 562 Bushels.	
August, 1824, paid .....	68 Bushels.
July, 1826, ditto .....	256 "
" " ditto .....	238 "
	562 "
a true Copy.	562 "

The Amount of the Sums due to me and applied by you to the payment of the debt.

The Sums so applied are a quarter's Commutation money from March to June, 1826, and 3,089 pounds of wheat received into Store.

Mr. James P. Webber has paid the two first Instalments of the purchase money of his 1,280 Acres, and applied for the return of the difference between these Sums and the Instalment of 1s. 2d. per Acre required to be paid by the Order of 23rd October, 1828, as he intends availing himself of that arrangement. No other Claim appears against Mr. Webber in the Records of this Office.

Internal Revenue Office, Sydney, 30th July, 1829. JAMES BUSBY, Col. Int. Rev.

No claim appears against Mr. James P. Webber in the Records of this Office, beyond those stated on the other side by the Depy. Comy. Genl. and the Collector of Internal Revenue. WM. LITHGOW, Aud. Genl.

Audit Office, Sydney, 30th July, 1829.

[Enclosure A 19 to Minute No. 1 of 1838.]

MR. J. P. WEBBER TO THE COLONIAL SECRETARY.\*

Sir, Cumming's Hotel, Sydney, 28 July, 1831.

I have the honor to enclose, for the information of His Excellency the Governor, the copy of a Letter which I have received from the Surveyor General relative to the Selection of my additional Grant of 2,560 acres of Land. Land selected by J.P. Webber.

I was induced to select the Land referred to, from a knowledge that the Lease of the Land to Mr. Nowlan had nearly expired; and the object of this letter is to request that His Excellency the Governor will cause this circumstance to be notified to the Surveyor General.

I am also desirous to state that I ask for possession of this Land, when Mr. Nowlan's interest in it has terminated; and, as there is an old stock Yard and hut on the Land (which have not been occupied for two years past), I am willing to make a compensation for them in case His Majesty's Government should be called upon to do so by Mr. Nowlan.

I have, &c.,

JAMES P. WEBBER.

P.S.—My stay in town being limited, I shall feel particularly obliged by receiving as early an answer to this Letter as circumstances will permit.

[Enclosure A 20 to Minute No. 1 of 1838.]

SURVEYOR-GENERAL MITCHELL TO MR. J. P. WEBBER.

Sir, Surveyor General's Office, 27th July, 1831.

I have duly received your Letter of the 26th Inst. informing me that you have selected  $\frac{1}{4}$ ,  $\frac{2}{3}$  the remaining part of  $\frac{3}{4}$  and of  $\frac{1}{2}$ , also a portion of  $\frac{1}{2}$  adjoining your Grant and purchased Land in the parish of Middlehope, and in reply thereto have to acquaint you that Mr. Nowlan's lease for seven years, which has not yet expired, includes the land so described; and, as I have not received any notification of this Lease having been cancelled by the Government or relinquished by the Tenant, it will be necessary that you should make a fresh selection. New selection necessary.

I have, &c.,

T. L. MITCHELL, S.G.

[Enclosure A 21 to Minute No. 1 of 1838.]

MR. J. P. WEBBER TO THE COLONIAL SECRETARY.

Sir, Cumming's Hotel, Sydney, 6 Augt., 1831.

Being compelled to leave Town on Friday next, and, from the recent alteration in the Land Regulations, being desirous to make my selection immediately, I have the honor to request that you will be pleased to make known to His Excellency the Governor my anxiety to obtain an answer to my Letter of the 28th Ultimo. Request for answer to letter.

I have, &c.,

JAMES P. WEBBER.

\* Marginal note.—It will be better to see Mr. Webber, who was here this morning before I had looked into these papers, and inform him it will be necessary for him to make another selection, as, should Mr. Nowlan be desirous of purchasing the Land at the termination of his Lease in February next, he would probably be permitted to do so, having had possession of it for so long a period. Apprise him that the present arrangements, render it necessary he should make his Selection without loss of time.—R.D., Augt. 9th.

1838.  
20 Feb.

[Enclosure A 22 to Minute No. 1 of 1838.]

MR. DUGUID'S CLAIM TO AN ADDITIONAL GRANT.

Memoranda  
re claims of  
L. Duguid.

THIS case would seem to turn in a great measure upon the terms of the order of the Secretary of State in 1824, which cannot be found in this Office. Mr. Duguid called with his memorial, and apparently claims a Maximum Grant in extension and not 560 acres (in addition to his original grant of 2,000 acres) for which he made application to Sir Ralph Darling in 1829, but was refused on account of his being then a Cashier in the Bank of Australia. If therefore his claim be entertained at all, it can only be for the 560 Acres in addition, unless it has been otherwise ordered by the Secretary of State. The local regulations at the time, I understand, restricted Grants to 2,560 Acres, whether original or additional, in the whole. As it is a particular case for which there appears to be no precise precedent, it may perhaps be better to obtain the opinion of the Executive Council.

E.D.T.

1 Feb.

It is a case for the Ex. Council. I should say that, if the case of Scott and Webber are in point, Mr. Duguid would have a claim to a second Grant of 2,560 Acres, if his means were thought equal to that extent when he applied in 1825. But there are on the other hand these objections:

1. The length of time that has elapsed since he received the Secy. of State's letter of 1824.
2. His limiting his application under that letter to Sir R. Darling in 1829 to 560 acres, which shows *his own construction* of the Secy. of State's letter at that time.

If no time is considered as foreclosing such applications as these, there is no knowing when they will end.

R.B.

2d Feby.

[Enclosure A 23 to Minute No. 1 of 1838.]

Case to be  
submitted to  
executive  
council.

TRANSMIT to the Clerk of the Councils and request him to prepare a precis of this case, and to transmit it with the original documents for the perusal of the Members of the Executive Council, it being His Excellency's intention to bring this Subject before them at their next Meeting.

E.D.T.

3 Feby.

Immediate.

[Enclosure A 24 to Minute No. 1 of 1838.]

MR. L. DUGUID TO THE COLONIAL SECRETARY.

Sir,

Sydney, 20th July, 1837.

Request by  
L. Duguid for  
decision.

I had the honor to transmit to you on the 26th Jany. last a Memorial to His Excellency the Governor, praying for the fulfilment of a promise made to me by the Rt. Honorable the Secretary of State in October, 1824, of an additional Grant of Land proportioned to my means, on the faith of which promise I returned to this Colony the following Year.

Having been favored with no reply, may I beg you will do me the honor to bring the Subject again under His Excellency's notice, as, independent of the delay which has occurred in the fulfilment of this promise, I am fearful that the case may now be mixed up with the question of additional Grants not based on any Specific order of the Secretary of State, but arising from improvement of original ones.

I would respectfully Submit that the only questions on my Memorial are:

- 1st. Whether an additional Grant in proportion to my means was promised to me, and the necessary Authority conveyed to Sir Thos. Brisbane;
- 2nd. Whether that Authority has ever been acted on;
- 3rd. Whether my means are such as to entitle me to a Maximum additional Grant if eligible for any.

On the first two points, I would respectfully Submit there can be no doubt from their recognition by two Successive Governors, and I trust His Excellency will at once put a liberal interpretation on the latter, as the only precedents for additional Grants under Similar Circumstances that I am acquainted with, *viz.*, in the cases of Mr. James Webber, Mr. R. Scott, and Mr. H. Scott, are in favour of the Maximum quantity.

I have, &c.,

LESSLIE DUGUID.

[Enclosure A 25 to Minute No. 1 of 1838.]

MR. L. DUGUID TO THE COLONIAL SECRETARY.

Sir,

Sydney, 7th Novr., 1837.

I did myself the honor to transmit to you in January last a memorial praying for the fulfilment of an order for an additional grant of Land in my favor directed to Governor Sir Thomas Brisbane in September, 1824.

I also had the honor of addressing you on the same subject in July last; and, understanding His Excellency will shortly leave this Government, I now beg to request you will as early as practicable, again bring this memorial under the Governor's notice, with a view to my being favored with His Excellency's decision previous to his departure.

1838.  
20 Feb.  
Request for  
decision.

I have, &c.,  
LESSLIE DUGUID.

[Enclosure A 26 to Minute No. 1 of 1838.]

MR. L. DUGUID TO THE PRIVATE SECRETARY.

Sir, Sydney, 14 Nov., 1837.

I do myself the honor to transmit to you herewith a Copy of a Letter, addressed to me by the Colonial Secretary in 1825, which I request you will do me the favor to bring under the notice of His Excellency the Governor.

That Letter is appended to a memorial, I addressed to his Excellency the Governor in January last, to which I have received no reply.

As I fear my application must, from this circumstance, have come before His Excellency in a doubtful shape, or have become encumbered with extraneous matter in passing thro' the Public Offices, I avail myself of this opportunity of bringing under His Excellency's notice the unqualified terms, in which the desire of Earl Bathurst, to confer on me the additional Grant I seek, is expressed in the Colonial Secretary's original communication to me.

The nearness of His Excellency's departure, and the very direct nature of the promise made me will, I trust, plead my excuse for intruding on His Excellency's time.

I have, &c.,  
LESSLIE DUGUID.

I have no recollection of this Case. The Colonial Secretary is requested to report it at his earliest convenience.

16th Novr.

R.B.

[Enclosure A 27 to Minute No. 1 of 1838.]

COLONIAL SECRETARY GOULBURN TO MR. L. DUGUID.

Sir, Colonial Secy.'s Office, 27th May, 1825.

In reply to the Letter from the Colonial Office of which you have been the Bearer, I am directed by the Governor to have the honor of inquiring the improvements, which have taken place on the Land already allotted to you, in order to enable His Excellency to judge whether you have conformed to the conditions of your present grant, so as to entitle you to the extension which Earl Bathurst is, in that event, desirous of conferring upon you."

Statement  
required from  
L. Duguid.

I have, &c.,  
F. GOULBURN.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 77, per ship Amelia Thompson; acknowledged by Sir George Gipps, 14th December, 1838.)

Sir, Downing Street, 21 February, 1838.

21 Feb.

I have the honor to transmit to you the copy of a letter addressed to this Department by desire of the Lords Commissioners of the Treasury, respecting the publication\* of a Narrative of the Voyage of the Colonial Schooner "Isabella" of New South Wales in search of the Survivors of the Crew of the "Charles Eaton," and I have to request that you will send home such further information on the subject as their Lordships have stated to be necessary for their guidance.

Report required  
re publication  
of voyage of  
schooner  
Isabella.

I have, &c.,

GLENELG.

[Enclosure.]

MR. F. BARING TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 19 Feby., 1838.

With further reference to the Communication addressed to you on the 6th December last, respecting the Publication of the Narrative of the Voyage of the Colonial Schooner "Isabella" of

\* Note 71.

1838.  
21 Feb.

Report required  
re publication  
of voyage of  
schooner  
*Isabella*.

New South Wales in search of the Survivors of the Crew of the "Charles Eaton," and of your reply of 20th Decr. thereto, I have it in command from the Lords Commissioners of Her Majesty's Treasury to request you will state to Lord Glenelg that my Lords have been apprized by a Report from the Commissioners of Audit that, in addition to the sum of £6 10s. for printing the Chart of the Voyage of the "Isabella," further payments had been made from the Military Chest of £8 11s. for Engraving the Chart, and £33 10s. 2d. for printing 1,022 copies of the Narrative of the Voyage, and that it was intended that any proceeds of the Sale of this publication should be paid back to the Military Chest.

Before my Lords, therefore, can sanction the admission of an Expenditure of this unusual description as a charge upon the funds of the Military Chest, they consider it necessary that his Lordship should call upon the Governor of New South Wales to report what further arrangements have been made in regard to the Sale and distribution of the Work, and what prospect there may be of the reimbursement of the Expense incurred in the Publication by proceeds of the Sale of it.

I am, &c.,  
F. BARING.

ACTING GOVERNOR SNODGRASS TO LORD GLENELG.

(Despatch No. 28, per ship *Isabella*; acknowledged by lord Glenelg, 23rd July, 1838.)

22 Feb.

Arrival of  
ship *Minerva*  
with fever  
amongst  
immigrants.

My Lord,

Government House, 22 Feby., 1838.

It is my painful duty to inform Your Lordship that the ship "*Minerva*," which arrived in this Port upon the 23rd Ultimo with Emigrants sent out by private Individuals upon Bounties, was found to be affected by a contagious fever, rendering it necessary to place the vessel and Emigrants under Quarantine. The vessel with a portion of the Emigrants was released on the 12th Instant, but the remainder of the Passengers are still under restraint at the Station at Spring Cove.

The accompanying Copies of the Report of the Medical Board upon the state of the vessel on arrival, and a further Medical Report received of the latest date, together with a List of the deaths which have taken place during the voyage and subsequently, will place Your Lordship in possession of every information upon this melancholy subject.

I have, &c.,

K. SNODGRASS.

[Enclosure No. 1.]

REPORT BY MEDICAL BOARD.

Deputy Inspector General's Office,

25th January, 1838.

THE Medical Board on the Emigrants per "*Minerva*," having assembled and taken into consideration the report of the 24th instant from Assistant Surgeon Stuart in charge, Have to express their

Report by  
medical board  
re fever on  
ship *Minerva*.

regret that the real State of the Emigrants from these documents (herewith) is much more unfavorable than anticipated from the previous Statement of the Captain.

1838.  
22 Feb.

Report by  
medical board  
*re* fever on  
ship *Minerva*.

By this report it appears that the disease first Manifested itself about the 25th November, Since which Eighty Six have been attacked; of those fourteen have died, and that there now remains sick, independent of Convalescents, thirty four, of which a list is appended.

The Board consequently would recommend that the whole of the Emigrants should be landed as speedily as circumstances will permit, the Sick and Convalescents apart from the rest, and placed under the usual restrictions and regulations. And that the tween decks of the Ship shall be cleared and thoroughly cleansed and fumigated, etc., taking care that none of the fittings up be employed in the Houses or Tents ashore, at least until they have been well Scrubbed with Sand and Soap under the immediate Superintendance of the Surgeon in charge.

The Board are further of Opinion that it would be desirable to place all the families, in which the disease has hitherto occurred, together in one or two of the Houses, so as to keep them in Some measure apart from the rest, by which means the further Spread of the disease is more likely to be more Speedily checked.

J. V. THOMPSON,  
Deputy Inspr. General, Prest.  
J. H. DU MOULIN,  
Surgeon, 50th regt. and forces.  
K. ROBERTSON,  
Col. Surgeon.

[Enclosure No. 2.]

REPORT BY MEDICAL BOARD.  
(Extract.)

Sydney, 24th February, 1838.

THE Medical Board on the Emigrants per "Minerva" having under consideration the Reports of the Respective Surgeons of the 23rd instant,

Report *re*  
immigrants  
in quarantine.

Have to observe that no death has occurred, nor any new case, since the previous report and that the Sick in Hospital are rapidly diminishing and going on favourably.

J. V. THOMPSON, Depy. Inspector Genl.  
J. H. DU MOULIN, Surg., 50th Reg. and Forces.  
K. ROBERTSON, Colonial Surgeon.

Quarantine Ground,  
Spring Cove, 23rd February, 1838.

Gentlemen,  
The Emigrants per Ship "Minerva" under my charge are all healthy.

I have, &c.,

WM. ROGERS, R.N., Superintendent.

To the Quarantine Medical Board, On the Emigrants per "Minerva," Sydney.

[Sub-enclosures.]

[These were returns of twenty-four deaths prior to 22nd February, 1838, and of the sick at Spring cove on 23rd February, 1838.]

1838.  
23 Feb.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 79, per ship *Amelia Thompson*.)

Sir,

Downing Street, 23 February, 1838.

Instructions re  
correspondence  
with agent  
general for  
emigration.

Referring to my Dispatch of the 21st Decr. last, No. 52, in which I stated the circumstances under which I was of opinion that the Correspondence between your Government and the Agent General for Emigration should be conducted by that Officer with the Colonial Secretary instead of through this Department, I wish to explain that I do not under the terms of that Dispatch desire to preclude a direct communication between the Agent General and yourself, and that the only restriction on this correspondence, which I think it of moment to enforce, is the one I before enjoined, that nothing in the nature of Instructions is to pass except through me.

I have, &c.,

GLENELG.

ACTING GOVERNOR SNODGRASS TO LORD GLENELG.

(Despatch marked "Separate," per ship *Isabella*; acknowledged by lord Glenelg, 21st July, 1838.)

My Lord,

Government House, 23rd Feby., 1838.

Murders at  
Port Phillip.

Mounted police  
detailed for  
service at Port  
Phillip.

Establishment  
of overland  
mail.

Delay in  
survey at  
Port Phillip.

I have the honor to report to Your Lordship that, in consequence of more than one murder being committed in the vicinity of Port Phillip under circumstances proving the serious deficiency of means for preventing such outrages, or for pursuing the perpetrators, I considered it necessary to order a Serjeant and six rank and file of the Mounted Police to proceed to that Territory, as a Protection to the peaceable and well disposed Inhabitants, and to aid the Civil powers established at Melbourne and Geelong (the two principal Towns) in the execution of their duties. The late Governor, Sir Richard Bourke, brought under your Lordship's notice the establishment of a Land Mail\* communication with Port Phillip, which commenced running from the beginning of the present year. To this it was also requisite to afford protection, and, by having a party of the Mounted Police at the extremities of the road for the interception of robbers or run-aways, this will be in a good measure accomplished. I am happy at being able to state that the mail has been run regularly by the Contractor, and the road is now travelled upon daily without difficulty or danger by those who are removing with their sheep and cattle to this new country. I am, however, sorry to acquaint your Lordship that the Surveying party has not made the progress that was anticipated in the laying out and measurement of lands for public sale at Port Phillip. This has been a great disappointment to many immigrants, as well as to people who are

\* Note 72.

desirous to proceed from this part of the Country and Van Diemen's Land to settle there; and I, therefore, to hasten so desirable an object, ordered two more Surveyors and a Clerk to proceed thither, and the Surveyors have accordingly gone by land, with a full surveying equipment. By this means, the best line of road will be marked, and places for fixing the few punts required across the Rivers will be pointed out without much loss of time, as, even in doing this, they will arrive at their destination fully equipped, and nearly as soon and at much less expence than if forwarded by sea, taking into consideration the detention in waiting for a vessel, and the great uncertainty of the time the voyage might occupy. It did not appear to me advisable to withdraw any of the Mounted Police from their stations within the located boundaries of this Colony, and I was therefore obliged to add the number of men required for Port Phillip to the strength of that Corps from the Regiments of Infantry serving in the Command. I do not, however, consider that it will be necessary to augment the present strength of the Surveyor General's Department, in consequence of the numbers required for Port Phillip, by more than one Assistant Surveyor and one Clerk. The establishment at Port Phillip will consist, including the present augmentation, of one Surveyor and four Assistant Surveyors with one Clerk, but two of the Assistant Surveyors (the number now sent) may be brought back to Head quarters by the end of this year; and, as the demand for land to be measured for sale in this part of the Country is likely to be comparatively limited, until at least that time, there is sufficient strength left here to meet the demand.

I have, &c.,

K. SNODGRASS.

1838.  
23 Feb.

Surveyors  
sent to Port  
Phillip.

Road to be  
marked.

Mounted police  
for Port Phillip.

Establishment  
of surveyors  
at Port Phillip.





DESPATCHES  
TO AND FROM ENGLAND  
DURING THE  
ADMINISTRATION OF SIR GEORGE GIPPS.

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SIR GEORGE GIPPS, kt., arrived in Port Jackson *per* the ship *Upton Castle* on the 23rd of February, 1838, and assumed office as captain-general and governor-in-chief on the following day.



## DESPATCHES.

## THE COMMISSION\* OF SIR GEORGE GIPPS.

1837.  
5 Oct.

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, To our Trusty and Well beloved Sir George Gipps, Knight, Greeting. Whereas His late Majesty King William the Fourth did, by certain Letters Patent under the Great Seal of the United Kingdom of Great Britain and Ireland, bearing date at Westminster the Twenty fifth day of June, one thousand eight hundred and thirty one, in the first year of his Reign, constitute and appoint Richard Bourke, Esquire, Major General in his said late Majesty's Forces, to be Captain General and Governor in Chief in and over the Territory called New South Wales, and all Islands and Territories within the Limits therein mentioned, during his said late Majesty's Royal Will and Pleasure, as by the said recited Letters Patent, relation being thereunto had, may more fully and at large appear. Now know you that we have revoked and determined, and, by these presents, Do revoke and determine the said recited Letters Patent and every Clause, Article and Thing therein contained. And further know you that We, reposing especial trust and confidence in the prudence, courage and loyalty of you, the said Sir George Gipps, of our especial grace, certain knowledge and mere motion, Have thought fit to constitute and appoint, and by these presents do constitute and appoint you, the said Sir George Gipps, to be our Captain General and Governor in Chief in and over our Territory called New South Wales (except as hereinafter excepted), extending 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 of 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 of ten degrees, thirty seven minutes South, and thirty

Commission of  
Sir G. Gipps.Recital of  
R. Bourke's  
commission.Revocation of  
letters patent.Sir G. Gipps  
to be governor-  
in-chief.Territorial  
jurisdiction.

\* Note 73.

1837.  
5 Oct.

General  
instructions.

Oaths of office  
to be taken.

nine degrees twelve minutes South, and also including Norfolk Island, lying in or about the Latitude of Twenty nine degrees three minutes South, and one hundred and sixty eight degrees of East Longitude from the said Meridian of Greenwich, and of all Forts and Garrisons, erected and established, or which shall be erected and established within the said Territory or within any part of the said Islands, save and except that part of our said Territory hereinbefore described, which is called and known by the name of the province of South Australia, and which lies between the Meridians of one hundred and thirty second and one hundred and forty first degrees of East Longitude, and between the Southern Ocean and the Twenty sixth degree of South Latitude, with all and every the Islands adjacent thereto, and the Bays and Gulfs thereof. And we do hereby require and command you to do and execute all things in due manner that shall belong to your said Command, and the Trust we have reposed in you, according to the several powers and directions granted or appointed you by this present commission, and the Instructions herewith given to you, or according to such further powers, instructions and authorities, as shall at any time hereafter be granted or appointed you under our Sign Manual and Signet, or by our Order in our Privy Council, or by Us, through one of our Principal Secretaries of State, and according to such Laws and ordinances as are now in force, or which may hereafter be made under and by virtue of a certain Act of Parliament, made and passed in the Ninth year of the Reign of King George the Fourth, intituled, An Act to provide for the administration of Justice in New South Wales and Van Diemen's Land, and for the more effectual Government thereof, and for other purposes relating thereto, as the same is continued by an Act, passed in the first year of our Reign, intituled, an Act to continue until the Thirty first day of December, one thousand eight hundred and thirty eight, and from thence to the end of the then next Session of Parliament, An Act of the Ninth year of the Reign of His Majesty King George the Fourth for the Administration of Justice in New South Wales and Van Diemen's Land. And our Will and Pleasure is that you, the said Sir George Gipps, as soon as may be after the publication of these our Letters Patent, do take the Oaths appointed to be taken by an Act passed in the first year of the Reign of King George the First, intituled, An Act for the further security of His Majesty's person and Government, and the Succession of the Crown in the Heirs of the late Princess Sophia, being Protestants, and for extinguishing the hopes of the pretended Prince of Wales and his open and secret Abettors, as the same is altered and explained by an Act passed in the Sixth

year of the Reign of His Majesty King George the third, intituled, An Act for altering the Oath of Abjuration and the assurance, and for amending so much of an Act of the seventh year of her late Majesty Queen Anne, intituled, An Act for the improvement of the Union of the two Kingdoms, as after the time therein limited requires the delivery of certain lists and copies therein mentioned to persons, indicted of High Treason or Misprision of Treason, or in lieu thereof the Oath required to be taken by an Act passed in the Tenth year of the reign of His late Majesty King George the Fourth, intituled, "An Act for the relief of his Majesty's Roman Catholic Subjects," according as the said former Acts or the said last mentioned Act shall be applicable to your case; and likewise that you take the usual Oath for the due execution of the Office and Trust of our Captain General and Governor in Chief in and over our said Territory and its Dependencies, and for the due and impartial administration of Justice; and further that you take the Oath required to be taken by Governors of Plantations to do their utmost that the several Laws, relating to Trade and the plantations, be duly observed; all which said Oaths the Chief Justice of our said Territory of New South Wales and its Dependencies for the time being, or the Senior or any other Member of our said Executive Council of our said Territory and its Dependencies, is hereby authorized and required to tender and administer unto you, and in your absence to our Lieutenant Governor (if there be any present); all which being duly performed, you shall administer to our said Chief Justice for the time being and to each of the Members of our said Executive Council such of the said oaths, mentioned in the said several Acts, as shall be applicable to the case of the Individual Member of our said Executive Council taking the same, and also the usual oath for the due execution of their places and trusts respectively; all which Oaths shall also be administered by the Governor or person administering the Government of our said territory and its dependencies for the time being to all such persons, as shall hereafter be appointed to be members of our said Executive Council, before they respectively enter upon the Execution of the duties of such their office. And we do hereby authorize and empower you to keep and use the Public Seal, appointed for the sealing of all things whatsoever that shall pass the seal of our said territory and its dependencies. And we do hereby give and grant unto you full power and authority to suspend any of the members of our said Executive Council from sitting, voting or assisting therein, if you shall find cause for so doing. And if it shall at any time happen that, by the death, resignation or departure from our

1837.  
5 Oct.

Oaths of office  
to be taken.

Oaths to be  
taken by chief  
justice and  
executive  
councillors.

Custodian of  
public seal.

Power to  
suspend  
executive  
councillors.

1837.  
5 Oct.

Power to  
appoint  
executive  
councillors.

said territory and its dependencies of any of our said Executive Councillors, there shall be a vacancy or vacancies in our said Executive Council, you are hereby authorized and required, by Warrant or Commission under the Public Seal of our said territory and its dependencies, to appoint to be Members of our said Executive Council so many fit and proper persons, as shall make up the number present to be four and no more. It being nevertheless our Will and Pleasure that you do signify to Us by the first opportunity every such vacancy, with the occasion thereof, as also the names and qualifications of the persons appointed by you, to the intent that such appointments may be either disallowed or confirmed by Us; and, until such disallowance or confirmation by us shall be signified and made known to you, the persons so appointed by you shall be to all intents and purposes Executive Councillors within our said Territory and its dependencies; and if, in consequence of the suspension of any of the members of our said Executive Council or their inability to attend from any temporary cause, there should not be a sufficient number of Executive Councillors to form a quorum, you are hereby authorized, provided the nature of the case shall in your judgment render it necessary, to nominate from time to time under the Public Seal of our said territory and its dependencies as aforesaid such persons, as you shall deem best qualified to act during the temporary incapacity of such Executive Councillors, so that the number present may be two and no more (exclusive of yourself and in your absence exclusive of the member presiding). And the persons so nominated by you shall be and be taken to be Executive Councillors, until the members originally appointed are enabled to resume their seats, or until others are appointed in their stead. And whereas it has been deemed expedient, in pursuance of the before mentioned Act of Parliament of the ninth year of the Reign of King George the Fourth, as continued by the before recited Act of Parliament of the First year of our Reign as aforesaid, to constitute and appoint a Legislative Council, with whose advice you are authorized and empowered to make laws and ordinances for the peace, welfare and good government of our said territory and its dependencies. Now We do hereby require and command that you do take especial care that, in making and passing such laws and ordinances, the provisions, regulations, restrictions and directions, contained in the said Act of Parliament of the Ninth year of the reign of King George the Fourth, as continued by the before recited act of the First year of our Reign as aforesaid, and also in the instructions which have from time to time been issued under the Royal Sign Manual or Signet, or which may hereafter

Appointment  
of legislative  
council.

Instructions  
*re* legislation.

be issued by Us in that behalf, be strictly complied with. And we do further give and grant unto you, the said Sir George Gipps, full power and authority from time to time, and at any time hereafter by yourself or by any other to be authorized by you in that behalf, to administer and give such of the said Oaths in the several Acts before mentioned contained, as shall be applicable to the case of the individual to whom the same shall be administered, to all and every such person or persons as you shall think fit, who shall hold any office or place of trust or profit, or who shall at any time or times pass into our said territory and its dependencies, or shall be resident or abiding therein. And we do hereby authorize and empower you to constitute and appoint Justices of the Peace, Coroners, Constables and other necessary officers and ministers in our said territory and its dependencies for the better Administration of Justice and putting the law in execution, and to administer or cause to be administered unto them such Oath or Oaths, as are usually given for the due performance and execution of their offices and places. And we do hereby give and grant unto you full power and authority, where you shall see cause, or shall judge any offender or offenders in any criminal matters or for any fines or forfeitures due unto us fit objects of our Mercy, to pardon all such offenders, and to remit all such offences, fines and forfeitures, treason and Wilful Murder only excepted, in which cases however you shall likewise have power upon extraordinary occasions to grant reprieves to the offenders until and to the intent our Royal Pleasure may be known therein. And we do hereby give and grant unto You, the said Sir George Gipps, full power and authority with the advice and consent of our said Executive Council to divide our said Territory of New South Wales and its dependencies into districts, counties, hundreds, towns, townships and parishes, and to appoint the limits thereof respectively. And we do hereby give and grant unto you full power and authority, with the advice and consent of our said Executive Council, to erect, raise and build in our said territory and its dependencies such and so many forts, platforms, castles, cities, boroughs, Towns and fortifications, as you by the advice aforesaid shall judge necessary, and the same or any of them to fortify and furnish with ordnance, ammunition and all sorts of arms, fit and necessary for the security and defence of the same, and the same again or any of them to demolish or dismantle as may be most convenient. Our Will and pleasure is that all public monies, which shall be raised, be issued out by warrant from you for the support of the Government or for such other purposes as shall be particularly directed and not otherwise. And we do hereby give and grant

1837.  
5 Oct.Power to  
administer  
oaths ;to appoint  
justices and  
officers of the  
law ;to pardon and  
reprieve ;to divide  
territory into  
counties, etc. ;to erect  
fortifications ;and to control  
finances.

1837.  
5 Oct.

Power to  
dispose of land;

unto you full power and authority, with the advice of our said Executive Council of our said territory and its dependencies, to agree for such lands, tenements and hereditaments, as shall be in our power to dispose of, and them to grant to any person or persons upon such terms and under such services and acknowledgments to be thereupon reserved unto Us, according to such instructions as have been from time to time issued under the Royal Sign Manual and Signet, or according to such further or other instructions as may hereafter be issued by Us in that behalf through one of our Principal Secretaries of State, which said grants are to pass and be sealed with the public seal of our said territory and its dependencies; and, being entered upon record by such officer or officers as shall be appointed thereunto, shall be good and effectual in law against Us, our Heirs and Successors. And we do hereby give and grant unto you, the said Sir George Gipps, full power and authority to appoint fairs, marts and markets, and also such and so many ports, harbours, bays, havens and other places for the convenience and security of shipping, and for the better loading and unloading of goods and merchandize within our said territory and its dependencies, as by you with the advice of our said Executive Council shall be thought fit and necessary. And We do hereby require and command all officers and ministers, civil and military, and all other inhabitants of our said territory and its dependencies, to be obedient, aiding and assisting to you, the said Sir George Gipps, in the execution of this our commission and of the powers and authorities therein contained. And, in case of your death or absence out of our said territory and its dependencies, or in case from any especial circumstances We shall judge it expedient by warrant under our Royal Sign Manual and Signet or otherwise to provide for the Civil Administration of the Government, notwithstanding your actual presence in our said territory and its dependencies, to be obedient, aiding and assisting unto such person, as shall be appointed by Us to be our Lieutenant Governor or Commander in Chief, or to administer the Government of our said territory and its dependencies, to whom We do therefore by these presents in either of such cases give and grant all and singular the powers and authorities herein granted, to be by him executed and enjoyed during our pleasure. And if, upon your death or absence out of our said territory and its dependencies, there be no person upon the place commissioned or appointed by Us to be our Lieutenant Governor of our said territory and its dependencies, or especially appointed by Us to administer the Government thereof, Our Will and Pleasure is that the senior military officer in command of our forces within

and to control  
commerce.

Provision for  
vacancy in or  
removal from  
office.



our said territory and its dependencies shall take upon him the administration of the Government, and that he or such other Military Officer as may from time to time succeed to the Command of our said Forces shall also execute this our commission and the aforesaid instructions, and the several powers and authorities therein contained in the same manner and to all intents and purposes as other our Governor or Commander in Chief should or ought to do in case of your absence, or until your return, or in all cases until our further pleasure shall be known therein. And we do hereby declare, ordain and appoint that you, the said Sir George Gipps, shall and may hold execute and enjoy the Office and Place of our Captain General and Governor in Chief in and over our said territory and its dependencies, together with all and singular the powers and authorities hereby granted unto you for and during our Will and Pleasure.

1837.  
5 Oct.

Provision for  
vacancy in or  
removal from  
office.

In Witness, etc., Witness, etc., the fifth day of October.

By Writ of Privy Seal.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 80, per ship Amelia Thompson; acknowledged by Sir George Gipps, 14th July, 1838.)

Sir, Downing Street, 24 February, 1838.

1838.  
24 Feb.

I have the honor to transmit to you the enclosed correspondence respecting an Expenditure of £2,268 4s., which appears to have been incurred in New South Wales for new Buildings for Stockade and Road Parties; and I have to request that you will report under what circumstances this charge had become necessary.

Expenditure  
on buildings  
for stockade and  
road parties.

I have, &c.,

GLENELG.

[Enclosure No. 1.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 8 Jany., 1838.

Referring to the communications addressed to you by direction of this Board on the 22d March and 29th April last, relating to the repairs of Barracks and other buildings occupied by the Convict Establishments in New South Wales and Van Diemen's Land, I have it in command from The Lords Commissioners of Her Majesty's Treasury to request you will state to Lord Glenelg that my Lords have had under consideration an Estimate prepared by the Commanding Royal Engineer in New South Wales of the Expenditure that will be required for the Buildings in question in that Colony during the year 1838-9. This Estimate includes additions made by direction of the Governor of £3,000 for alterations in the Factory at Paramatta, and £2,268 4s. for portable Houses for Stockades and Road Parties.

Consideration  
of estimates of  
royal engineer.

1838.  
24 Feb.

Instructions *re*  
buildings for  
factory.

Details required  
*re* buildings for  
stockades and  
road parties.

As Sir Richard Bourke could not, however, have received the Instructions respecting Estimates for this branch of the Service, which were suggested in the letters of 22d March and 29th April before alluded to, My Lords only deem it necessary, with reference to these additions, to observe to Lord Glenelg that they apprehend the Instructions, already given to Sir George Gipps in regard to the Factory Buildings, will supersede the necessity for any further directions on that subject, and to request that his Lordship will cause them to be apprized whether any information has been received from Sir Richard Bourke respecting the proposed Buildings for Stockades and Road Parties, or any explanation of the circumstances, which may have rendered it necessary to incur so large an amount of Expenditure in making what would appear to be some new arrangement for lodging the Convicts belonging to the Road Gangs, and the Parties employed in superintending them.

I am, &c.,  
A. Y. SPEARMAN.

[Enclosure No. 2.]

UNDER SECRETARY STEPHEN TO MR. A. Y. SPEARMAN.

Sir, Downing Street, 22d January, 1838.

Buildings  
for factory ;

Having laid before Lord Glenelg Your letter of the 8th Inst., I am directed to acquaint you in reply, for the information of the Lords Commissioners of the Treasury, that Lord Glenelg concurs with their Lordships in thinking that the Instructions, which have been already issued to Governor Sir George Gipps in regard to the Buildings of the Female Factory in New South Wales, will render it unnecessary to convey to him any further directions on the subject.

and for  
stockades and  
road parties.

With regard to the proposed Building for Stockades and Road Parties, I am directed to state that Lord Glenelg has received no recent report on that point, but the Despatch from Sir R. Bourke, copy of which is herewith enclosed, will inform the Lords Commissioners of the principles of the arrangement with a view to the completion, of which the Buildings in question would appear to be intended.

I am, &c.,  
JAS. STEPHEN.

[Enclosure No. 3.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 17th February, 1838.

Inability to  
decide *re*  
buildings for  
stockades and  
road parties.

With reference to the Communication addressed to you by direction of this Board on the 8th Ulto. and to your reply of 22nd Ulto. thereto, respecting the Estimate for Repairs of Convict Buildings in New South Wales, I am commanded by the Lords Commissioners of Her Majesty's Treasury to acquaint you, for the information of Lord Glenelg, that my Lords have informed the Master General and Board of Ordnance that, as they do not find the Governor of New South Wales has yet submitted any report or explanation to his Lordship of the circumstances under which the expenditure of £2,268 4s. for new Buildings for Stockade and Road Parties has become necessary, My Lords are not enabled to form any opinion as to the propriety of giving their Sanction for this Expenditure.

I am, &c.,  
A. Y. SPEARMAN.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 81. per ship Amelia Thompson.)

1838.  
26 Feb.

Sir, Downing Street, 26 February, 1838.

I have the honor to transmit to you the enclosed copy of a letter from the Secretary to the Church Missionary Society, notifying the appointment of a person who has been engaged by the Society for the purpose of Superintending the Agricultural improvement of the Lands belonging to the Mission in New South Wales, and requesting that the charge of his outfit and passage may be repaid out of the Annual grant in aid of the Mission. I have to request that you will bring this application under the consideration of the Legislative Council of your Government.

Appointment of  
superintendent  
of agriculture  
for mission  
lands.

I have, &c.,  
GLENELG.

[Enclosure.]

REV. D. COATES TO LORD GLENELG.

My Lord, Church Missionary House, 14th February, 1838.

In reference to Mr. Stephen's letter of June 30th, 1836, respecting the grant to the Church Missionary Society of a tract of land at Wellington Valley, New South Wales, for the extension of the Mission to the Aborigines, I beg to acquaint your Lordship that the Committee have engaged the services of Mr. William Porter for the agricultural improvement of the land in furtherance of the objects of the Mission, and that he embarked for Sydney on board the "John," Capt. Smith, on the 12th Instant. The Committee therefore request Your Lordship will have the goodness to acquaint His Excellency the Governor of New South Wales of Mr. Porter's appointment, and to direct the payment of Mr. Porter's Outfit and Passage out of the Colonial Grant in aid of the Mission, as has been done in former cases.

Engagement  
of W. Porter.

I am directed by the Committee to transmit for your Lordship's information the enclosed extract from their Instructions to Mr. Porter in reference to his particular duties.

Request for  
payment for  
outfit and  
passage.

I have, &c.,

D. COATES, Secy., C.M.S.

[Sub-enclosure.]

EXTRACT from the Instructions of the Committee of the Church Missionary Society to Mr. W. Porter, dated Church Missionary House, February 2nd, 1838.

Instructions to  
W. Porter as  
superintendent  
of agriculture  
on mission  
lands.

"THE more immediate object, which the Committee have in view in sending out you, Mr. Porter, to the New Holland Mission, is to take charge of the Agricultural Establishment at Wellington Valley. The Revd. W. Watson has been carrying on the work there for upward of five years with much zeal and labouriousness, and under circumstances of much difficulty and discouragement. Amongst other duties devolving on Mr. Watson, he has been compelled to look after the Farm, which has unavoidably withdrawn much of his time and attention from the more immediate work of the ministry among the Natives. From this charge, it is proposed that you should relieve him.

1838.  
26 Feb.

Instructions to  
W. Porter as  
superintendent  
of agriculture  
on mission  
lands.

"A tract of Government Land of considerable extent was assigned to the Mission at its formation as a temporary arrangement by the then Governor, Sir Ralph Darling. The Committee have since applied to Her Majesty's Government at home for the permanent grant of the land in aid of the Mission to the Natives. Their object is that the land, by due cultivation and improvement, may be rendered the means of gradually extending the Mission without additional pecuniary aid from the Colony. This plan it will be for you to carry into execution. In the prosecution of this design, all your skill and industry will find ample scope for their employment. All that enters into the judicious management of an extensive farming concern in this country, will by degrees be called for in the undertaking in which you are about to be engaged. It will be for you, in the first instance, to make yourself well acquainted with the course pursued in New South Wales in rendering a large tract of land productive, and then to apply the information thus acquired, combined with that you already possess, to the furtherance of the particular object confided to you by the Committee. You will perceive that your success in this undertaking will, if prospered by the divine blessing, supply the means of indefinitely extending the Mission to the Natives; and that thus, by the steady application of your time, thoughts and labors to your duties in this particular department, you may be greatly instrumental in furthering the Gospel among the Natives of New Holland. This is an object, on which your life may be well spent.

"But though your primary duties will be those just pointed out, and the due discharge of them will necessarily largely occupy both your mind and your hands, yet the Committee wish you constantly to keep in view the spiritual ignorance and misery of the Natives, and to improve every suitable opportunity in your intercourse with them to minister, by conversation and by your example, to their religious instruction. This, with your own heart in a right frame, you will find frequent occasions of doing in the intercourse with them, into which your usual avocations will bring you. For the Committee deem it important that you should employ the agency and labors of the Natives in the business of the Farm, as extensively as possible. This will, doubtless, be a matter of much difficulty, and will probably be brought about only very gradually, and for a long time very imperfectly; but patience, temper, and steady perseverance, combined with effective fervent prayer for them and for yourself, will under the divine blessing eventually accomplish much. Be not therefore discouraged at repeated failures and disappointments. These must be expected, and that for a long period, in dealing with a people in such a deplorable state of barbarism, superstition and ignorance, as those with whom you will have to do. The habituating them, however, to habits of industry, order and subordination, though by slow and scarcely perceptible degrees, will tend, in combination with the temporal advantages which they will acquire by their intercourse with you, and above all through the grace of the Gospel, to raise them from their present wretched condition, and to form them eventually into well ordered Christian Communities. May it please God, by the supply of the Spirit of Jesus Christ, thus to crown your labors with success!

"On the Lord's day, you will be more disengaged to take such a part as may be consistent with your lay character in giving religious instruction to the Natives. This may be done either in a

Sunday School, or by visiting the Natives in the vicinity of your habitation. With regard to this part of your employment you will act under the direction of the Missionaries. In reference, however, to all that enters into the management of the Farm, the Committee deem it advisable that you should exercise your own judgment, under the direction of the Corresponding Committee at Sydney."

1838.  
26 Feb.

Instructions to  
W. Porter as  
superintendent  
of agriculture  
on mission  
lands.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 30, per ship Isabella.)

My Lord, Government House, 26th February, 1838.

I have the honor to report to your Lordship that I arrived at Sydney in the Ship "Upton Castle" on the evening of Friday last the 23rd instant, after a somewhat tedious passage from England of 131 days.

Arrival of  
Sir G. Gipps.

Our progress was much impeded by adverse winds as we approached the shores of Australia, and by them we were forced, after a fruitless effort to get through Bass' Straits, to take the circuitous route round Van Diemen's Land.

We touched during our passage only at Madeira and the Cape of Good Hope, and remained only three days at the former place, and ten at the latter.

I have further to report to your Lordship that, on Saturday the 24th instant, I was sworn into office with the usual formalities at the Government House, and in the presence of all persons who chose to attend. The several Oaths mentioned in my Commission were administered to me by the Chief Justice, and I afterwards myself administered to the Chief Justice and the Members of the Executive Council the Oaths which they are directed to take.

Oaths of office  
taken by  
Sir G. Gipps.

Oaths given to  
chief justice  
and executive  
councillors.

I do myself the honor to enclose for your Lordship's information a copy of the Proclamation, which I caused to be issued, immediately on the completion of the ceremony.

I have, &c.,  
GEO. GIPPS.

[Enclosure.]

PROCLAMATION.

By His Excellency Sir George Gipps, Knight, Captain General and Governor in Chief of the Territory of New South Wales and its Dependencies, etc.

Proclamation  
by Sir G. Gipps  
on assuming  
government.

WHEREAS Her Majesty has been graciously pleased, by Commission under the Great Seal of the United Kingdom of Great Britain and Ireland, bearing date the Fifth day of October, One Thousand Eight Hundred and Thirty-seven, to constitute and appoint me, Sir George Gipps, Knight, to be Captain-General and Governor-in-Chief in and over the Territory called New South Wales and its Dependencies; Now I, the Captain-General and Governor aforesaid, do hereby

1533.  
26 Feb.

Proclamation  
by Sir G. Gipps  
on assuming  
government.

proclaim and declare that I have this day taken the prescribed Oaths before His Honor James Dowling, Esquire, the Chief Justice of the Supreme Court of the said Territory, and that I have assumed the Administration of the Government accordingly.

And I do hereby further proclaim and declare that Her Majesty has been pleased to nominate and appoint the undermentioned Persons to be Members of the Executive Council of the said Territory; that is to say,

The Senior Officer in Command of Her Majesty's Land Forces for the time-being.

The Bishop of Australia, or the Bishop of Australia for the time-being.

The Colonial Secretary of the said Territory, or the Colonial Secretary of the said Territory for the time-being.

The Colonial Treasurer of the said Territory, or the Colonial Treasurer of the said Territory for the time-being.

Given under my Hand and Seal at Government House, Sydney, this Twenty-fourth day of February, One thousand eight hundred and thirty-eight, and in the first Year of Her Majesty's Reign.

(L.S.) GEORGE GIPPS.

By His Excellency's Command,

E. DEAS THOMSON.

God Save the Queen!

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 82, per ship *Amelia Thompson*.)

27 Feb.

Sir,

Downing Street, 27 February, 1838.

Allowance of  
Royal exchange  
company's act.

I have received and laid before the Queen Sir Richard Bourke's Despatch, No. 94, transmitting an Act passed by the Legislative Council of New South Wales, intituled "An Act to facilitate Proceedings by and against The Royal Exchange Company, and for other purposes therein mentioned."

Her Majesty has been graciously pleased to confirm and allow this Act.

I have, &c.,

GLENELG.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 83, per ship *Amelia Thompson*.)

28 Feb.

Sir,

Downing Street, 28 February, 1838.

Despatch  
acknowledged  
re services of  
naval officers.

I have received Sir Richd. Bourke's Despatch, No. 87, of the 10th of September last, representing the services rendered to the Colony under your Government by Captain Hobson and the Officers of H.M. Ship *Rattlesnake*, on the occasion of Port Philip being occupied.

I have had much satisfaction in transmitting a copy of Sir Richard Bourke's Despatch to the Lords Commissioners of the Admiralty.

I have, &c.,

GLENELG.

SIR GEORGE GIPPS TO LORD GLENELG.

1838.  
2 March.

(Despatch No. 31, per ship Alfred.)

My Lord, Government House, 2nd March, 1838.

In acknowledging the receipt of your Lordship's Despatch of the 28th July, 1837, No. 354, I have the honor to report to Your Lordship that the payment, therein directed to be made, of £20,000 into the Military Chest, in reimbursement of a like sum advanced by the Treasury to the Agent of this Colony of Emigration, had been effected before the receipt of your Lordship's Despatch, vizt., on the 6th January last.

Payment to  
military chest.I have, &c.,  
GEO. GIPPS.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 32, per ship Alfred; acknowledged by  
lord Glenelg, 26th June, 1838.)

My Lord, Government House, 3rd March, 1838.

3 March.

I have the honor herewith to forward, for the purpose of being presented to Her Most Gracious Majesty, an address of Congratulation on Her Majesty's happy accession to the Throne of Her ancestors, agreed to at a Public Meeting held in Sydney on the 1st Novr., 1837, and which has been very generally signed by persons of all classes in this Her Majesty's most loyal Colony.

Transmission  
of address.

The address was presented to me this morning by a Deputation, consisting of some of the most respectable Inhabitants of the Colony, with a request that it might be presented to Her Majesty by your Lordship.

I have, &c.,  
GEO. GIPPS.

[Enclosure.]

ADDRESS.

To the Queen's Most Excellent Majesty.

May it please your Majesty.

No sooner was intelligence received of the mournful dispensation, by which your Majesty and the British Nation had been deprived of their Illustrious Sovereign and Protector, than a feeling of loyal devotion to your Majesty mingled itself with our sorrow for the demise of late Monarch, King William the Fourth. We had lived long enough under His Majesty's sway to receive many convincing proofs of the noble and estimable qualities, which adorned his character, and of His Majesty's conscientious regard as well for the maintenance of the liberties, as for the promotion of the welfare of his people.

Address to  
H.M. Queen  
Victoria on  
her accession.

Under a deep sense therefore of the Severe loss, which we in common with Your Majesty have sustained, We, your Majesty's most faithful Subjects, Members of Council, Magistrates, and Inhabitants of the Colony of New South Wales, in public Meeting

1838.  
3 March.

Address to  
H.M. Queen  
Victoria on  
her accession.

assembled, in transferring our allegiance to your Majesty, as our lawful Queen and Governor, do respectfully solicit permission to lay at the feet of Your Majesty, the homage of our most cordial congratulations on your accession to the Throne of the United Kingdom. From this distant part of Your Majesty's dominions, we hasten to join our fellow subjects in heartfelt vows of loyalty and attachment to your Majesty's person and Government, and in expressions of gratitude for your Majesty's gracious declaration, "that it will be your unceasing Study to maintain the reformed religion, as by law established, securing at the same time to all the full enjoyment of religious liberty, and that you will Steadily protect the rights, and promote to the utmost of your power the happiness and welfare of all classes of your subjects."

We earnestly implore of the Almighty that Your Majesty may reign long and happily over a faithful and prosperous people; and that the National interests may continue to flourish under Your Majesty's fostering Government. Through the watchful care of Divine Providence, we feel confident that the beneficent influence of Your Majesty's sway will be experienced even in this distant land in the improvement of our civil and religious institutions, in the extension of our commerce, in the increase of our population, and above all in the amelioration of their moral character and habits.

And we unfeignedly express a hope that not only in this Territory, but throughout your Majesty's Dominions, the hearts of all your Subjects may be united, as the heart of one man, to maintain and protect in undiminished honor the Sovereign, who possesses their undivided affection.

Sydney, New South Wales, 1st November, 1837.

[Here follow the signatures.]

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SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 33, per ship Alfred; acknowledged by  
lord Glenelg, 27th June, 1838.)

My Lord, Government House, 3rd March, 1838.

Transmission  
of address to  
H.M. Adelaide,  
queen dowager.

I have the honor to forward herewith, for the purpose of being presented to Her Most Gracious Majesty Adelaide the Queen Dowager, an address of Condolence on the loss which Her Majesty has sustained by the death of our late beloved Sovereign, King William the Fourth, which was agreed to at a Public Meeting held in Sydney on the 1st Novr., 1837, and has been very generally signed by persons of all classes in this loyal Colony.

The Address was presented to me this morning by a Deputation of some of the most respectable Inhabitants of the Colony, with a request that I would entreat your Lordship to present it to Her Most Gracious Majesty.

I have, &c.,  
GEO. GIPPS.



[Enclosure.]

1838.  
3 March.

ADDRESS.

To Her Majesty Adelaide, Queen Dowager.

May it please Your Majesty.

Address of  
condolence to  
H.M. Adelaide,  
queen dowager.

We, the Members of Council, Magistrates, and Inhabitants of the Colony of New South Wales, in Public Meeting assembled, humbly solicit your Majesty's permission to tender our respectful condolence on the severe affliction, with which it has pleased the Great Disposer of Events to visit Your Majesty in the loss of your Royal Consort, our late Sovereign, King William the Fourth. As we are aware that, in consequence of the great distance at which we live from that favored land which enjoys the happiness of Your Majesty's presence, this humble tribute of our respect cannot be laid before your Majesty, until the influence of time, aided by the powerful consolations of our holy religion, shall have abated the first poignant emotions of sorrow, we might hesitate to intrude on Your Majesty, under the apprehension that we inconsiderately were reviving Your Majesty's grief, were it not that we are anxious to express our dutiful respect for your person, and humbly hope that it may afford to your Majesty a melancholy satisfaction, to be assured that even in this most distant possession of the Crown the eminent qualities, by which our late revered Monarch was distinguished, had acquired the devoted affection of his Subjects, and that we feel deeply the loss, which the Kingdom in common with your Majesty has sustained.

But we should be indeed concealing our sentiments, were we not also to beg Your Majesty's acceptance of the respectful assurance of our warmest admiration of Your Majesty's zealous and successful efforts to promote a due observance of Virtue, Order, and decorum amongst those who surrounded the throne, and the beneficial influence of Your Majesty's high example in that respect throughout the British Empire, as well as the bright pattern of patient assiduity and affectionate attention, which soothed the last hours of our departed Sovereign, and which must for ever dwell in the grateful recollection of his people.

Sydney, New South Wales, 1st November, 1837.

[Here follow the signatures.]

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 34, per ship Alfred.)

My Lord, Government House, 5th March, 1838.

5 March.

I have the honor to inform your Lordship that the Chief Justice of this Colony and the two Puisne Judges have this morning waited on me, in a formal and official manner, to request that I will, to the utmost of my power and influence, support the claims that were set forth by them in a letter to Your Lordship dated the 2nd January, 1838, and which was forwarded to your

Request by  
judges for  
support of  
their claims.

1838.  
5 March.

Lordship by the late Acting Governor, Colonel Snodgrass, with his Despatch of the 2nd February last, No. 16.

Precedency of  
puisne judges.

With regard to the Precedency of the two Puisne Judges, it seems to me only necessary to state that I concur in the opinion expressed by Colonel Snodgrass, as to their being placed too low, principally because they are by the new Book of Regulations placed below the Attorney General, he being an *ex officio* Member of the Legislative Council.

Request for  
increase of  
salaries.

I have also to report to your Lordship that the Puisne Judges urged upon me various facts and arguments, all tending to prove the inadequacy of their remuneration, and the extreme dearness of house rent and provisions in this Colony. I cannot, however, undertake, after a residence only of ten days in it, to express any opinion of my own on these matters.

I have, &c.,  
GEO. GIPPS.

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LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 84, per ship Amelia Thompson.)

7 March.

Sir,

Downing Street, 7 March, 1838.

Memorial  
acknowledged  
from  
J. Nicholson.

I have the honor to acknowledge the receipt of Sir Richard Bourke's dispatch No. 96 of the 23d of Sept. last, with a Memorial addressed to the Lords Commissioners of the Admiralty by Mr. John Nicholson, Harbour Master at Port Jackson, respecting his half pay as a Master in the Royal Navy.

I enclose, for the information of Mr. Nicholson, their Lordships' reply to his application.

I have, &c.,  
GLENELG.

[Enclosure.]

SIR JOHN BARROW TO UNDER SECRETARY STEPHEN.

Sir,

Admiralty, 2nd March, 1838.

Refusal of  
application  
from  
J. Nicholson.

Having laid before my Lords Commrs. of the Admiralty your letter of the 27th Ult. transmitting by direction of Lord Glenelg a copy of a Despatch from the Governor of New South Wales, inclosing a Memorial addressed to their Lordships by Mr. John Nicholson, a Master in the Royal Navy, praying the restoration of a portion of his Half Pay, which has been deducted in consequence of his holding the situation of Harbour Master of Port Jackson, and referring to the case of Mr. Higgs, Harbour Master of Trincomalee. I am commanded by their Lordships to acquaint you, for the information of Ld. Glenelg, that the case to which Mr. Nicholson refers is not in point, and that their Lordships cannot authorize his receiving a greater portion of his Half pay than that which he now receives.

I am, &c.,  
JNO. BARROW.

LORD GLENELG TO SIR GEORGE GIPPS.

1838.  
8 March.

(Despatch No. 85, per ship Amelia Thompson.)

Sir, Downing Street, 8 March, 1838.

I have received Sir Richard Bourke's despatch No. 127 of the 24th Novr., 1836, respecting certain payments which appeared in the Accounts of the Colonial Treasurer of New South Wales, but were not inserted in the Quarterly Returns of new Appointments and special Payments, which are transmitted periodically to this Country.

Despatch  
acknowledged  
re payments.

The Lords Commissioners of the Treasury have expressed their opinion that the Quarterly Returns above mentioned should be confined to Appointments and Salaries or other charges, which may not have been included in the sanctioned Appropriation Ordinance.

I enclose for your information and guidance a copy of the letter from the Board of Treasury on this subject, and I have to desire that you will in future send home an additional copy of the annual Estimates and Appropriation Ordinance of your Government for the purpose stated by their Lordships.

Additional  
copy of finance  
papers to be  
transmitted.

I have, &c.,

GLENELG.

[Enclosure.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 17 February, 1838.

With reference to the observations in the Despatch from the Govr. of N. S. Wales, submitted in yr. Letter of 26 July last, relative to certain payments appearing in the Accounts of the Coll. Treasurer, which had not been inserted in the Quarterly Returns of New Appointments and special payments, and which were adverted to in the Report of the Commrs. of Audit, accompanying the Letter addressed to you, by direction of this Board on the 23d April last, I have it in command from the L.C. of the Treasury to request you will state to Id. Glenelg that, if the Commrs. of Audit are regularly and duly furnished with Copies of the Annual Estimate and appropriation Ordinances, passed by the respective Governors and Councils of the Australian Colonies, and are apprized of the decisions of the Home Govt, in regard to the Expenditure and charges proposed in those Estimates and Ordinances, it appears to my Lords that the Commrs. of Audit may be generally authorized to admit the sanctioned charges; and that in such cases the periodical returns of New appointments, alterations of Establishment, and extraordinary expenses shd. be confined to Appointments and Salaries or other charges, which have not been included in the sanctioned Appropriations.

Finance papers  
required for  
purposes of  
audit.

With a view, however, to this Arrangement, it will be necessary that an additional copy of each estimate and ordinance submitted for sanction shd. be furnished for transmission to the Commrs. of Audit, whom my Lords wd. apprize of the decision, which they and H.M.'s Secretary of State had formed in regard to the admission of the Expenditure Comprized therein.

I am, &c.,

A Y. SPEARMAN.

1838.  
9 March.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 86, per ship Amelia Thompson; acknowledged by Sir George Gipps, 13th July, 1838.)

Sir,

Downing Street, 9 March, 1838.

Approval of estimates for expenditure on mounted police.

The Master General and Board of Ordnance having transmitted to this Department a Report and Estimates of Works and Repairs, proposed to be carried on in the Royal Engineer Department in New South Wales in the year 1838-9 for the Mounted Police, I have now the honor to enclose the copy of a letter from the Board of Treasury conveying their Lordships' sanction for the expenditure, and stating what course you will in future adopt with reference to Estimates for the construction or Repair of Buildings or other services defrayed from Colonial Funds, or for such as, being occupied by the Convict Department or Establishments, are defrayed from the Funds appropriated for Convict Services.

I have, &c.,

GLENELG.

[Enclosure.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir,

Treasury, 3 March, 1838.

Approval of proposed expenditure on mounted police barracks.

The Lords Commrs. of H.M. Treasury having had under their consideration yr. letter dated 22 Jany. last, in which you transmitted, by direction of Ld. Glenelg, copy of a letter addressed to his Lordship by the Secy. of the Ordnance, with the inclosed Report and Estimate of the Works and Repairs proposed to be carried on in the Royal Engineer Dept. in N. S. Wales in 1838-9 for the mounted Police, amounting to £1,637 6s. 1½d., I have it in Command from their Lordships to request that you will state to Ld. Glenelg that, as it appears that Sir Richd. Bourke approved of the Estimates for the Police Barracks, brought under his Lordship's consideration by the Board of Ordnance, and that there is not anything objectionable in them, my Lords will not withhold their sanction to the Expenditure in question being defrayed from Colonial Funds.

Instructions proposed *re* estimates of expenditure.

But, as it wd. have been more regular that the Governor of N. S. Wales shd. have forwarded a special report with every necessary explanation respecting these Estimates, my Lords suggest that Ld. Glenelg shd. make a communication to that effect to Sir George Gipps; and shd. apprise both that officer and the Lt. Govr. of V. D. Land that all Estimates, relating to the Construction or Repair of Buildings or other Services defrayed from Colonial Funds, or relating to the Construction or repair of Buildings occupied by the Convict Dept. or Establishments, and defrayed from the Funds appropriated for Convict Services, shd. be forwarded for the consideration and direction of H.M.'s Govt. by the officers in charge of the Govts. of those Colonies, who shd. at the same time afford such explanation or information relating thereto as may be necessary.

I am, &c.,

A. Y. SPEARMAN.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 35, per ship Alfred; acknowledged by  
lord Glenelg, 31st July, 1838.)1838.  
9 March.

My Lord,

Government House, 9th March, 1838.

I have the honor to acquaint your Lordship that the French Corvette of the first class, "L'Heroine," commanded by Captn. Cecille and mounting 32 guns, anchored in Port Jackson on the 3rd instt., coming from Hobart Town, which she left on the 24th of February. Captain Cecille addressed to me a letter on the 5th instt., of which I enclose a copy, requesting me to make him an advance of money to enable him to defray the expenses of his vessel during his stay here, the amount to be reimbursed by Bills drawn by him on the proper Department of the French Government at Paris; and I have the honor to report that, considering the relations of amity and alliance, which now subsist between the Queen and His Majesty the King of the French, I have judged it right to comply with his request, and have given directions accordingly to the Deputy Commissary General, which I hope will meet your Lordship's approval; I find that, on the 19th September in the year 1831, a similar advance of £580 was made by order of Lieut. General Darling to Captain La Place, commanding the French Corvette "La Favorite."

Arrival of  
corvette  
L'Heroine.Request for  
and grant of  
advance to  
Cecille.

Your Lordship will observe, in Captn. Cecille's letter to me, that he states the object of his appearance in these seas to be the protection of the French Whalers.

Object of  
voyage of  
corvette.

I have, &amp;c.,

GEO. GIPPS.

[Enclosure.]

CAPTAIN CECILLE TO SIR GEORGE GIPPS.

Sydney, a bord de l'Heroine, le 5t. Mars, 1838.

LA CORVETTE de S.M. l'Heroine, sous mon commandement, chargee de la protection des Caleiniers francais dans les mers Australes est entree a Sydney hier 4 Mars, venant d'Hobart Town. Oblige de remplacer une partie de mes vivres pour continuer ma compagnie, et isole dans ce pays ou la France n'a pas encore d'Agent Consulaire accredite, j'ai pense que je pourrais avec confiance m'adresser au representant d'une Nation amie pour obtenir les secours dont j'ai besoin.

Request by  
Cecille for  
advance to refit.

J'ai en consequence l'honneur de prier votre Excellence, de vouloir bien faire mettre a ma disposition, si la chose est possible, les fonds necessaires a l'acquittement de mes depenses, dans cette Ville, le compte en serait regle en traites a 30 jours de vue sur le payeur central des depenses a Paris.

J'ai l'honneur d'etre avec un profond respect, de votre Excellence.

Monsieur le Gouverneur,

Le tres humble, et tres

obeissant Serviteur,

Le Capitaine de l'Heroine,

CECILLE.

1838.  
10 March.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 87, per ship *Amelia Thompson*; acknowledged by  
Sir George Gipps, 5th July, 1839.)

Sir, Downing Street, 10 March, 1838.

I have the honor to transmit to you the copy of a letter and of its enclosure from the Board of Treasury on the subject of the proceeds of the effects of Convicts in the Australian Penal Settlements, and I have to desire that you will forward to this Department the amended Return required by their Lordships so far as relates to the Colony under your Government.

Return required  
of effects of  
deceased  
convicts.

I have, &c.,

[Enclosure No. 1.]

GLENELG.

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 3 March, 1838.

With reference to the Correspondence which has previously taken place on the subject of the proceeds of the effects of Convicts in the Australian Penal Settlements, I am commanded by the Lords Commrs. of H.M.'s Treasury, in transmitting the accompanying Copy of a Letter from Mr. Phillipps, dated 9 Decr. last, to request you will state to Lord Glenelg that my Lords are of opinion that his Lordship shd. call for an Amended Return of the Effects of Deceased Convicts, lodged in the Treasury or Savings Banks at V. D. Land, distinguishing the proceeds, if any, of Effects taken from Convicts previously to any Conditional remission of Punishment; and that a like return shd. be called for of any effects similarly deposited in the Treasury or Savings Bank of N. S. Wales.

Amended  
returns  
required.

I am, &c.,

A. Y. SPEARMAN.

[Enclosure No. 2.]

MR. S. M. PHILLIPPS TO MR. A. Y. SPEARMAN.

Sir, Whitehall, 9 Decr., 1837.

Lord John Russell having deemed it advisable to refer to the Law Officers of the Crown the several Documents, which accompanied your letter of the 31st Oct. last relative to the disposal of the sum of £381 18s. 10½d. deposited in the Savings Bank in V. D. Land, the proceeds of the effects of deceased Convicts in that Colony, I am directed to acquaint you for the information of the L.C. of the Treasury that the Attorney and Solicitor General are of opinion that so much of the before mentioned sum as is made up of sums taken from Convicts before or at their embarkation, with interest for the same, belongs to the Crown; but that so much as Consists of Sums saved by Convicts having received Absolute or Conditional remissions of punishment from the Governor, as mentioned in the Statute 5 Geo. 4, Cap. 84, Sec. 26, belongs not to the Crown but to the representatives of the deceased Convicts. It is therefore for their Lordships to determine whether such part of the Money before mentioned, as belongs to the Crown, should be paid over to the Convict Establishment in the Colony, or to the account of the Convict Service at Home, upon which point their Lordships may think it advisable to confer with the Colonial Dept.

Legal opinion  
re disposal  
of effects of  
deceased  
convicts.

I am, &c.,

S. M. PHILLIPPS.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 36. per ship Alfred; acknowledged by lord Glenelg, 17th July, 1838.)

1838.  
11 March.

My Lord, Government House, 11th March, 1838.

Herewith I have the honor to forward a letter,\* which has been addressed to your Lordship by Mr. Thomas Scott, dated Sydney, the 10th of January, 1838, in which Mr. Scott appeals to your Lordship against a decision of my Predecessor in this Government, by which his claim to compensation for an alleged loss in a transaction respecting land was rejected;

Transmission  
of letter from  
T. Scott.

Mr. Scott's case is shortly as follows:—He obtained a promise of a grant of land from General Darling, in 1829, of two sections of 640 acres each, or of 1,280 acres in the whole, but was allowed as a favor, instead of that quantity of ordinary land, to select 320 acres of land in an advantageous situation at Brisbane water. In less than a year afterwards, however (or in August, 1830) on the representation of the Surveyor General, a new arrangement was made by which Mr. Scott surrendered his land on Brisbane Water with the exception of 25 acres, and received as a compensation for what he gave up 640 acres elsewhere. Your Lordship will observe that, as the promise which Mr. Scott obtained from General Darling was for 1,280 acres, the 25, which he was allowed to retain in what was supposed to be a very favorable position on Brisbane Water, were estimated as equal to 640 acres of the ordinary waste lands of the Crown, and Mr. Scott appears to have been at the time well contented with the arrangement, the separate grants for 25 acres on Brisbane Water and for 640 acres of ordinary land being made to him in the regular manner. Mr. Scott however, finding the 25 acres not to prove so valuable as he expected, brought forward in 1837 a claim for compensation, which was refused by Sir Richard Bourke, and it is against this decision that Mr. Scott now appeals to your Lordship.

Particulars  
re claim for  
compensation.

I have, &c.,

—  
GEO. GIPPS.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 88. per ship Amelia Thompson.)

Sir, Downing Street, 12 March, 1838.

12 March.

I have the honor to acquaint you that the Revd. Michael Brennan having been selected by Mr. Ullathorn to fill the vacancy created in the Establishment of the Roman Catholic Church by the death of Mr. Corcoran, and, having produced satisfactory testimonials, I have authorised the Colonial Agent to issue to him the Sum of One Hundred and Fifty Pounds on Account of his Outfit and Passage to New South Wales. I have, &c.,

Appointment  
of Revd.  
M. Brennan as  
R.C. chaplain.

GLENELG.

\* Note 74.

1838.  
12 March.

SIR GEORGE GIPPS TO LORD GLENELG.  
(Despatch No. 37, per ship Alfred; acknowledged by  
lord Glenelg, 20th July, 1838.)

My Lord, Government House, 12th March, 1838.

Transmission  
of memorial  
from executors  
of J. Henderson.

Herewith your Lordship will receive a Memorial from Messrs. James Edward Ebsworth, Lesslie Duguid, William Croas-dill, and James Corlette, in their character of Executors of the late Mr. J. Henderson, in which they request your Lordship to make a free grant of land to the Orphan children of the deceased, on the ground that he was improperly prevented from obtaining a Grant from General Darling in the year 1828.

Details re  
refusal of  
land grant to  
J. Henderson.

The circumstances, under which Mr. Henderson was refused a Grant of land by General Darling, were (as far as I can judge from the documents in this office) precisely the same as those under which Mr. Dawson was refused; and Mr. Dawson's case is fully explained in your Lordship's Despatch to Sir Richard Bourke of the 18th Sept., 1835, No. 50, and Sir Richard Bourke's Despatch to your Lordship of the 7th June, 1837, No. 41. There is a difference, however, in the subsequent part of the two cases, for Mr. Henderson in 1830 entered into a new engagement with the Australian Agricultural Company, by which he became a second time their servant, and continued to be so until his death, which took place in this Colony in the year 1835; whereas Mr. Dawson never reentered their service. Whether this difference should render the decision in Mr. Dawson's case inapplicable to Mr. Henderson's, is I conceive the real question now for your Lordship's decision.

By the state in which I found this case, I am led to suppose that Sir Richard Bourke did not consider himself competent to dispose of it without a reference to your Lordship; and therefore I think it my duty to forward it.

I have, &c.,

GEO. GIPPS.

[Enclosure.]

Memorial from  
executors of  
J. Henderson  
soliciting  
land grant.

THE Memorial of James Edward Ebsworth, Lesslie Duguid, William Croas-dill and James Corlette, Executors of the late John Henderson of Newcastle in the Colony of New South Wales, on behalf of the Orphan Family of deceased,

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

Humbly Sheweth

That, in the Month of January, 1827, the said John Henderson arrived in the Colony of New South Wales under an engagement with the Australian Agricultural Company as Managing Agent of their Colliery Establishment; That the Committee of



Proprietors in the Colony acting for the Directors declined at that time to undertake the working of the Coal Mines, and Mr. Henderson's Services were not required. In consequence of this unexpected determination, the said John Henderson desired to avail himself of the inducements held out to Emigrants to settle in the Colony; but, his application for a Grant of Land having been refused by the Government, the said John Henderson embarked with his Family for England. That the Directors of the said Company, having resolved to prosecute the working of the Coal Mines, again engaged the deceased to carry their intentions into effect, for which purpose he returned to the Colony. That, in the Month of April, 1835, the said John Henderson died at Newcastle, leaving an Orphan Family deprived of the aid which a Grant of Land would have afforded, and to which your Memorialists most humbly submit they are entitled under the regulations in force when Mr. Henderson's claims were first preferred.

Your Memorialists respectfully submit that, the case being similar to that of Mr. Robert Dawson (also an Agent in the Australian Agricultural Company's Service), the justice of whose claim has been admitted by the Home Government, this Orphan Family is entitled, equally with Mr. Dawson, to a Grant of Land.

Your Memorialists, in conclusion, would briefly state the Simple Facts upon which their Memorial is grounded, and which are authenticated by the Records of the Colonial Government.

1st. That John Henderson did, on the 2nd September, 1828, apply for a Grant of Land under the then existing Regulations.

2ndly. That John Henderson was prepared with ample testimonials of his character and of the amount of his Capital.

3dly. That, on the 29th September, 1828, the Colonial Secretary Stated that he was directed by His Excellency the Governor to inform the said John Henderson that he could not be allowed to receive Land.

4thly. That, on this refusal, the said John Henderson proceeded with his family to England.

5thly. That John Henderson again returned to the Colony in April, 1830, re-engaged by the Australian Agricultural Company to carry their original intention of working the Coal Mines into effect, and to settle his Family in the Colony.

6thly. That Mr. Robert Dawson, having also under similar circumstances applied for a Grant of Land in 1828, was in like manner refused, and proceeded to England, where, on representation of the facts, the Secretary of State for the Colonies directed that a Grant of 1,280 acres of Land should be made to him.

Your Memorialists consider it a part of their duty to submit the foregoing claim on behalf of Mr. Henderson's Family for your Lordship's consideration, trusting that you will award for their benefit a Grant of Land of similar extent to that made to Mr. Robert Dawson. And your Memorialists as in duty bound will ever pray.

J. EDWARD EBSWORTH,  
L. DUGUID,  
WILLIAM CROASDILL,  
JAMES CORLETTE.

Newcastle, New South Wales, 17th February, 1838.

1838.  
12 March.

Memorial from  
executors of  
J. Henderson  
soliciting  
land grant.

1838.  
13 March.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. S9, per ship Amelia Thompson.)

Sir, Downing Street, 13 March, 1838.

With reference to my Dispatch No. 51 of the 19th of December last, I have the honor to transmit to you the Enclosed Copy of a Letter, which I have received from the Revd. Mr. Ullathorne and to acquaint you that, under the circumstances therein set forth, I have consented to authorise the issue to each of the six Roman Catholic Male Teachers proceeding to New South Wales the same amount of allowance for Outfit and Passage, which has been granted in the Case of the Schoolmasters selected by the Glasgow Educational Society. The four Female Teachers will still receive the smaller allowance of £40.

I have, &c.,  
GLENELG.

[Enclosure.]

REVD. W. ULLATHORNE TO LORD GLENELG.

My Lord, 51 Edgware Road, 26 February, 1838.

Request for  
increased  
allowance for  
R.C. school  
teachers.

In my endeavor to obtain a respectable class of Catholic Teachers, duly qualified, for the Colony of N. S. Wales, I find that I have underrated the Actual Cost of their passage and Outfit, especially as in some cases there is a family to be provided, and including the expense of removal from place of residence to on board ship, when I proposed the sum of £40 each. And, as I perceive that yr. Lordship has seen no difficulty in allowing to a considerable number of Teachers for the Schools of the Church of England and of the Scottish Presbyterian Church the sum of £60 each for passage and Outfit to the same Colony, I beg leave respectfully to solicit your Lordship's sanction that the allowance to the Catholic Teachers may be raised to the same amount.

As Mr. Hawksley has not yet sailed, being about to accompany the Clergymen who depart in the Commencement of March, and, as the £40 allowance is found inadequate to his expences, being a married man with two Children, I beg leave respectfully to solicit that the Allowance of £60 be also extended to that Individual.

As but a short time remains before the sailing of the vessel by which Mr. Hawksley proceeds, may I respectfully solicit as early a reply to my application as may be found convenient.

I am, &c.,  
W. ULLATHORNE.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 3S, per ship Alfred; acknowledged by  
lord Glenelg, 29th June, 1838.)

My Lord, Government House, 13th March, 1838.

Report re  
female factory.

The Female Factory at Parramatta having been pointed out to me before I left England as an object requiring my earliest attention, I beg to report to Your Lordship that I availed

myself of the first occasion, on which I could absent myself for a day from Sydney, to visit it.

1838.  
13 March.

On the 2nd instant, being only the seventh day from that on which I landed, I arrived at the Factory, without any previous notice being given of my approach. In point of cleanliness, the buildings and the women also presented a better appearance than I expected; and, during a stay there of between two and three hours, I witnessed nothing like violence or outrage; when I addressed the women of each class separately, they listened to me too with respect and attention; but, having said this, my commendation of them or of any part of the Establishment must end.

Visit of  
Sir G. Gipps  
to factory.

With the exception of a few employed in cooking, washing, or other such necessary employment, they were all in absolute idleness. The 3rd or penal class of women were all together in a spacious yard, surrounded with sheds or outbuildings, into and out of which they passed freely and at their pleasure. In another yard, there was a considerable heap of stones, which had been brought there for the purpose of being broken up for the repair of roads; but I was informed they could not be employed on this work for want of hammers, or rather for the want of handles to their hammers, as they destroyed them faster than they could be supplied. The women of the 2nd class, or those who have children under their charge, were in a separate yard, smaller than that of the 3rd class, but differing from it very little in other respects. And the women of the 1st Class, or those who are eligible for assignment, were in a third yard. In these three yards and the sheds or outbuildings surrounding them, they all pass their time from morning to night without any sort of occupation, except when it may come to their turn to cook, to wash, or to draw water for the Establishment.

Want of  
employment  
for inmates.

Their sleeping rooms are distinct, and they have not access to them during the day. The women of the 1st and 2nd Classes sleep in the main building of the Factory; those of the 3rd are disposed of in smaller buildings, which seem to have been successively erected, as required by their encreasing numbers.

Sleeping  
accommodation.

The main building has three floors, with two large rooms on each, or six large rooms in the whole; the two lower ones are intended to be used as places of meeting for prayers or instruction; one for the women who are Protestants, the other for Catholics; they were at the time of my visit quite empty, though I was informed that prayers are read in them every morning,

Description of  
main building.

1838.  
 13 March.  
 Description of  
 main building.

and on one day in the week (which is not however always Sunday) by the officiating Chaplains. The four rooms on the two upper stories are used as dormitories for the 1st and 2nd classes. On the boarding of each of them were about sixty mattresses and as many blankets, but no furniture or other article whatsoever. The mattresses when unrolled occupy somewhat more than two thirds of the space of each floor. On three sides of each room, there are numerous windows; but, as scarcely a pane of glass remains in any one of them, the floors are wetted to a considerable distance whenever rain falls, and, if there happen to be a drifting wind accompanying the rain, it is necessary to huddle the mattresses together as closely as possible on the opposite side from that by which it enters, in order to keep them dry. The sleeping rooms of the 3rd class, though in other respects not so good, are free from this inconvenience.

Authority for  
 alterations  
 to buildings.

By Your Lordship's letter of the 14th Octt., 1837, No. 2, addressed to me before I left England, I was authorized to make such alterations in the building, as I might find absolutely necessary, in order to place at least the 3rd or penal class of its inmates in separate confinement, on the system recommended by the Inspectors of Prisons in their second report and approved by Lord John Russell in his circular to the Magistrates of England, dated 15th August, 1837.

Proposed  
 erection of  
 cells for  
 separate  
 confinement.

The very first glance at the building convinced me, I regret to say, that any conversion of this sort is utterly impracticable; but, as building stone can be obtained in any quantity by only quarrying on the spot, I hope to be able to erect a new range of cells at very moderate cost, particularly as I can fortunately transfer to the spot a gang of men, who have just completed a Powder Magazine on Goat Island, and who therefore are accustomed to the work both of quarrying and building. They consist exclusively of men whom we are desired by orders from England, not to assign to private service, and for whom therefore employment must be found on Government Works.

I shall take an early opportunity of transmitting to Your Lordship a report from the Colonial Engineer and Architect on the subject of the proposed erection, which I hope will satisfy your Lordship that, in doing what I propose, I shall not exceed the discretionary powers, confided to me by Your Lordship's letter above mentioned. My predecessor I find had authorized, before he left the Colony, the erection of thirty separate cells, but fortunately they were not commenced when I arrived; and I shall of course not proceed on his plan, but on that of the Prison

Inspectors. There are at present only six places of separate confinement for the whole establishment, and they are so badly placed that access can be had to their very doors by all the women of the 1st Class, and not only can conversation be maintained with persons confined in them, but articles of almost any sort may be introduced to them from without.

1838.  
13 March.

It is now my mortifying duty to report to your Lordship that Mrs. Leach and Mr. Clapham, the two persons recently sent out from England to take charge of this Establishment, have disagreed, and that I found them so much at variance that I greatly fear it will be impossible to keep them both, or perhaps even either of them there, with any hope of advantage to the Establishment. Their quarrel appears to have had its origin on board ship. Mr. Clapham accuses Mrs. Leach of various improprieties of conduct, and Mrs. Leach retorts upon Mr. Clapham the charge of having attempted to assume over her an authority which, I must say, I think it was never your Lordship's intention to confer upon him. Each of them earnestly requested me to appeal to their fellow passengers in the ship "Bencoolen" for confirmation of what they advanced; and this I have done, as far as it has been in my power, but without eliciting anything conclusive in favor either of one or the other. I have however thought it best in the first instance to support the authority of Mrs. Leach, and I in consequence have told Mr. Clapham that, unless he is disposed to acknowledge it, and cordially to cooperate with her in the performance of his own duties, I must remove him from the Establishment at my next visit.

Quarrel  
between matron  
and steward.

Threatened  
removal of  
steward.

I shall not fail to report fully to Your Lordship the further proceedings, which I may find it necessary to adopt in all that relates to the Factory.

I have, &c.,

GEO. GIPPS.

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LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 90, per ship Amelia Thompson.)

Sir,

Downing Street, 14 March, 1838.

14 March.

I have the honor to transmit to you a copy of a letter, which I have received from Sir Thomas Macdougell Brisbane respecting a Reserve of Land, which was directed by Lord Bathurst to be made for him under certain conditions in the year 1826. I also enclose a copy of a letter from Mr. James Elliot on the same subject, and of the reply thereto.

Transmission of  
correspondence  
re land  
grant for  
Sir T. Brisbane.

On referring to the Communication, which was addressed to Lt. General Darling on this subject on the 21st August, 1826,

1838.  
14 March.  
Conditions for  
land grant to  
Sir T. Brisbane.

and to the enclosure to that Communication, I perceive that, in consideration of the expences to which Sir Thos. Brisbane had been exposed during his government of New South Wales, Lord Bathurst directed that a Grant of 10,000 acres should be assigned to him upon the usual conditions, subject to his sending out at his own expense Resident Agents, and employing Capital to the extent required by the Regulations then in force in the Colony; and that it was at the same time directed that a further Grant of 10,000 Acres adjoining the other Property should be reserved with a view to his obtaining that addition, as soon as the first Grant should have been brought into full and successful cultivation.

Claim to be  
considered.

I have to request that you will give your early attention to this claim, and adopt such measures as may appear to you, with the advice of the Executive Council, best adapted for meeting the justice of the case, without losing sight of the conditions on which the Original Grant and the Reserve were directed to be made to Sir Thomas Brisbane.

I have, &c.,  
GLENELG.

[Enclosure No. 1.]

SIR THOMAS BRISBANE TO LORD GLENELG.

My Lord,

Markustown, Kelso, 13th February, 1838.

Land granted  
and reserved to  
Sir T. Brisbane.

I do myself the honor to state for your Lordship's information that, in the year 1826 on my return from the Government of New South Wales, Earl Bathurst, then Secretary of State for the Colonies, was pleased (as the Despatch expressed it) in consideration of the heavy expence I had been put to during my Government of that Colony, when my Salary was only £2,400 a year, to direct a grant of 10,000 Acres of land to be bestowed on me with a Reserve of an equal quantity when the Grant was Stocked and Cultivated, and having fully complied with such terms some years ago, I laid a claim to the Reserve of 10,000, but difficulties and obstacles have been thrown in the way to prevent my obtaining possession.

Inability  
to obtain  
possession  
of reserve.

In February of last year, I gave a power of attorney to Mr. William Elliot from this Neighbourhood, who was going out a Settler to the Colony, to act for me in claiming and settling the Reserve of 10,000 Acres of Land. In a Letter received from him under date 9th Sept., 1837, he says, "your Reserve was adjoining to the Original Grant; but, owing to the delay of your agents in choosing the Reserve, all the adjoining Lands have been disposed of by Government, so that I am afraid there will be some trouble in settling it."

The object, I have in troubling your Lordship, is to obtain possession of the 10,000 Acres in terms of Earl Bathurst's Despatch; and, as I am aware it might be extremely difficult and cause confusion in obtaining Land that has been sold to others, I trust your

Lordship will sanction my receiving 10,000 Acres of Land in such a Situation as shall be selected by Mr. William Elliot and which he may consider equally advantageous and valuable, without interfering with any other.

I take the liberty of stating to your Lordship, with the view of inducing your Lordship to accede more readily to my request, from the circumstance of my having sustained a loss by my appointment as Governor of above £5,000, the Salary was as low as I have stated it, but that at the time of my quitting the Government it was raised to £4,200.

Under these circumstances, I trust your Lordship will be pleased to give my case your most favorable Consideration and accede to my request.

I have, &c.,

THOS. MAKDOUGAIL BRISBANE.

[Enclosure No. 2.]

MR. JAMES ELLIOT TO LORD GLENELG.

52 Green St., Grosvenor Square,  
London, 9th Feby., 1838.

My Lord,

I have to lay before Your Lordship a situation, in which from no fault of mine I am placed, and from which I ran the risk not only of great personal inconvenience, but also of pecuniary loss. I have already one Son a settler in New South Wales, and am on the resolution of sending out two more in the same line.

In furtherance of their Interest, I, last Year 1837, purchased from Sir Thomas Macdougall Brisbane a Grant of 10,000 Acres, which Government had given him while Governor of that Colony.

By the document, which Sir Thomas showed me as the foundation of his right, it appeared that he received a Grant of 10,000 Acres as an original Grant upon Hunter's River, and a similar Grant of 10,000 Acres more in reserve (as soon as the original Grant was occupied) and adjoining thereto.

Both these Grants Sir Thomas has since sold. The original Grant he sold in the 1835 (I think, but I write from memory) to Mr. Galbraith, and the Grant in reserve he sold to me in the 1837.

Mr. Galbraith is in possession of *his* purchase. But, upon my sending out the documents of the transaction to my Son in order to have my purchase transferred to my name in the Colonial Records. He was informed that all the Lands *adjoining* to the original Grant had been disposed of by Government to other Proprietors, by which means Sir Thomas Brisbane's grant in reserve was entirely defeated.

In these circumstances, I hope Your Lordship will be able to afford some redress, either by implementing the grant in reserve to Sir Thomas Brisbane or by giving a new Grant equivalent in point of value, extent and fertility, to the one that Sir Thomas has been deprived of.

I have, &c.,

JAS. ELLIOT.

[Enclosure No. 3.]

SIR GEORGE GREY TO MR. JAMES ELLIOT.

Sir, Downing Street, 17th Feby., 1838.

I am directed by Lord Glenelg to acknowledge the receipt of your letter of the 9th Inst, respecting a Reserve of 10,000 Acres in New South Wales, which you state was originally made to Sir Thomas Brisbane and lately purchased by you from that Officer.

1838.  
14 March.

Request for land grant to agent.

Loss sustained as governor.

Purchase by J. Elliot of land from Sir T. Brisbane.

Land grant authorised.

Sale of lands by Sir T. Brisbane.

Inability to gain possession of land.

Request for redress.

Letter acknowledged.

1833.  
14 March.

His Lordship desires me to acquaint you that, in the absence of any information as to the Sale of this Property by the local Government, it will be impossible to make any Order on the subject.

Report required  
from  
Sir G. Gipps.

Lord Glenelg will, however, write to Sir George Gipps for a report on this case, if you should wish him to do so. In the mean time, His Lordship presumes that you have communicated with Sir T. Brisbane respecting it.

I am, &c.,  
GEO. GREY.

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SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 39, per ship Alfred; acknowledged by  
lord Glenelg, 7th July, 1838.)

My Lord, Government House, 14th March, 1838.

It is with great regret that I, so soon after my assumption of this Government, feel myself under the necessity of addressing your Lordship on a subject of a personal nature.

Claim by  
Sir G. Gipps  
re salary.

Before I quitted England, I was given to understand at the Colonial Office (though certainly not in a very direct or official manner) that, in the event of my Predecessor's leaving the Colony before I arrived in it, I should be entitled to half salary from the day of his departure until that of my arrival; and, as this was agreeable to what I had always understood to be the practice in colonies of which I had any knowledge, I never doubted of the accuracy of the information.

Full salary  
drawn by  
K. Snodgrass.

On my arrival here however, I find that the late Acting Governor has on his own warrant drawn the whole of the salary; and that he considers himself entitled to it by the wording of a Colonial Act, No. 4 of the 2nd of Willm. 4th, of which as it is very short I have the honor to enclose a copy. As it appears to me scarcely probable that His late Majesty's Government, in sanctioning this act, meant to authorize a departure from general practice, I hope it will not be considered improper to bring it under your Lordship's notice; but at the same time I beg to assure you that an occurrence of this kind has not had, nor ever can have, the slightest effect to disturb the good understanding, that it is so essential to preserve between the officer in command of Her Majesty's Troops and myself.

Allowance to  
Sir G. Gipps  
for passage.

Your Lordship is aware that the only pecuniary allowance of any sort, which I have received, from the day of my appointment in July to that of my being sworn in here on the 24th February last, is the sum of £800 granted as passage money, whilst my expenses during the same period, included £527 for fees of Commission, have exceeded £3,800; and I have still to incur a large outlay in this Country.

Expenses of  
Sir G. Gipps.



In order that the case may be fully before Your Lordship, I think it right to inclose copies of such Documents bearing upon it, as the Auditor of Accounts has been enabled to furnish. By these documents, Your Lordship will perceive that the entire salary was undoubtedly received by Colonel Lindesay during the time that he administered the Government after the departure of Sir Ralph Darling and before the arrival of Sir Richard Bourke; but, as I do not find any trace of a reference to the Secretary of State on that occasion, I hope I am not incorrect in thinking that such a precedent cannot be conclusive against my claim.

1838.  
14 March.

Full salary  
drawn by  
P. Lindesay.

The interval between Sir Richard Bourke's departure on the 5th December and my arrival on the 24th of February is one of 81 days, and the amount of half salary for the time is about £554.

Amount of  
salary claimed  
by Sir G. Gipps.

I have, &c.,

GEO. GIPPS.

[Enclosure No. 1.]

MR. W. LITHGOW TO PRIVATE SECRETARY JOHN SNODGRASS.

Sir, Audit Office, Sydney, 4th January, 1838.

In fulfilment of the Directions of His Excellency the Acting Governor conveyed to me by your letter of the 1st Instant, I have the honor to acquaint you that I have prepared the Warrant as directed, at the rate of the full Salary of £5,000 per annum drawn by the late Governor Sir Richard Bourke.

I beg leave at the same time respectfully to submit that, on the Honorable Colonel Lindesay succeeding under similar circumstances to the temporary charge of the Government, on the retirement of Lieut. General Sir Ralph Darling, I entertained some doubt whether, as Acting Governor, the former would according to the Regulations be considered entitled to the full rate which had been received by Governor Darling; and this doubt I felt it therefore my duty to communicate to Colonel Lindesay. A copy of my letter to him on the subject, and of his reply, I herewith take the liberty of enclosing, and beg to State that, having no reason to think that any objection has at any time been made to Colonel Lindesay having drawn the full Salary of Governor, I am led to infer that, unless otherwise specially directed by competent authority, the Officer succeeding to a Government is considered entitled to receive the same Salary as his immediate predecessor.

Full salary  
drawn by  
P. Lindesay.

Not being however in possession of any specific Instructions on the point, I have considered it right to mention the doubt I formerly entertained, and the parallel case above referred to; in order that, if under an erroneous impression, I may receive the directions of His Excellency on the subject for my future guidance.

Want of  
instructions.

I have, &c.,

WM. LITHGOW, Audr. Gen.

[Sub-enclosure No. 1.]

1838.

14 March.

MR. W. LITHGOW TO ACTING GOVERNOR LINDESAY.

Sir,

Audit Office, Sydney, 1st November, 1831.

Query by  
W. Lithgow re  
payment of  
full salaries to  
P. Lindesay and  
H. Dumaresq.

As the Salary Abstract of His Excellency the Acting Governor and of his Establishment, which has been furnished for my examination, includes the full rates of Salary from the 21st Ultimo of the Office of Governor and Private Secretary, is due to the Acting Governor and to Lt. Colonel Dumaresq, who was appointed by Government Order No. 26 of the 22nd October last, to continue to perform the duties of Private Secretary, I considered it my duty, in conformity with the 22nd Article of my Instructions, respectfully to point out to His Excellency that, by the 26th Article of the Instructions to the Governor, dated 13th June, 1826, it is laid down as a general principle, "that no Officer absent from his duty shall receive more than the moiety of the Established Salary of his appointment, and that the Person by whom the duty is performed shall receive the other moiety"; that, by a Letter from Earl Bathurst dated 11th Septr., 1826, furnished for my guidance, a copy of which is enclosed, it is also notified as a general rule that half salary only shall be granted to Officers filling temporary appointments in His Majesty's Colonies, and the Governor is directed to explain to the Officer, whom he may select to fill any vacant Office in the Colony, that he is only to expect half the emoluments until he is either confirmed or superseded from England; and further, that it has been notified to me by the Colonial Secretary's letter, dated 9th May, 1827, that, when an Officer is unable to attend to his duty, the Person appointed to Act is to receive half the Salary, which is to be deducted from that of the Principal.

Entertaining some doubt from the tenor of these Regulations, whether, until specially sanctioned by the Home Authorities, the Acting Governor and the Officer appointed by him to perform the duties of Private Secretary will be considered as clearly entitled to draw the full Salary of Governor and Private Secretary, I beg leave most respectfully to request that I may be informed whether your Excellency is pleased, notwithstanding, to authorise the passing of the Abstract, including the full rates of Salary of the appointment alluded to.

I have, &amp;c.,

WM. LITHGOW, Audr. Genl.

[Sub-enclosure No. 2.]

ACTING GOVERNOR LINDESAY TO MR. W. LITHGOW.

Sir,

Government House, Sydney, 2nd November, 1831.

Letter  
acknowledged.

I have had the honor of receiving your Letter of this date with its enclosures on the subject of the pay and allowances to be issued to me as Acting Governor of this Colony and to my Private Secretary.

Reasons for  
payment of  
full salaries.

I do not, however, see anything in the Regulations to which you have pointed my attention, which is justly referable to the existing State of circumstances, nor do I consider they can be properly applied to them, and for the following reasons:—

1. That I am invested with full powers, and that the entire responsibility of Governor has devolved on me.

2. That the limitation of temporary Officers to half Salaries, until confirmed or Superseded from England, seems to relate only to Officers appointed by the Governor; and cannot, therefore, be viewed as properly applicable to me, whose appointment by His Majesty to administer the Government, in case of the absence of the Governor, was notified in the Proclamation of 13th July, 1829, and may consequently be considered as having been confirmed in advance.

1838.  
14 March.

Reasons for  
payment of  
full salaries.

3. That it appears to be the spirit of the Regulations, as to the limitation alluded to, merely to prevent the possibility of more than the full Salary of any one Officer being drawn; and this is not likely to occur in the present instance, as a late Regulation having provided for an allowance to Governors for Passage Money, it is not probable that any Governor sent from England will be allowed to draw half the Salary of his Office in addition.

With regard to Lieut. Colonel Dumaresq, the late Government Order merely continues the appointment, duly sanctioned, which he held under Governor Darling; and besides, as the nomination of Private Secretary is left to the Governor, there is not likelihood of any other possessing a claim to any portion of the Salary of the Office.

I therefore have to request that the usual Warrants for the full Salaries may be forwarded for my signature.

I have, &c.,

P. LINDESAY.

[Enclosure No. 2.]

[*This was a copy of the act of council, 2 Wm. IV, No. 4.*]

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 40, per ship Jessie; acknowledged by lord Glenelg, 22nd August, 1838.)

My Lord,

Government House, 19th March, 1838.

19 March.

I have the honor to forward herewith, for the purpose of being presented to Her most Gracious Majesty, an address of Congratulation on Her Majesty's happy accession to the Throne of Her Ancestors, numerous and respectably signed by the Inhabitants of Maitland, a flourishing and loyal Town in this Colony.

Transmission  
of address to  
H.M. Queen  
Victoria.

The address was placed in my hands by Mr. Patrick Grant, the Police Magistrate of the District, with a request that I would intreat your Lordship to present it to our Most Gracious Sovereign.

I have, &c.,

GEO. GIPPS.

[Enclosure.]

THE Loyal address of the Inhabitants of Maitland and its vicinity in the Colony of New South Wales to Her Gracious Majesty, Victoria, Queen of Great Britain and Ireland.

Address to  
H.M. Queen  
Victoria from  
inhabitants of  
Maitland.

WE, the Magistrates, Landholders, and other Inhabitants of the District of Maitland in New South Wales, beg leave most respectfully to offer our sincere congratulations on your Majesty's accession to the Throne.

1838.  
19 March.

Address to  
H.M. Queen  
Victoria from  
inhabitants of  
Maitland.

Separated from Britain by half the Earth's circumference, and thereby precluded from approaching your Royal person with the tribute of our affectionate Loyalty, we are fortunately not debarred from the gratification of conveying to your Majesty the assurance that distance does not diminish that affection, which we owe to our Sovereign, and that, if we are necessarily later in offering our congratulations, we are not surpassed by any of our fellow-subjects in the amount and sincerity of our Loyalty.

In the countless addresses, which have ere now poured in from other parts of your Majesty's Dominions, language and eloquence must be exhausted in finding expressions suited to the occasion. Even in private life, there is an unspeakable interest in contemplating youthful innocence in the gentler sex, just commencing the career of life; but, when to these considerations is added the reflection that the destinies of a mighty Empire are intrusted to the object of our anxious contemplation, there is assuredly no spectacle on earth so calculated to excite our sympathies, and to draw forth our fervent aspirations for the long continuance of a splendid prosperity.

On subjects connected with European Policy, your Majesty can always ascertain the hopes and expectations of your people; but, as respects this fifth great section of the Globe, it will be more difficult for your Majesty's Ministers to form very accurate opinions of a Colony so remote, and to legislate for what is evidently in a state of transition; a penal Settlement is rapidly assuming the features of an important Country, and with its boundless extent of fertile soil and its inexhaustible mineral treasures, a mighty sway and a high place among the Nations must be its ultimate destiny.

We would venture, in conclusion, to convey to your Majesty our sense of the deep obligations, which the nation owes to your Majesty's Illustrious parent. By the talent, judgment, and taste displayed in your Majesty's Education, Her Royal Highness has conferred on Great Britain benefits of the highest value, and long may your Majesty enjoy the advantages of such example and Council. May the brilliant prospects of your Majesty's early days be realised in the enjoyments of advancing years; may the storms of adversity never reach your Royal person, and may that Sun, which has risen so splendidly, set late and gloriously in an unclouded Sky!

E. C. CLOSE.	JOHN MAYO.
H. MITCHELL.	JOHN ROGERS.
L. E. THRELKELD.	CHARLES NICHOLL.
JOHN LEWIS.	JOHN WISDOM.
C. V. DOWLING.	J. ERSKINE.
J. T. THRELKELD.	J. W. MCCURDY.
T. B. COX.	BENJ. COSE.
I. O. B. J. GREEN.	JOHN COULSON.
EDWARD SPARKE, SENI.	HENRY COULSON.
EDWARD SPARKE, JUNI.	THOMAS COULSON.
JAMES COX.	ROBERT COULSON.
JOHN HILL GARVEN.	GEO. SPARKE.

ALFD. LEVIEN.  
 THOS. B. HUMPHREY.  
 PATRICK N. MALLON.  
 GEORGE MACKAY.  
 T. B. SQUIRE.  
 JOHN CHARTER.  
 T. J. COHEN.  
 JOHN COBB.  
 S. H. RAPSEY.  
 JOHN SERLE.  
 L. T. IRVING.  
 SIMEON MOSS.  
 JOHN KINGSMILL.  
 JOHN PORTEUS.  
 ROBERT CAMPBELL.  
 SAM COHEN.  
 W. SALMON.  
 DAVID NEWTON.  
 JOHN GALT SMITH.  
 WM. ECFORD.  
 GEO. ALLOYD.  
 H. EARLY.  
 JNO. J. CROKER.  
 THOS. WILKINSON.  
 J. H. DICKINSON.  
 GEO. FURBER.  
 E. WHITE.  
 JAMES NORRIS.  
 J. WALKER.  
 W. B. WILKINSON.  
 WM. SPARKE.  
 HY. RAE.  
 JAMES NECKER.  
 JOHN LUDWIG.  
 HENRY HEWITT.  
 H. ESTELL.  
 R. P. CUMMING.  
 JOHN FLEMING.  
 W. WM. MOOR.  
 JAMES RICHARDSON.  
 WM. HUGHES.  
 H. I. PILCHER.  
 EDWD. TURNER.  
 H. GEO. LEWIS.  
 G. T. PALMER, JUNR.  
 FREDERICK BIDWELL.  
 ALEXANDER DODDS.  
 THOS. BROWN.  
 WM. BOWEN.  
 RICHARD KELLY, M.B.  
 JAMES KELLY, M.B.  
 JOHN GRILLS.  
 MICHAEL MAGNER.

JOHN S. MEIN.  
 JAMES YOUNG.  
 EDWD. BIDDULPH, R.N.  
 JOHN THOMAS BAKER.  
 E. D. DAY.  
 C. T. H. SMITH.  
 T. NOWLAN.  
 R. J. MCDOWELL.  
 CHAS. TOTHILL.  
 SAMUEL CLIFT.  
 JAMES HUGHES.  
 WILLIAM SPERING.  
 WILLIAM LIPSCOMB.  
 EDW. WORTLEY HARDY.  
 W. B. MONIES, JUNR.  
 THOMAS DEE.  
 GEO. WILLIAMS.  
 HENRY ROBSON.  
 VINCENT GEO. WILLIAMS.  
 MICH. MURPHY.  
 JOHN BURKE.  
 G. DENSHIRE.  
 GEORGE POULTEN.  
 HENRY ROBERT REUBEN.  
 PETER GREEN.  
 JOHN CALLAGHAN.  
 GEORGE JENER.  
 WM. GRACE.  
 THOS. COULSON.  
 HENRY COULSON.  
 JAS. BREBNER.  
 GEORGE BOLSON.  
 MARY ANN LEE.  
 J. G. DICKINSON.  
 GEO. WYNDHAM.  
 THOMAS RICHARDSON.  
 WILLIAM HARPER.  
 W. H. HARPER.  
 JOHN CAMPBELL.  
 BOURN BUSSELL.  
 G. LLOYD.  
 HENRY JAMES.  
 JAMES BRACKENRIG.  
 JOHN STEWART.  
 STEPHEN RYAN.  
 THOMAS LYNCH.  
 NICHOLAS HEALY.  
 WEEKS NORTON.  
 JAMES WOLFE.  
 W. WINTER.  
 PATK. GRANT.  
 THOMAS C. RYAN.

1888.  
 19 March.

Address to  
 H.M. Queen  
 Victoria from  
 inhabitants of  
 Maitland.

## SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 41, per ship *Jessie*; acknowledged by  
 lord Glenelg, 31st August, 1838.)

My Lord, Government House, 20th March, 1838.

1833.  
 20 March.  
 Transmission of  
 addresses from  
 R.C. clergy.

I have the honor to transmit herewith two Addresses from the Roman Catholic Clergy of this Territory, one of Congratulation to Her Majesty the Queen on Her Accession to the Throne of these Realms, the other of Condolence to the Queen Dowager on the loss which she, in common with the Nation, has sustained by the death of His late Majesty King Willm. 4th.

I have further the honor to enclose a letter, which the Right Revd. Dr. Polding, the Catholic Bishop of the Territory, has addressed to your Lordship, respecting the presentation of these addresses.

I have, &c.,  
 GEO. GIPPS.

[Enclosure No. 1.]

Address to  
 H.M. Queen  
 Victoria from  
 R.C. clergy.

THE Loyal Address of the Roman Catholic Bishop and Clergy  
 of New Holland To Her Gracious Majesty Victoria, Queen  
 of Great Britain and Ireland.

WE, the Roman Catholic Bishop and Clergy of New Holland, respectfully approach the Throne of your Majesty to express our sincere condolence in the demise of our late lamented Sovereign. On your feelings, the bereavement presses not as a public calamity only, but as a domestic loss. The recollection of the many virtues, which adorned His royal character, has doubtlessly soothed those feelings. To us it is particularly gratifying to observe that the reign of your Majesty's predecessor has been preeminently pacific, the dawn of a day goodly and glorious to our Country. The Sceptre has not been laid aside for the Sword; unsullied by the tear of the Widow and the Orphan, its Victories have been bloodless over ignorance and oppression; the reign of William the fourth in the history of our Country has a glory peculiarly its own; during its continuance, the din of arms was hushed, and the public Energies under the guidance of a benevolent Monarch were directed to the cultivation of the arts, and to the enlargement of those means which tend to encrease National prosperity and general good will.

The Almighty Dispenser of all blessings has vouchsafed to endow your Majesty with virtuous dispositions; these, the hand of maternal wisdom has cherished and matured. Whilst we acknowledge with gratitude that He, by whom the Princes of the Earth have power, has thus moulded and prepared the heart of your Majesty to rule over a great and widely extended empire, We have ample cause for congratulation that your Majesty ascends the Throne at an early period of life, that under the guidance of providence you may live long to carry into effect and full development the measures already commenced to render your subjects united, prosperous and happy.

May the Almighty strengthen you in His Might, by the means best beseeing the gentleness of your Nature, to dissolve every

obstacle that may oppose your determination to promote the well being of your subjects, and, crowning you with length of days, Grant you the fulness of peace.

We respectfully assure your Majesty it will be our constant study to inculcate sentiments of Loyalty and attachment to your Royal person; Sentiments hallowed by religion unaltered by distance of place, or difference of Creed; Sentiments, which, we confide, will ever influence the opinions and conduct of the large proportion of the population of this Colony under our pastoral care.

JOHN BEDE,

Bishop, V.A., New Holland and Van Diemen's Land.

JOHN JOSEPH THERRY.

J. G. GREGORY.

J. MCENCROE.

C. LOVAT.

C. V. DOWLING.

J. GOOLD.

J. C. SUMNER.

J. BRADY.

[Enclosure No. 2.]

THE dutiful address of the Roman Catholic Bishop and Clergy of New Holland to Her Gracious Majesty Queen Adelaide.

WE, the Roman Catholic Bishop and Clergy of New Holland, humbly and respectfully offer to your Majesty the assurance of our sincere sorrow and condolence. With the deepest regret, we received the intelligence of an event, which bereaved your Majesty of a beloved Consort, and His people of their Sovereign. The sympathy your Majesty has received sufficiently testifies the strong hold, the excellent dispositions of our late Sovereign had obtained upon the affections of his subjects. Reverenced as their King. He was loved as their father; by none more reverenced and more beloved than by the Roman Catholic Inhabitants of these Colonies.

The name of William the IV will be cherished by them and their posterity with undying gratitude; To the enlightened and beneficent policy, which distinguished His reign, they are indebted for the full and perfect religious freedom it is their happiness to enjoy.

Whilst the influence of His late Majesty's beneficence has been felt in regions most remote, your example shed a lustre over your Court which spread its reflection, cheering to the wise and good throughout the Empire. Vice shrank from your presence; virtue and learning were distinguished by your Royal favor.

We may moreover be permitted to allude to the devotedness, the untiring assiduity, with which you watched over the last days of our late beloved Sovereign. In soothing pains, it is the lot even of Royalty to endure, in rendering every comfort which could be administered, in vain alas! did your Majesty endeavour to satisfy the fulness of conjugal affection; but not in vain in our regard, you have justly acquired an additional title to our esteem, respect and gratitude.

We pray the Almighty may prolong your days honored and venerated; that you may be gratified in the increase of virtue and prosperity in a Country, which the recollection of the last few years has inexpressibly endeared to you; And, when this expression of our sincere sorrow and condolence from a distant land shall reach your Majesty, if it recall the memory of the loss sustained, and unveil the extent of grief occasioned, may it also find your Majesty so influenced by the motives of consolation, religion has presented

1838.  
20 March.

Address to  
H.M. Queen  
Victoria from  
R.C. clergy.

Address to  
H.M. Adelaide,  
queen dowager,  
from  
R.C. clergy.

1838.

20 March.

Address to  
H.M. Adelaide,  
queen dowager,  
from  
R.C. clergy.

to your consideration, that your regret for the departed shall be in great measure absorbed by the satisfaction derived from the remembrance of the many virtues of our late Beloved Monarch, of the blessings he has conferred, and the grateful homage of a loyal and affectionate people.

JOHN BEDE,

Bishop, V.A., New Holland and V. Diemen's land.

JOHN JOSEPH THERRY.

J. G. GREGORY.

J. McENCROE.

C. LOVAT.

C. V. DOWLING.

J. GOOLD.

J. C. SUMNER.

J. BRADY.

## SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 42, per ship Jessie; acknowledged by  
lord Glenelg, 28th August, 1838.)

22 March.

Transmission  
of letter from  
P. P. King.

My Lord,

Government House, 22nd March, 1838.

I have the honor to enclose herewith a letter, which Captn. P. P. King of the Royal Navy has addressed to Your Lordship, in consequence of my having communicated to him, through my Private Secretary, the purport of your Despatch, No. 14 of the 24th October, 1837, respecting his claim to be placed in the Legislative Council of New South Wales. The only observation on it, which it seems to me necessary to make, is that I have in private conversation remarked to Captn. King that, of the parties whom he mentions as bearing to each other a relationship as close as that which he bears to Mr. McArthur, two only, vizt., Mr. Close and Mr. Campbell, are each of them unofficial, and that they were neither of them appointed to the Council by Sir Richard Bourke. In cases where one person is disconnected with the Government and the other sits in virtue of his office, the fact of their being related does not seem to me to be of much importance.

I have, &amp;c.,

GEO. GIPPS.

[Enclosure.]

[A copy of this letter is not available.]

## LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 91, per ship Bengal Merchant.)

23 March.

Proposed  
employment  
of companies  
of sappers  
and miners.

Sir,

Downing Street, 23d March, 1838.

Her Majesty's Government have had under their consideration the proposition, which you submitted prior to your departure from this Country, for substituting two Companies of Sappers and Miners for two Companies of the Line in the future Military Establishment of New South Wales, with a view to their employment in superintending the labor of Convicts working on the Roads in the Colony.



I enclose, for your information, a copy of the correspondence which has taken place on this subject.

1838.  
23 March.

Her Majesty's Government will defer their final decision on the change, which you have proposed, until the termination of the enquiry now in progress by a Committee\* of the House of Commons into the present system of Transportation.

Decision deferred.

I have, &c.,  
GLENELG.

[Enclosure No. 1.]

UNDER SECRETARY STEPHEN TO MR. R. BYHAM.

Sir, Downing Street, 5 Oct., 1837.

I am directed by Ld. Glenelg to transmit to you, for the consideration of the Master General and Board of Ordnance, the copy of a letter and its Enclosure from Sir G. Gipps, who is proceeding as Governor to New South Wales, recommending that two Companies of Sappers and Miners should be substituted for two Companies of the Line in the future Military Establishment of the Colony, with a view to their employment in superintending the labor of Convicts working on the Roads.

Proposed employment of sappers and miners.

Lord Glenelg requests that you will move the Board of Ordnance to favor his Lordship with their opinion whether there will be any objection to the employment of Sappers and Miners on this Service.

Should the M. Genl. and Board concur in Sir G. Gipps' views on this subject, Lord Glenelg proposes to make the necessary communication to the General Commanding in Chief, and to the Secretary at War, for raising two additional Companies of Sappers and Miners to be borne on the Army Estimates.

I am, &c.,  
JAS. STEPHEN.

[Enclosure No. 2.]

MR. R. BYHAM TO UNDER SECRETARY STEPHEN.

Sir, Office of Ordnance, 18 October, 1837.

Having submitted to the Master General and Board of Ordnance yr. letter dated the 5 Inst., enclosing copy of a communication from Sir George Gipps, who is about to proceed to N. S. Wales as Governor of the Colony, in which he recommends that two Companies of Sappers and Miners should be substituted for two Companies of Soldiers of the Line in the future Military Establishment of the Colony with a view of their employment in the superintendence of Convicts working on the Roads; with reference to which proposition, and in the event of the M. Genl. and Board concurring in that Officer's views on the subject, Lord Glenelg proposes to make the necessary communication to the General Commanding in Chief and to the Secretary at War for raising two additional Companies of Sappers and Miners to be borne on the Army Estimates.

Letter acknowledged.

I have the honor by command of the M. Genl. and Board to acquaint you for Lord Glenelg's information that it wd. be at variance with the practice usually observed for the expence of any portion of the Ordnance Corps to be provided for in any other than their own Estimates; but, if H.M. Govt. are prepared to sanction an increase to the extent suggested to the Corps of Sappers and

Opinion of board of ordnance re employment of sappers and miners.

1838.  
23 March.

Opinion of  
board of  
ordnance *re*  
employment  
of sappers  
and miners.

Miners, the M. Genl. and Board, upon a communication of such authority, will make provision for that purpose in the Parliamentary Estimate, and will use their best exertions to raise two additional Companies of Sappers and Miners for the service in question. Some time, however, must necessarily elapse before it can be expected that even one Company could be sent out, probably fifteen months, arising from the evident necessity of selecting good Men, and that they should be well trained and instructed in the various duties of the Corps. Moreover if the Companies are to be relieved at the usual periods, it will be probably necessary to raise a third to provide for the additional demand, unless a similar course were adopted as in the case of the Companies raised for employment on the Works of the Rideau Canal, in Canada, to whom Grants of Land were given as rewards for good conduct after the Men, who might be desirous of settling in the Country, had completed their periods of service.

The Annual expense of the two Companies, including six Officers of the Royal Engineers, namely a Captain and two Subalterns to each Company, would amount to £7,120.

The measure would of course cause an increase in the Ordnance Estimates to that amount, besides what may arise from the necessity of providing for the relief of the Companies, though the latter may perhaps be avoided by granting portions of Land to some of the Men, as above adverted to. But the Master General and Board do not consider that any arrangement could consistently be made by which Men belonging to an Ordnance Corps could be borne on the Army Estimates.

I am, &c.,

R. BYHAM.

[Enclosure No. 3.]

UNDER SECRETARY STEPHEN TO MR. A. Y. SPEARMAN.

Sir,

Downing Street, 14 Novr., 1837.

I am directed by Lord Glenelg to transmit to you, for the early Consideration of the Lords of the Treasury, the enclosed copies of a Correspondence which has taken place between his Lordship and the M. General and Board of Ordnance on the subject of the employment of two Companies of Sappers and Miners in the Superintendance of Convicts working on the Roads in New South Wales. Lord Glenelg concurs in the opinion expressed by Sir George Gipps that much advantage would probably arise from such a measure, and his Lordship proposes, with the concurrence of the Lords Commrs., to request the M. General and Board of Ordnance to take the necessary measures for raising the two additional Companies for that service without delay. In the event of this proposal being acceded to, Sir George Gipps will be instructed to report as early as possible after his arrival in New South Wales on the practicability of effecting a corresponding reduction in the strength of the Regiments of the Line stationed in that Colony; but, as frequent and urgent representations have been made of the insufficiency of the Military Force stationed in N. S. Wales and V. D. Land, Lord Glenelg does not feel himself able at once to direct the reduction to be made.

I am, &c.,

JAMES STEPHEN.

Submission  
of proposals  
to treasury.

[Enclosure No. 4.]

1838.  
23 March.

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 17 January, 1838.

The Lords Commrs. of H.M.'s Treasury having had under their consideration the correspondence submitted to them by direction of H.M.'s Secretary of State for the Colonies in yr. letter of 24 Nov. last, respecting the substitution on the Military Establishment at N. S. Wales of two Companies of Sappers and Miners for two Companies of Infantry of the Line, I am commanded by their Lordships to request you will state to Lord Glenelg that they concur in the view which his Lordship has taken as to the advantage which would probably result from the arrangement proposed, especially in regard to the superintendence of the Convicts employed on the Roads or in other Colonial Works; but my Lords can only give their sanction for the large addition, which the charge for the Sappers and Miners will make to the Ordnance Estimates, upon the distinct understanding that a corresponding diminution is effected in the number of Troops of the Line that would otherwise be employed in N. S. Wales.

Qualified approval by treasury of employment of sappers and miners.

My Lords, therefore, request that his Lordship will ascertain, on communicating further with the Military Authorities, that the reduction of the other branch of the Establishment, to which they have adverted, will be effected, before their Lordships give their final sanction for the increased charge that will be placed on the Ordnance Estimates by this addition to the numerical strength of the Ordnance Military Corps.

I am, &amp;c.,

A. Y. SPEARMAN.

[Enclosure No. 5.]

UNDER SECRETARY STEPHEN TO MR. L. SULIVAN.

Sir, Downing Street, 8 March, 1838.

I am directed by Lord Glenelg to transmit to you, for the consideration of the Secretary at War, the enclosed Copies of a Correspondence, which has taken place between this Dept. and the Board of Treasury on the subject of the employment of two Companies of Sappers and Miners in the superintendence of Convicts on the Roads and Public Works in N. S. Wales. Lord Howick will observe that it is proposed to employ these troops in substitution for a corresponding number of Troops of the Line; and that the Lords Commrs. of the Treasury have intimated their readiness to sanction the increased charge, which will be borne on the Ordnance Estimates by this addition to the numerical strength of the Ordnance Military Corps, on the distinct understanding that a corresponding diminution is effected in the number of Troops of the Line, which would otherwise be employed in N. S. Wales. The enclosed copy of a letter from the Secretary to the General Commanding in Chief states the mode, on which Lord Hill would propose to effect such reduction; and I am to request that you will move the Secretary at War to favor Lord Glenelg with his opinion whether there would be any objection to such an arrangement.

Submission of proposals to secretary at war.

I am, &amp;c.,

JAMES STEPHEN.

1838.  
23 March.

[Enclosure No. 6.]

LORD FITZROY SOMERSET TO UNDER SECRETARY STEPHEN.

Sir,

Horse Guards, 5 February, 1838.

Letter  
acknowledged.

I have had the honor to receive your letter of the 24th Ult., stating that it has been recommended to Ld. Glenelg by Governor Sir George Gipps that two Companies of Sappers and Miners shall be stationed in N. S. Wales, and that, if the proposition be acceded to, it is proposed by H.M.'s Govt. that a corresponding diminution should be made in the number of the Troops of the Line, which would otherwise be stationed in the Colony, and desiring that his Lordship may be informed if the General Commanding in Chief is aware of any objection to such an arrangement.

Inconvenience  
in reduction of  
companies in  
line regiments.

Having laid your letter before Lord Hill, I am desired to acquaint you that all the Regiments of the Line consist of an equal number of Companies, ten to each Battalion, and, as the Corps stationed in N. S. Wales and V. D. Land proceed from this country as Escorts to Convicts and go on to India in their turn, any diminution of the number of Companies would be attended with considerable inconvenience; and therefore, if the recommendation in question be adopted, the only way, in which his Lordship can suggest that a diminution of force to the extent of two Companies cd. be effected, would be to send the Regt., which has been longest in the Colony on to India, when only four Companies of the relieving Regt. shall have arrived instead of Six, as is the case at present.

Difficulty in  
supplying  
companies  
of sappers  
and miners.

Lord Hill deems it necessary, however, to observe that he apprehends there would be more difficulty in supplying two Companies of Sappers and Miners for the Colony of N. S. Wales than on the first view of the subject might be apparent. There are none available for this service at present. They must, therefore, be raised expressly for it, a measure requiring time as well as money, and after all it wd. be found that their maintenance wd. be attended with more expence than an equal number of Soldiers of the Line.

Lord Hill is aware of the convenience of having Artificers at the Command of the Authorities of a distant Colony; but He is at the same time inclined to the opinion that the facility, which the presence of Artificers affords to the erection of Works and Buildings not infrequently leads to an outlay, which would not otherwise be undertaken.

I am, &c.,

FITZROY SOMERSET.

[Enclosure No. 7.]

MR. L. SULIVAN TO UNDER SECRETARY STEPHEN.

Sir,

War Office, 17 March, 1838.

I am directed to acknowledge the receipt of your letter of the 8th Instt., respecting the employment of two Companies of Sappers and Miners in the Superintendence of Convicts on the Roads and Public Works, and to acquaint you that, shd. such a measure be resolved upon, Lord Howick concurs with Lord Hill in opinion that the best mode of effecting a reduction of the number of Troops of the Line employed in N. S. Wales will be by sending to India the Regiment, which shall have been longest in the Colony, when only four companies of the relieving Regiment shall have arrived instead of Six Companies as is the Case at present.

Method for  
reduction of  
companies in  
line regiments.

Lord Howick, however agrees with Lord Hill in thinking that considerable inconvenience might arise from the proposed

arrangement, and has therefore directed me to request that you will strongly press upon the consideration of Ld. Glenelg the propriety of at least deferring the adoption of the change which is in contemplation, until, on the termination of the enquiry now in progress by a Committee of the House of Commons into the system of Transportation, the Govt. and the Legislature shall have been enabled to determine whether that system is to be maintained or in any important particulars to be abandoned or altered.

Sir George Gipps in his letter refers to a demand, which will be made upon the Troops in N. S. Wales for a Detachment to accompany Sir Gordon Bremer to the Northern Coast\*; but, as Lord Howick had not been previously informed that such a detachment wd. be required, I am directed to request that you will furnish me with some explanation upon this point.

I am, &c.,  
L. SULLIVAN.

1838.  
23 March.  
Decision to be deferred.

Detachment required in north Australia.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 92, per ship Bengal Merchant; acknowledged by Sir George Gipps, 12th September, 1838.)

Sir, Downing Street, 24 March, 1838.

24 March.

I have the honor to transmit to you the enclosed copy of a letter from the Secretary to the Treasury, and to request that you will transmit some further explanation with regard to the increase therein referred to in the expenses of the Convict Establishment.

Report required re expenditure.

I have, &c.,  
GLENELG.

[Enclosure.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 13 March, 1838.

In transmitting the Accompanying Copies of letters, addressed by the Colonial Secretary at N. S. Wales to the Principal Superintendent of Convicts and to the Deputy Commissary General of Accounts, conveying the authority of the Governor for an increase in the expenses of the Convict Establishments in that Colony, I am commanded by the Lords Commissrs. of H.M. Treasury to request you will submit the same to Ld. Glenelg, and will cause their Lordships to be informed whether the arrangements therein referred to were adopted with the sanction of his Lordship.

Query re expenditure.

I am, &c.,  
A. Y. SPEARMAN.

[Sub-enclosure No. 1.]

COLONIAL SECRETARY THOMSON TO MR. J. R. BREMAN.

Sir, Colonial Secretary's Office, 8 Augt., 1837.

Having laid before the Govr. yr. letter of the 1st Inst., I am directed to inform you that, as it appears the Secy. of State sanctioned the employment of ten Clerks as the fixed Estab. of yr. office, H.E. is pleased to approve of the Continuance of that number, one Clerk being on the Second Class, and nine on the third Class

Clerks in office of superintendent of convicts.

1838.  
24 March.

Salaries  
authorised  
for clerks.

under the regulations, which have been recently adopted in remunerating the Clerks in the Offices paid from the Colonial Treasury, and of which a copy has already been furnished to you.

According to the scale fixed by those Regulations, the Salaries to be paid to your Clerks from the 1st of last month, from which date the Regulations have been brought into operation, will be at the undermentioned rates until the 31st Decr., when further augmentation may be applied for.

		£	
Mr. Thom. Ryan,	Clerk, 2d Class	260	pr. ann.
" Will. Glaister,	" 3d "	185	" "
" John Long Horsey,	" " "	155	" "
" Will. Redmond Belcher,	" " "	140	" "
" Will. Edwd. Rogers,	" " "	140	" "
" John Bell,	" " "	125	" "
" Alex. Geo. Dumes,	" " "	125	" "
" Henry Kingdom,	" " "	125	" "
" John Ryder Flaharty,	" " "	125	" "
" Vacant,	" " "	125	" "

The Clerk, who performs duty at the Bench in Hyde Park Barracks, is to be considered as one of the ten clerks on the Estabt. and to discharge office as duty as well. Mr. Flaherty has been named to the vacancy occasioned by the resignation of Mr. Row, and the Governor will appoint a Gentleman to that which now exists in consequence of the retirement of Mr. Gallot.

Three Assist. Clerks as 6s. per day from 1 July will be allowed for Indents and Registry, as long as they shall be found necessary; but it is hoped that you may effect the whole duty of your office with ten efficient Clerks, of which the lowest may be in receipt of £200 a year, and thus relieve the Dept. of the charge for the Extra Clerks now employed.

I have, &c.,

E. DEAS THOMSON.

[Sub-enclosure No. 2.]

COLONIAL SECRETARY THOMSON TO DEP. COMMISSARY-GENL. OF  
ACCOUNTS.

Sir,

Colonial Secretary's Office, 28 July, 1837.

Allowance  
for visiting  
magistrate to  
female factory.

I am directed by the Governor to inform you that it has been found necessary for the better Govt. of the Female Factory at Parramatta, where the number of Women under sentence of Imprisonment by Colonial Courts exceeds 300, and the whole number 500, to direct the frequent attendance of the Visiting Justice, and to give him additional powers and duties, wh. it may be necessary still farther to extend.

It is therefore fit that this augmentation of his labour, beyond what any other Police Magistrate in a Country District is called on to perform, shd. be suitably remunerated, and H.E. has accordingly been pleased to authorize a charge on this account at the rate of £100 a year from 1 July instant, for Duty at the Female Factory, to be borne upon the abstract of that Establishment and paid out of the Military Chest as a Convict Service.

I am, &c.,

E. DEAS THOMSON.

SIR GEORGE GIPPS TO LORD GLENELG.

1838.  
25 March.(Despatch No. 43, per ship Jessie; acknowledged by  
lord Glenelg, 28th August, 1838.)

My Lord,

Government House, 25th March, 1838.

I have the honor to forward to Your Lordship a copy of a letter, which has been addressed to me by Mr. Macquoid, the Sheriff of New South Wales, under date of the 15th instant, in consequence of his office having been omitted in the Table of Precedency, established by the Book of Regulations (page 26) recently issued from your Lordship's office.

Transmission  
of letter from  
T. Macquoid.

Since 1829, the Sheriff, in consequence of a decision given by Sir George Murray and referred to by Mr. Macquoid, has been allowed to take rank next to the Members of the Legislative Council; but I have little hesitation in saying that, if the Table of Precedency, established by the Book referred to, is to be enforced in New South Wales, such a position would be higher than the one he ought to occupy, as it would place him not only above the Colonial Secretary, unless that officer continue to be a Member of one of the Councils, which may not always be the case, but also even above the Judges.

Precedency  
for sheriff.

The office of Sheriff may perhaps be considered one of more importance in New South Wales than in any other Colony, not only on account of the extent of our prisons, but also of the greater number of criminals, who unfortunately incur the extreme penalty of the law; but still I would venture to suggest that, in the event of your Lordship's judging it proper to give to him any particular place in the Table of Precedency, he would be placed sufficiently high, if he were inserted either next before the Attorney General or next after the Archdeacon.

Importance  
of office of  
sheriff.Precedency  
proposed.

Your Lordship will of course understand me as proposing this for a general Regulation, calculated to meet future alterations and contingencies; for, in the present state of the Colony, the Attorney General being a Member of the Legislative Council, and there being neither a Solicitor General nor an Archdeacon, the effect for the moment would be the same, whether he were placed in one situation or the other.

I have, &amp;c.,

GEO. GIPPS.

[Enclosure.]

MR. T. MACQUOID TO SIR GEORGE GIPPS.

Sir,

Goderich Lodge, Sydney, 15th March, 1838.

Your Excellency having permitted me to bring under your consideration in writing the substance of the conversation, which passed between Your Excellency and myself regarding the Sheriff's rank in this Colony, I have the honor to state briefly that, when I arrived here in January, 1829, there being no Table of Precedence,

Protest by  
T. Macquoid  
re omission of  
sheriff from  
table of  
precedence.

1835.  
25 March.  
Protest by  
T. Macquoid  
re omission of  
sheriff from  
table of  
precedence.

the Officers of Government then ranked *according to their Salaries*; and I found that to the Sheriff precedence was invariably given over those Officers of the same grade of Salary as his own. About the latter end of 1829, the first Table of Precedence,\* still in force, was received, in which no notice whatever was taken of the Sheriff.

With permission of the then Governor, Sir Ralph Darling, I addressed a letter\* to The Secretary at State, Sir George Murray, which His Excellency was kind enough to forward. In January, 1831, I was in reply informed by the Colonial Secretary "that the Right Honorable The Secretary of State had been pleased to signify that the Sheriff of New South Wales was to take precedence next after the Legislative Council."

As I did not think that this placed the Sheriff in the position as to rank, which had been accorded to the Office as a matter of course, and to which I thought it entitled before the Table of Precedence fixed by Sir George Murray was published in the Colony, I addressed Lord Goderich then Secretary of State again on the subject, and have the honor to subjoin a copy of the letter I received from Lord Howick, The Under Secretary of State, in reply, dated October 22nd, 1831, from which it would appear that I was not then placed in the Executive Council only because it was not deemed expedient to confer such an Office on a ministerial Officer of the Supreme Court, when the Chief Justice was excluded.

In consequence of a farther representation made by me to Lord Goderich, I was informed in May, 1833, by the late Governor, Sir Richard Bourke, that a despatch had been received from the Secretary of State on the subject of my rank, and requesting me to state to His Excellency "the situation I would desire that my Office should fill in the Table of Precedence," which I did; but I was neither informed of the terms of the Secretary of State's communication, nor of Sir Richard Bourke's reply, nor have I heard anything farther on the subject since.

I now find that a Book has lately been sent to this Government by authority, intended for the guidance generally of the Governors of Her Majesty's Colonies, as far as found applicable to the local circumstances of each, and that, among other things, there is a Table of Precedence, in which it appears that all notice of the Sheriff is again left out.

As I feel quite assured this must have been an oversight, for I cannot for one moment suppose that the ancient and constitutional officer of the Crown, the High Sheriff of a Colony purely English, which cherishes in its bosom the institutions of the Mother Country, where he is required to perform not only all the functions, but to incur all the liabilities of that responsible Office over a territory of such extent and magnitude, could be intended by Her Majesty's Government to be entirely left out; and therefore placed even below the 25th grade noticed in the New Table alluded to. I respectfully submit, if it be not Your Excellency's opinion that the Sheriff of the Territory ought to rank next after the Puisne Judges, that at least he ought to be fixed in point of rank not lower than The Right Honorable The Secretary of State assigned to him, as signified in the Colonial Secretary's letter of the 7th January, 1831, a copy of which is subjoined.

I would in conclusion farther submit that, however little may be the Value attached to rank in the abstract, it has been made a matter of

\* Note 75.



importance in this Colony by the attention paid to it by the Home Government; and it will hardly be said that, because I cannot, as Sheriff or Ministerial Officer of the Supreme Court, be appointed to a seat in the Executive Council, to which I am otherwise admitted to be qualified, I am therefore to have no rank in the Colony at all. Indeed it cannot but be a source of mortification to me to find, after nearly ten Years' service in so arduous an Office, that, instead of rising in rank, I only find myself placed in a situation more uncertain than before.

I have, &c.,

T. MACQUOID.

1838.  
25 March.

Protest by  
T. Macquoid  
re omission of  
sheriff from  
table of  
precedence.

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SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 44, per ship *Jessie*; acknowledged by  
lord Glenelg, 28th August, 1838).

My Lord, Government House, 27th March, 1838.

27 March.

In reply to your Lordship's Despatch, of the 19th August, 1837, No. 365, desiring information respecting Mr. Richard Linch, who had addressed a Memorial to your Lordship, dated Sydney, Sept. 12th, 1836, claiming a grant of land, I have the honor to state to your Lordship that, from documents in the Colonial Secretary's Office, it appears that Richard Linch arrived in New South Wales in Sept., 1828, and that (in consequence probably of having been the bearer of a letter from Downing Street) he had an interview with General Darling, some time in the month of January following; at this interview, it is alleged by Linch that the Governor promised him a grant of land, but no record of such a promise has been found.

Report re claim  
of R. Linch to  
land grant.

On the 20th August, 1830, on the strength of the alleged promise, Richard Linch applied for a Town Allotment in Sydney, but was refused on the ground that no more allotments would be given away.

On the 11th April, 1831, he applied for a Grant of Land, saying that, since his arrival, he had been engaged as a Dealer in the Town of Sydney, and that he had a Capital of £550; but on his letter two minutes appear, one from the Surveyor General to the effect that there is no record of an order in his favor, and the other from General Darling that his application "*cannot be admitted.*"

In August, 1831, his application was renewed, and on his letter the following Minute appears, in the handwriting of General Darling and signed with his initials, "No; this would be acknowledging the right of every one to a Grant, who had ever made application."

I have, &c.,

GEO. GIPPS.

1838.  
29 March.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 95, per ship Lord Lyndock.)

Sir, Downing Street, 29 March, 1838.

Despatch  
acknowledged.

I have received your Predecessor's dispatch, No. 59 of the 7th July last, transmitting the result of the investigation which had taken place into the causes of fever on board the Emigrant Ship "Lady McNaghten."

Submission  
of despatch to  
T. F. Elliot.

I referred this dispatch to the Agent General for Emigration for any observations which he might have to offer, and I enclose for your information a copy of Mr. Elliot's Report.

As all the arrangements connected with the Lady McNaghten took place previously to the appointment of the Agent General, and as the Vessel sailed from a Port in Ireland, it has been obviously out of Mr. Elliot's power to supply any Report founded on his own personal observation of circumstances.

It is however satisfactory to know that every measure has since been adopted, which appears calculated to afford the best security against the recurrence of such lamentable circumstances as those which occurred in this instance, and I agree with Mr. Elliot that no practical good could result from a further prosecution of the subject.

Reference to  
treasury of  
charges for  
quarantine.

I have referred, for the consideration of the Lords Commissioners of the Treasury, Sir Richard Bourke's dispatch No. 60 of the 7th July last on the subject of the charges incurred on account of the Quarantine of the Lady McNaghten.

I have, &c.,  
GLENELG.

[Enclosure.]

MR. T. F. ELLIOT TO UNDER SECRETARY STEPHEN.

Sir, London, March, 1838.

Report by  
T. F. Elliot  
re emigrant  
ship *Lady  
McNaghten*.

In obedience to Lord Glenelg's directions that I should peruse the statements transmitted by the Governor of N. S. Wales of the enquiries made in the Colony into the case of the "Lady McNaghten," Emigrant Ship, and that I should offer to his Lordship any observations which might occur to me thereon, I beg leave to submit the following remarks:—

The ample Reports forwarded by Sir R. Bourke render it quite unnecessary to enter upon the details of the case. It seems more useful that I should point out what appears to me to have been the principal causes of the disasters in this ship, and to state how far the practice, which now exists, seems calculated to prevent their recurrence.

In the first place, too many persons were put on board. Their numbers were regulated by the proportion of people to the Tonnage, nor does it appear that even that limitation was perfectly observed; while no regard was had to the proportion to the Superficial Contents of the Deck. At present, the rule is universally enforced of having at least fifteen feet of the latter for every adult passenger; and it defies the possibility of over-crowding.

The lumbered state of the space between Decks, where the Passengers lived and slept, was another evil which is now guarded against.

No baggage whatever is permitted to be left there except a small portion for the immediate personal use of the people.

I cannot leave this part of the subject without expressing regret that the ship was permitted to sail in the state, in which she appeared when she was finally visited at Cork. The responsibility of the Officers, who were present on that occasion, was perhaps not sufficiently definite, and I shd. not wish to undertake to estimate the blame attaching to individuals under a system which ceased to exist before I had any charge in the matter of Emigration. I merely notice it in passing, as a just cause of regret, that the risk of evil having been distinctly brought to notice beforehand, the Vessel was nevertheless sent to sea in a condition of which the result too much tends to confirm the Complaints which were made at the time.

Having gone to sea, great mischief arose from the want of proper discipline, and of an enforcement of cleanliness and ventilation. Under all these circumstances combined, it resulted that, 405 Men, Women and children having sailed in the "Lady McNaghten," there died, either on board or in Quarantine, 14 Adults and 53 Children.

It is fair to observe that, if it had not been for the want of system during the voyage, the other inconveniences above mentioned wd. most probably have fallen far short of producing the unhappy consequences that in fact ensued. The Surgeon, whose life fell a sacrifice, seems to have been totally wanting in energy or resource equal to his difficulties. The employment hitherto of Surgeons of the Royal Navy in all the Emigrant ships under the service on its present footing has afforded one powerful guarantee against a repetition of this evil. I fear that it may be found impracticable to command a sufficient supply of that Class of Officers for the very active Emigration now on foot; but it will at least be my endeavour to insist on the two requisites in every Medical Superintendent of some previous experience for a sea voyage, and the appearance of an aptitude of the management of large bodies of People.

Another security in the Vessels that now sail is the existence of a very detailed Code of Instructions for the guidance of the Surgeon. In the directions of the London Committee, as far as I have had an opportunity of seeing them, there was no more than a general recommendation of attention to the important points of cleanliness and ventilation. In the Instructions now in use, very minute directions are laid down as to the mode of securing these essential Conditions.

The Ship was a very good one for the use to which she was appropriated. The provisions were sufficient in quality and quantity. The only defect seems to have been in the Medicine Chest and Medical Comforts.

These Supplies are provided in Emigrant Ships that sail from the River under the direction and according to the usage of the Board of Admiralty, with some Additions suggested by Experience as suited to the peculiar wants of Emigrants. In Vessels fitted from the Out Ports, I am at this moment in consideration of the Establishment of some general rule on the extent of the Medicine Chest; it has hitherto been supplied under the care and at the responsibility of the Naval Surgeon having charge of each particular ship.

1838.  
29 March.

Report by  
T. F. Elliot  
re emigrant  
ship *Lady  
McNaghten.*

1833.  
29 March.

Report by  
T. F. Elliot  
*re* emigrant  
ship *Lady*  
*McNaghten*.

There appears to have been only one Hospital on board the *Lady McNaghten*. No Ship ever sails now without two, One for males and the other for Females, both of them placed in the best part of the ship.

There was a deficiency of Hospital furniture also. With respect to this supply, the ordinary arrangements of the Board of Admiralty have been followed under the present system in Vessels fitted from the River. In other situations, the charge of this matter has belonged to the Surgeon of the Navy experienced in the Convict Service, who have been responsible for each Ship; but now that I believe one may expect to be deprived of the services of Officers of that Class, I propose to establish a general rule on the present head as well as the one above-mentioned of the Medicine Chest.

I am not aware that it would be of any advantage for me to prosecute this subject further. I have remarked the principal faults that seem to have produced the misfortunes in the *Lady McNaghten*. I have mentioned the securities against their recurrence in Ships sent under the present system. I believe that there is nothing more with which in my present position it is necessary for me to trouble Lord Glenelg.

I have, &c.,

THO. FRED. ELLIOT.

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SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 45, per ship *Jessie*; acknowledged by lord Glenelg, 28th August, 1838.)

My Lord, Government House, 29th March, 1838.

Transmission of  
memorial from  
A. Martin.

I have the honor to forward to your Lordship a Memorial from Lieutt. Alexr. Martin of the Royal Navy, requesting to be allowed a Grant of land in consideration of the hardship, which he alleges he has suffered in having been regarded a Settler of 1832 instead of one of 1829, the year in which he first arrived in New South Wales.

Details *re*  
claims of  
A. Martin to  
land grant.

It is I believe quite true that Lieutt. Martin was in New South Wales and applied to the local Government for a Grant of land in 1829; but, being informed that he could only obtain it on condition of residing uninterruptedly in the Colony for seven years, he determined to return to England and bring out his family before he accepted it. In pursuance of this determination he went to England, remained there only a few months, and arrived a second time in the Colony on the 2nd Feby., 1832; but the regulations with respect to halfpay officers, having in the mean time undergone alteration, he applied for and obtained in lieu of a Grant a remission of £300 in the purchase of 640 acres of land on the Nepean River, which were bought by him at Auction on the 31st August, 1832. With this advantage, Lieutt. Martin appears to have been satisfied; and it may seem that he had reason to think himself rather fortunate than otherwise, as, had he arrived in the Colony but three months later, he would have received a remission of only £200 in lieu of £300. During

the five years too that intervened between 1832 and 1837, no complaint was received by the local Government from Lieutt. Martin; but, a Notice having been issued in the Colony on the 28th June, 1837, by which persons, who had obtained primary grants under the Regulations of 1826, were acknowledged entitled to secondary ones, Lieutt. Martin applied to Sir Richard Bourke to be placed on an equality with them; and it is in consequence of Sir Richard Bourke's having, by a Minute of the 23rd Sept. last, refused this request, that Lieutt. Martin now appeals to Your Lordship.

Your Lordship will observe that Lieutt. Martin did not finally leave England with his family until the month of August, 1831, at which time the new Land Regulations had been promulgated from the Colonial Office for some months, though Lieutt. Martin states that he was uninformed of the fact. I have, &c.,

GEO. GIPPS.

[Enclosure.]

THE HUMBLE PETITION OF LIEUT. ALEXANDER MARTIN, R.N.

To the Right Honorable Lord Glenelg, etc., etc., etc. Her Majesty's  
Principal Secretary of State for the Colonies.

Sheweth,

That your Lordship's petitioner arrived in the Colony in the year 1829, under the existing Land regulations of 1826 and 1827, with the view of Settling, leaving his wife and family in England, intending to do so till I had obtained a Grant of Land and in some measure prepared for their reception, and then to have proceeded and brought them hither, your petitioner knowing it had previously been done for such a purpose. That I did apply accordingly at the Colonial Secretary's Office, Sydney, and was informed, if I took a Grant of Land, I could not leave, but there would be no objection to my having the usual maximum Grant to Lieutenants of the Royal Navy, if I went to England and brought my family and Settled; for that purpose I embarked for England in November, 1830, arrived in March, 1831, and in August following again embarked with my family, consisting of Wife and five Children, for this Colony, after having disposed of my property, and ignorant of any alteration in the Land regulations from a Grant to remission money, my time in England, viz., four months, being fully taken up in arranging our departure. That your petitioner, having at considerable expense and trouble established himself and family of five grown up Children in New S. Wales, only possesses One Section of Land, which was bought dearly being run up at Auction, and had to pay (£35) Thirty five pounds over and above the remission Money allowed; that your Lordship's petitioner is aware of Officers of his rank and very little longer in the Colony, who obtained the Maximum Grant, and Grants of Land for some of their Children. That your petitioner, not having obtained his primary Grant as before Stated, but leaving England on the faith of the regulations of 1826 and 1827, and the understanding when I arrived with my family I should receive 2,560 Acres of Land, have to trust that your Lordship may be pleased to grant me the benefit advertised to others,

1838.  
29 March.

Details re  
claims of  
A. Martin to  
land grant.

Petition from  
A. Martin  
soliciting  
land grant.

1838.  
29 March.  
Petition from  
A. Martin  
soliciting  
land grant.

who have not been so long in the Colony as your petitioner (the advertisement states Seven Years, whereas I have been Nine Years) by allowing me to Select a Grant of Land. I am induced to Solicit this of your Lordship in Justice to myself, and for the benefit of my family unprovided for, and from an advertisement in the Government Gazette for Additional Grants, from the great expense I have been at in emigrating, particularly with my property in England, and being a Commissioner of Twenty Seven years Standing in Her Majesty's Navy.

And, as in duty bound, your petitioner will ever pray.

ALEXANDER MARTIN, Lt., R.N.  
Parramatta, N. S. Wales, 20 Novr., 1837.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 96, per ship Lord Lyndock.)

30 March.  
Interpretation  
of treaty with  
Dutch  
government  
re reciprocal  
trade.

Sir, Downing Street, 30 March, 1838.

I have the honor to transmit for your information and guidance the enclosed copy of a correspondence relating to the Interpretation of the Treaty with the King of the Netherlands of 1824, which had arisen on the admission of a Dutch Vessel, the "Courier," to entry at the Port of Sydney. I have, &c.,

GLENELG.

[Enclosure No. 1.]

MR. J. D. HUME TO UNDER SECRETARY STEPHEN.

Office of Committee of Privy Council for Trade.

Sir, Whitehall, 29th Decr., 1837.

The Lords of the Committee of Privy Council for Trade have directed me to request that you will draw the attention of Lord Glenelg to the Treaty of the 17th of March, 1824, concluded with the Dutch Government on the subject of mutual Trade with the Possessions of the two Kingdoms in India.

Under the terms of that Treaty, the subjects of the King of the Netherlands are permitted to trade with the British Possessions in the "Eastern Archipelago"; and, in virtue of this privilege, a claim has lately been made for the admission of the Cargo of a Dutch ship, which has entered the Port of Sydney in New South Wales.

The Lords of this Committee are desirous of being informed, whether Lord Glenelg is of opinion that New South Wales can be considered to form a part of the Eastern Archipelago.

I am, &c.,

J. D. HUME.

[Enclosure No. 2.]

UNDER SECRETARY STEPHEN TO MR. J. D. HUME.

Sir, Downing Street, 13th January, 1838.

I have received and laid before Lord Glenelg your Letter of the 29th Ultimo respecting the Treaty of the 17th March, 1824, concluded with the Dutch Government on the subject of mutual Trade with the possessions of the two Kingdoms in India.

I am directed by his Lordship to request that you will observe to the Lords of the Committee of Privy Council for Trade that, on referring to that Treaty, it appears to him that the term "Eastern Archipelago," as there employed, cannot be construed to extend to New South Wales.

1838.  
30 March.  
Interpretation  
of treaty with  
Dutch  
government  
re reciprocal  
trade.

The word "Archipelago," whether regard be had to its derivation or to its historical or popular use, cannot, in Lord Glenelg's opinion, be considered as extending to the great Southern Ocean by which the Eastern, Southern and Western Shores of New Holland are surrounded.

The expression, as it occurs in the first article, is plainly limited to Territories or rather to the Sea surrounding Territories in which both the British and the Dutch Governments had Possessions. Now the Dutch Government had not, as Lord Glenelg conceives, any possessions in New Holland at the date of the Treaty in question. New Holland, therefore, could not have been in the contemplation of the contracting parties.

The expression, moreover, as it again occurs in the 4th Article is plainly limited to Countries, of which the Natives were engaged in Commerce with the Subjects of the two Governments, an expression entirely inapplicable to the uncivilized Inhabitants of New Holland, with whom no commercial relations have ever subsisted with any Foreign Power whatever.

It moreover appears to his Lordship that the whole scope and design of the Treaty was manifestly to regulate the commercial intercourse of the two Nations with India and Ceylon and with the extensive groupe of Islands lying between Sumatra to the North and New Holland to the South, which are all embraced within the comparatively narrow sea, which both in the popular and in the exact use of geographical language is usually called the Eastern Archipelago.

I have, &c..

JAS. STEPHEN.

[Enclosure No. 3.]

MR. F. BARING TO UNDER SECRETARY STEPHEN.

Sir,

Treasury Chambers, 29th March, 1838.

I am commanded by the Lords Commissioners of Her Majesty's Treasury to request that you will state to Lord Glenelg that my Lords are apprized by a communication from the Lords of the Committee of Privy Council for Trade of the opinion entertained by Lord Glenelg with respect to a question, relating to the interpretation of the Treaty with the King of the Netherlands of 1824, which had arisen on the admission of a Dutch Vessel, the "Courier," to entry at the Port of Sydney, New South Wales; and that my Lords, having ascertained that Viscount Palmerston concurred in that opinion, have directed the Board of Customs to convey instructions in conformity therewith to the Officers of their Department in the Australian Settlements for their guidance, in the event of the recurrence of any application for the entry of Vessels under circumstances similar to those of the "Courier." I am, &c..

F. BARING.

1838.  
31 March.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 97, per ship Lord Lyndock.)

Sir, Downing Street, 31st March, 1838.

I have the honour to acquaint you that the undermentioned Gentlemen having been recommended to me by the Society for the Propagation of the Gospel as 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 appointment.

The Revd. E. A. Dicken; The Revd. C. F. Brigstocke; The Revd. W. L. Gibbon.

The three appointments now made will, it appears, complete the number of Clergymen, which the Society undertook to assist in sending out to New South Wales.

These Gentlemen will receive the usual allowance of £150 on account of their outfit and Passage.

The Revd. W. L. Gibbon is reported to be at present engaged in connection with the Society in Bermuda, and he will in all probability proceed direct from thence to Sydney.

I have, &c.,  
GLENELG.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 46, per ship Jessie; acknowledged by lord Glenelg, 29th August, 1838.)

My Lord, Government House, 31st March, 1838.

I have the honor herewith to forward a letter, which had been addressed to your Lordship by Mr. Allan Park, setting forth his claim to an additional grant of land under the Regulations of 1826 and 1827, although, by his own confession, he came to the Colony on the faith of the Land Regulations of 1824, which held out no promise of such an additional grant, though they did prescribe certain conditions, without the fulfilment of which a second was positively to be refused.

Your Lordship is well aware that all claims, similar to the one now put forward by Mr. Allan Park, have in this Colony since 1831 been uniformly refused, and that to allow of them would be quite contrary to the Instructions, contained in your Lordship's Despatch, No. 180 of the 31st July, 1836, and of that to the Lieutt. Governor of Van Diemen's Land of the same date, which expressly required proof in every case to be furnished by the Claimant that he left England on the faith of the Regulations of 1826 and 1827, before any additional grant could be allowed.

Appointment  
of C. of E.  
chaplains.

Transmission  
of letter from  
A. Park.

Previous  
decisions on  
similar claims  
to land grants.



It is scarcely necessary for me to add that I forward Mr. Allan Park's letter simply because it comes to me in the form that is prescribed for such communications, and that therefore I should not feel justified in suppressing it.

I have, &c.,

GEO. GIPPS.

1838.  
31 March.

[Enclosure.]

MR. A. PARK TO SECRETARY OF STATE.

Lewin's Brook, Paterson,

My Lord,

New South Wales, 10th February, 1838.

The Colonial Government of New South Wales having declined entertaining the claims of Individuals to additional Grants of Land, who emigrated to this Colony on the faith of the Land Regulations established in November, 1824, by the Right Honorable the Secretary of State for the Colonies, without first referring the same for the decision of your Lordship, I do myself the honour to submit my Case, for your Lordship's consideration, and beg to call your attention to the undermentioned Clauses, viz.: Nos. 17, 18, 19 and 20 of said Regulations, by which your Lordship will perceive that I have legitimate claims for bringing my Application before your Lordship.

Claim by  
A. Park to  
additional  
land grant.

Anticipating, from your Lordship's known character for impartiality, a decision that will be favourable to the Interests of

Your Lordship's most obedient humble Servant,

ALEXR. PARK.

[Sub-enclosure No. 1.]

Clause 17.

EVERY Grantee without purchase must, at the expiration of the before mentioned term of Seven Years, prove to the Satisfaction of the Surveyor General that he has expended in the Cultivation and improvement of his Land a Capital equal to half its value, as that Value was estimated at the time of his Grant; on failure of such proof the Land will be forfeited to the Crown.

Regulations  
quoted in  
favour of  
claim.

Clause 18.

No additional Grant of Land will be made to any person, who has not proved as last mentioned the necessary Expenditure of Capital on the Lands already Granted to him.

Clause 19.

Persons receiving a Second Grant of Land without purchase will become liable to pay a quit rent upon the Lands comprised in such second Grant, immediately from the date of it.

Clause 20.

Persons desirous to receive Grants of Land without purchase, on terms different from those above stated, must lay before the Secretary of State a full explanation in writing of the circumstances, which they may conceive to exempt them from the fair operation of these General Rules.

1838.

31 March.

Improvements  
by A. Park on  
land grant.

[Sub-enclosure No. 2.]

SCHEDULE of Improvements made on primary Grant of 2,560 Acres  
of Land granted to Alexander Park, by General Sir Ralph  
Darling, in November, 1826.

	£	s.	d.
Dwelling House .....	400	0	0
Granary .....	300	0	0
Barn .....	140	0	0
Kitchen .....	50	0	0
Substantial Stockyard, 12 divisions .....	40	0	0
130 Acres tillage @ £3 per acre .....	390	0	0
Garden and Orchard as follow:—			
2 Acres Apple Orchard, cleared and stumped @ £70 per acre .....	140	0	0
3 Acres Orangery, cleared, stumped and trenched @ £100 per Acre .....	300	0	0
2 Acres Vineyard cleared, stumped, etc., @ £100 per Acre .....	200	0	0
Garden and Orchard 3 Acres cleared, Stumped and trenched @ £80 per Acre .....	240	0	0
3,500 Rods of 3 rail fence at 3s. 6d. ....	612	0	0
500 Head of Horned Cattle at £3 per Head .....	1,500	0	0
10 Horses at £30 per Head .....	300	0	0
2,000 Sheep at £1 per Head .....	2,000	0	0
Money and Merchandise .....	1,500	0	0
Landed Estates, Consisting of 6,464 Acres of Land purchased from the Crown and valued at £1 per Acre .....	6,464	0	0
	<hr/>		
	£11,764	0	0
	ALEXN. PARK.		

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 47, per ship Jessie; acknowledged by  
lord Glenelg, 24th August, 1838.)

2 April.

My Lord, Government House, 2nd April, 1838.

Transmission  
of memorial  
of C. Prout.

I have the honor to forward herewith a Memorial which  
has been addressed to Your Lordship by Mr. Cornelius Prout,  
whose case is as follows:—

Statement  
re claim of  
C. Prout to  
land grant.

Mr. Prout arrived in this Colony at the end of 1826 in H.M.  
Ship "Warspite," holding the situation of Admiralty Clerk.

On the 1st Jany., 1827, Mr. Prout entered the office of the  
Colonial Secretary, where he remained until Jany., 1829, when  
he was appointed Under Sheriff, and this office he held 'till 1832  
or 1833.

On the 12th Jany., 1827, Mr. Prout applied for a Grant of land,  
but was refused on the ground that neither by his past services  
nor by the nature of the employment he then held was he entitled  
to it.

On the 8th April, 1828, he applied for a Town allotment in  
Elizabeth Street, Sydney, but was refused, and the ground, he  
asked for, was subsequently given to the Clerk of the Parish of  
Saint James'.

On the 30th May, 1829, he applied for an allotment elsewhere,  
on which General Darling made a Minute in the following  
words:—"It is unnecessary to refer any applications to me for

land from persons employed by Government. You had better prepare a general answer to be returned to all such Applicants.”

Finally, on the 18th Jany., 1832, Mr. Prout renewed his application, but, as the new Regulations had then come into force, he was informed by Sir Richard Bourke that his request could not be complied with.

Your Lordship will therefore observe that no kind of promise was ever made to Mr. Prout, and that he claims now merely on the fact of his having been in the employment of Government from 1827 to 1833.

I have, &c.,

[Enclosure.]

GEO. GIPPS.

THE Humble Memorial of Cornelius Prout, of Belle Ombre, Cook's River, in the County of Cumberland, and Colony of New South Wales, an Emigrant Settler,

To The Right Honourable Her Majesty's Principal Secretary of State for the Colonial Department, etc., etc., etc.,

Humbly sheweth,

That your Memorialist served as Clerk in His Majesty's Navy, from the year 1812 to the year 1826, as is more fully set forth in his Memorial to The Right Honourable the Lords Commissioners of the Admiralty, copy whereof is hereunto subjoined.

2. That your Memorialist arrived in the Colony aforesaid in the year 1826, on board His Majesty's ship Warspite, of which ship he was admiralty Clerk.

3. That, for the reasons mentioned in his aforesaid Memorial to the Lords of the Admiralty, your Memorialist obtained his discharge from the Warspite on the 1st January, 1827, for the purpose of becoming a permanent Settler in the said Colony.

4. That, at the time of his said discharge, your Memorialist was possessed of an available Capital to the amount of about Two thousand pounds (£2,000), the whole of which he intended to invest in agricultural or grazing pursuits within the said Colony.

5. That, for the purpose of making himself the better acquainted with the customs and resources of the Colony, your Memorialist accepted an appointment from the Colonial Government, not doubting that he would in due time receive a Grant of Land proportioned to his capital.

6. That, on your Memorialist applying to General Darling for his land to be held as a Reserve until he should quit the Government service, which was at that time the established usage, His Excellency desired him through the medium of Alexander McLeay, Esqr. (the Colonial Secretary), to wait awhile, but promising thereafter to give the most favorable consideration to your Memorialist's claims.

7. That, when the new Regulations of 1831 abolishing the system of granting Crown Lands within the Colony otherwise than by sale, came into operation, your Memorialist, in common with the Colonists generally, understood that it was intended that all outstanding Claims to free Grants should be thereby barred and extinguished for ever; nor was it until his attention was called to the Government Notice of the 27th June last, on the subject of "Additional Grants," that your Memorialist became aware that it never was

1833.  
2 April.

Statement  
re claim of  
C. Prout to  
land grant.

Memorial from  
C. Prout  
soliciting  
land grant.

1838.  
2 April.

Memorial from  
C. Prout  
soliciting  
land grant.

contemplated by His late Majesty's Government that the said Regulations should prejudice claims growing out of the previous system.

8. That your Memorialist is now possessed of a capital, immediately available for agricultural or grazing purposes within the Colony, to the amount of about three thousand Pounds and upwards.

Wherefore your Memorialist humbly prays that your Lordship will be pleased to take the premises into your most favorable consideration, and instruct His Excellency the Governor of New South Wales to make any enquiry into the truth of the foregoing statement, which to your Lordship may seem proper, with a view to your Memorialist's receiving the Grant of Land to which he was entitled by his capital under the Regulations of 1827.

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

CORNS. PROUT.

Belle Ombre, Cook's River, New South Wales, 28th February, 1838.

[Sub-enclosure.]

THE HUMBLE MEMORIAL OF CORNELIUS PROUT.

Memorial from  
C. Prout  
soliciting  
promotion  
as purser.

To The Right Honorable, the Lords Commissioners for executing the Office of Lord High Admiral of Great Britain, etc., etc., etc.

Most respectfully sheweth,

That Memorialist joined His Majesty's Navy on the 18 day of December, 1812, as a Clerk in the Office of Rear Admiral Lingee, proceeding with the Admiral, and continued in the Ships named in the margin\* until 12 September, 1814, when Rear Admiral Penrose (with whom Memorialist was then serving as Secretary's Clerk) struck his Flag on board His Majesty's Ship Porcupine on his return from the North Coast of Spain, at which time Memorialist according to usage would have been promoted to the rank of Purser, but, in consequence of the Order in Council of July previous, an entire stop was put to the promotion of Clerks in His Majesty's Navy.

That Memorialist, soon after quitting His Majesty's Ship Porcupine, was taken ill with a violent Scorbutic affection, the effect of salt diet, which rendered him for nearly eighteen months incapable of service, and on his recovery, from the circumstance of very many Clerks being out of Ships by the reduction of the Peace, Memorialist was unable to procure employment until the 1st August, 1818, at which period he joined his Majesty's Ship "Cyrene" (1 August, 1818, to 14 Feby., 1822); "Ariadne" (12 April, 1822, to 21 October, 1824); "Andromache" (22 October, 1824, to 3 Sepr., 1825).

That your Memorialist passed his examination for a Purser in St. George's Harbour, Bermuda, on board His Majesty's Ship "Bellette" before Captain Henry Forbes of His Majesty's Sloop Grasshopper, and Pursers Thomas Cox, James Nanifold and Thomas Mends on the 23rd March, 1819.

That Memorialist, on the 19 August, 1825, was appointed by your Lordships Supernumerary Clerk of His Majesty's Ship Warspite in which Ship he proceeded to India, and from thence to the Colony

\* *Marginal note.*—His Majesty's Ships "San Juan," 18 Dec., 1812, to the 11 March, 1813; "Comus," 12 March, 1813, to 7 July, 1813; "Savage," 25 July to 14 Sepr., 1813; "Juniper," 23 Dec., 1813, to 2 April, 1814; "Porcupine," 3 April, 1814, to 12 Sepr., 1814.

of New South Wales, at which latter place his Commander, Comma-  
dore Sir James Brisbane, K.C.B., died, owing to which lamentable  
occurrence, Memorialist, although but a short period under the com-  
mand of Sir James, lost a friend and patron; this circumstance,  
combined with many years service without promotion, and the  
existence of the order in Council of July, 1814, left Memorialist  
without hopes of advancement in the service, when Memorialist  
obtained his discharge on the 1st January, 1827.

1838,  
2 April.

Memorial from  
C. Prout  
soliciting  
promotion  
as purser.

That Memorialist on quitting the Naval Service was immedi-  
ately employed in the Colonial Secretary's Office, and continued  
there until the 13th January, 1829, when His Excellency Governor  
Darling was pleased to approve of Memorialist's appointment to  
the situation of *Under Sheriff of New South Wales*, which capacity,  
with that of acting *Marshal of the Court of Vice Admiralty*, Me-  
morialist holds to this day. Thus has nearly *Nineteen years* of  
Memorialist's life been spent in the service of his Country, *fourteen*  
in His Majesty's Navy, and *five* years in the civil service of this  
Colony.

Memorialist now most humbly and respectfully prays that, His  
Majesty having been graciously pleased to withdraw the restric-  
tions existing against promotion during the long period of Me-  
morialist's services, your Lordships would now suffer Memorialist  
to hope for the boon of promotion to the rank of Purser in His  
Majesty's Navy.

And for such mark of your Lordship's favour Memorialist will  
in duty be ever bound to pray.

CORNELIUS PROUT.

Sydney, New South Wales, 13 October, 1831.

THE Prayer of this Memorial is recommended to the favorable con-  
sideration of their Lordships by

RA. DARLING, GOVT. in Chief.

PAT. LINDSAY, Ag. GOVT.

ALEXR. MCLEAY, Colonial Secretary.

FRANCIS FORBES.

Chief Justice and Judge V. Admy. Court.

T. MACQUOID, Sheriff.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 98, per ship John Renwick.)

Sir, Downing Street, 3 April, 1838.

3 April.

I have received Sir Richard Bourke's dispatches of the  
13th June last, No. 43, and of the 11th September, No. 88, on  
the subject of the Settlement at Port Philip.

Despatches  
acknowledged.

I have read with much satisfaction the report, which those dis-  
patches contain of the rapid progress of the new Settlement.

I have submitted for the consideration of the Lord Commis-  
sioners of the Treasury the appointments and the rates of  
Salaries which you propose.

The circumstances of the Settlement fully justify the appoint-  
ment of a permanent Commandant, and I shall take an early  
opportunity of signifying Her Majesty's selection of an officer  
qualified to fill that appointment.

Commandant  
to be appointed  
at Port Phillip.

1838.  
3 April.  
Salary for  
commandant.

Adverting to the special authority which it is proposed to delegate to the Commandant, Her Majesty's Government do not object to sanction the allowance of £800 per annum, which your Predecessor has recommended for the Officer, who may be selected for that command in lieu of all allowances for lodging, fuel, light and rations.

Approval of  
additional  
puisne judge.

Her Majesty's Government also approve of the appointment of an additional Puisne Judge to the Judicial Establishment of your Government, with a view to the holding Assizes at that remote District, as well as to provide for an increased efficiency in the Bench.

Appointments  
approved.

The other appointments recommended by Sir Richard Bourke are also approved, including those in the District of Geelong.

Approval of  
Bourke as  
name for  
district.

I have satisfaction in conveying to you Her Majesty's compliance with the desire of the Residents in that portion of the Colony that it should bear the name of Your Predecessor under whose Government the Settlement was established.

Proposals  
submitted  
to treasury.

I have submitted for the consideration of the Lords Commissioners of the Treasury the proposal, contained in Sir Richard Bourke's dispatch No. 45 of the 15th June last, for the establishment of a Government Steam Vessel to keep up communication with the out-stations; and also that, in his dispatch No. 91 of the 14th Sept. for the appointment of a Treasurer and Collector at Port Philip.

I have, &c.,  
GLENELG.

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SIR GEORGE GIPPS TO LORD GLENELG.  
(Despatch No. 48, per ship Jessie.)

My Lord, Government House, 3rd April, 1838.

Transmission  
of notes re trial  
of H. Hammond.

I have the honor to transmit herewith a Copy of the Notes taken by the Chief Justice of this Colony at the trial of Henry Hammond, alias Henry Fleming, who was acquitted on a charge of cutting and stabbing a girl named Jane Boyle with a razor on the ground of insanity; and I have, in conformity with the Act of 39th and 40th Geo. 3rd, Cap. 94, Sec. 1, to request that I may be honored with Her Majesty's commands, as to the way in which he shall be disposed of.

Confinement  
of H. Hammond  
as criminal  
lunatic.

Until Her Majesty's pleasure shall be signified, I have caused him to be lodged in the Lunatic Asylum of this Colony; and I would venture to suggest that he should be confined there, or placed under private treatment during the continuance of his malady, at the discretion of the Governor.

I have, &c.,  
GEO. GIPPS.

[Enclosure.]

1838.  
3 April.Report by  
J. Dowling  
re trial of  
H. Hammond.

REPORT of the case of *The Queen v. Henry Hammond*, alias *Fleming*, tried before James Dowling, Esquire, Chief Justice of New South Wales, at a Criminal Session of the Supreme Court, holden at Sydney on the 6th February, 1838.

THE information charged the prisoner in the first count with maliciously cutting Jane Boyles with a razor on the left side of the neck, at Bathurst Plains on the 27th November, 1837, with intent to disfigure her. The second count laid the intent to do her some grievous bodily harm.

The Attorney General conducted the prosecution.

The following witnesses were examined:—

THOMAS YOUNG. I am a Carpenter living at Bathurst. I knew prisoner. He was a school-master. He was a teacher in Dr. Fitzsimmon's school. A little girl of Mr. Boyles, between three or four years old, went to the school. He is a publican at Bathurst. In November, I saw the prisoner come up to the child and do something to her, which I did not see. I was ten or twelve rods off. He caught the child by the head and chin, but I did not see what he was doing. He was by the road side, about two in the afternoon, opposite the school house. The child was playing with another. The prisoner ran away and left the child, and the child made to the school house, and they all ran away and said the child's throat was cut. I made after the prisoner, and brought him back. Two or three hours afterwards, I saw the child at Mr. Boyle's house. There was a cut across its throat. It was then dressed. The dressing part appeared to be about 3 inches and a half in length. It was the lower part of the neck, straight across. The neighbours searched prisoner in my presence, and found a razor and a penknife about him. There was no blood on either. He did not say anything. He did not resist. I had known him for a fortnight. He did not appear any way wrong in his senses. On hearing them say the child's throat was cut, I ran after him. He caught the child by the hind part of the head. The school broke up at twelve. The prisoner was sober.

*Cross-examined.* The man who assisted me wanted to let the prisoner go. The man called himself Rumbold. He was not quite sober. There was no blood on prisoner's clothes; he was running when I followed him. He was alone. Rumbold was not nigh the child.

GEORGE TOOL. I am a Cooper at Bathurst. I recollect the 27th November. I recollect a child named Jane Boyles. I saw the prisoner passing up and down frequently before my door on that morning. I saw him make over to the child, who was coming down from her father's house to school. I saw him stoop down, as I thought, to kiss the child. I heard the child scream, and I saw the prisoner run away. I ran into the school. The child came across, and Mr. Fitzsimmons said, at the time, that old Fleming had cut the child's throat. I saw the cut bleeding across the throat, about an inch and a half in length. It did not bleed hard at the time. The child was taken away. I went to look after the man. It bled a good deal afterwards. I saw the two men bring him back. I saw him searched, and a razor and an old knife found. I have known him ten weeks. I have frequently seen him before this.

1838.  
3 April.

Report by  
J. Dowling  
*re* trial of  
H. Hammond.

I never saw anything in his conduct to lead me to suppose he was of unsound mind. That morning I saw him making faces, opening his mouth, and drawing his breath very hard. He had lost his situation four days before for being drunk, but Fitzsimmons said he might stop there till he got another situation; but there he should not stop. That was the only thing I thought had affected his mind. About ten minutes before this, it appeared to me that he was greatly out of his senses. I do not know of his quarrels with the child. The skin was cut through. The wound was the eighth of an inch in depth at the least across. I saw her walking about in three days afterwards. The Surgeon's Certificate was as follows:—"The wound was not dangerous; it is now nearly healed; the skin was divided."

The case for the prosecution closed.

The prisoner in his defence said, he had no malicious intention towards the child.

The following witnesses were called in his behalf:—

WALTER STREET, a farmer at the White Rock. I have known prisoner about twelve months. I had some nephews, who went to his school when he kept one. I always considered him a kind hearted man; he had fourteen or fifteen scholars. I never heard of his being cruel to the children. He had been clerk to the Reverend Mr. Keen. At that time, I always considered him a person of sound mind. I sent my Nephews to his school on account of his good character.

Mr. Cooper came up and took his school, and the farm. The prisoner was renting a small allotment of Goldsby. He is nearly fifty.

GEORGE TOOL. I had three of my children going to this school of Fitzsimmons'. I considered him a very kind hearted man, and it was said he was more kind to this child than any in the room. I cannot conceive it possible he could have any bad motive to this child. The children were going to school. The child could speak. I never heard of any act of cruelty towards the children.

The Jury found the prisoner Not Guilty on the ground of insanity at the time the offence was committed.

The prisoner was remanded to close custody in pursuance of the Statute 39th and 40th Geo. 3, C. 94, S. 1, until the pleasure of Her Majesty should be made known.

Sydney, 20th March, 1838.

JAMES DOWLING,

Chief Justice.

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LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 99, per ship John Renwick.)

Sir,

Downing Street, 5th April, 1838.

I have the honor to transmit, for your information, the enclosed copies of a correspondence, which has taken place between this Department and the Board of Treasury, shewing the arrangement which has been made for apportioning the charges attending the Office of the Agent General for Emigration.

I have, &c.,

GLENELG.

5 April.

Correspondence  
*re* changes in  
office of agent  
general.



[Enclosure No. 1.]

1838.  
5 April.

UNDER SECRETARY STEPHEN TO MR. F. BARING.

Sir, Downing Street, 2 March, 1838.

Submission of estimates for emigration agents.

I am directed by Lord Glenelg to transmit to you herewith, the enclosed Estimate of the Expenses of Emigration Agents for the Year ending the 31 March, 1839.

You will observe that, in pursuance of the measure proposed in my letter of the 28th Octr., and agreed to in the Communication I received from you dated the 15th Decr. last, there appears on this estimate an annual Increase of £208 5s. for the Salary of a resident Agent at Londonderry, together with an Additional Sum for the present Year only of £52 1s. 3d. on account of one quarter's Arrears of Salary from the creation of the Appointment on the 31st January to the 31st of March, 1838.

There likewise appears for this year only, and in conformity with the principle consented to in your letter of the 1st January, 1838, a charge of £279 for the repairs and furniture of an office assigned to the Agent Genl. for Emigration. The amount mentioned, when last Lord Glenelg was in communication with the Lords of the Treasury on this subject, was £249; but, in consequence of more room being required than was expected, the small addition included in the above Estimate has been found unavoidable.

The time has now arrived when it seems desirable to settle the Charges on the Parliamentary Estimate for the Establishment of the Agent General.

Necessity for decision re charges for establishment of agent general for emigration.

Last Year a vote of £300 was taken on account of his Salary, but without any provision for Clerks or Messengers or the necessary Contingencies of a separate Office Established in a separate building. All expenses of that nature were left, for the time, to be defrayed out of the Land Revenue of those Colonies, to which it was supposed that the services of the Dept. wd. chiefly be devoted.

There is now, however, sufficient experience to judge what portion of the charge it will be equitable to lay on the funds, which form the subject of an application to Parliament.

Eleven Officers are stationed at the Principal Ports of the United Kingdom for the protection of all Emigrants to any of the British Colonies or to the United States. The whole business of corresponding with and superintending this Establt. belongs to the Agent General, involving points of considerable importance as Connected with the enforcement of the Passengers Act,\* and other practical questions on which it is his duty either to furnish advice or to give directions.

Functions of agent general.

In regard to any matter of peculiar importance in relation to Emigration that may be brought under the consideration of H.M. Govt., such for example as the question last year of its applicability to the relief of the distress in the Highlands, this officer is expected to be competent to make a Report calculated to assist the final decision.

All these are functions evidently appertaining to the duties of the General Government of this Country.

Again, as regards the Emigration to New S. Wales and V. D. Land, it may be stated that it is now proceeding at the rate of

\* Note 3.

1838.  
5 April.

Annual  
emigration  
to colonies.

Advantage of  
emigration to  
colonies and  
Great Britain.

Charges  
proposed on  
British  
treasury.

Expenditure  
to be borne by  
colonial funds.

Salary for  
assistant to  
agent general.

from 16 to 17 Ships per Annum, containing 5,000 Souls, and that the Ships so going out are engaged and fitted, and the passengers in them selected, under the general direction and responsibility of the Agent General; by whom also all their Accounts, so far as made up in this Country, have been examined, and all the payments made at his recommendation.

This business of collecting and sending out 5,000 people and 16 or 17 Ships per annum is not an exclusively Australian Service. It is just that the greater part should be charged on the funds of the Colony; but the Mother Country, which at any rate might perhaps be deemed to have its own share of the duty, has also its own direct and immediate share in the benefit. For in the conduct of the Emigration to Australia every opportunity has been taken (and some have occurred of considerable importance) to render it as far as possible subservient to the relief of distressed districts at Home.

On a review of these circumstances, Lord Glenelg thinks that a Salary of £500 for the Agent General should be borne upon the Parliamentary Estimate, and of £200 for an Assistant to him, and that for the miscellaneous expences of Copyists, Messengers, and the Contingencies of an office, there shd. be allowed £300 making a total charge on the Estimate of £1,000 per annum for the maintenance of the Central Establishment for Emigration.

Lord Glenelg proposes that the Excess of Expenditure requisite beyond this amount should be defrayed out of the Land Revenues of the Australian Colonies in pursuance of the plan already in force. It is necessary, however, to add one or two observations on this subject. The Agent General's Salary has been fixed, as you are aware, at £800, to increase at the rate of £50 per annum until it reaches the Sum of £1,000. Five Hundred Pounds out of this amount was paid last year from the Colonial Funds. But, in preparing the present year's Estimate for Parliament, Lord Glenelg has thought that, instead of leaving upon it the smaller portion of the Salary, with a trifling increment to be annually added, it is better to bring forward at once the charge to be constantly maintained, and to transfer to the Colonial Revenues the growing portion of this Salary. The immediate effect will be a saving in the first year, altho' not a permanent one, of £150 to the latter Fund.

On the other hand, some addition will be required from this source to the Salary of the Agent General's Assistant. £200 has been placed on his account on the Estimate, and it is as much as it seemed equitable to apportion to that Fund; but, looking to the nature and extent of the duties thrown upon the Emigration Dept. by the increasing amount of business accruing from the Australian Colonies, it is obvious that the Agent General could-not efficiently discharge his functions without a very competent Assistant, for whose remuneration therefore Lord Glenelg would suggest that a Salary of £350 in all would be proper, the Sum of £150 being paid from the Colonial Land Revenues.

I am to request that you will favor me with the opinion of the Lords Commissrs. of the Treasury on the subjects brought under their notice in this letter, and that you will submit the accompanying Estimate for Parliament to their Consideration.

I have, &c.,

JAMES STEPHEN.

[Enclosure No. 2.]

1838.  
5 April.

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 6 March, 1838.

I have it in command from the Lords Commrs. of H.M. Treasury to request you will state to Id. Glenelg, in reply to your letter of ——— Inst. inclosing an Estimate of the expence of defraying the Salaries of the Agents for Emigration for the Year, ending 31 March, 1839, amounting to £3,819 15s., that my Lords approve of the arrangements, which his Lordship proposes to carry into effect in regard to the Salary of the Chief Agent for Emigration, and the Appointment and apportionment of the Salary of the Assistant to the Chief Agent's Office; and they will accordingly direct that the Estimate for the Emigration Dept., which accompanied your letter, shall be submitted to Parliament.

I am, &amp;c.,

A. Y. SPEARMAN.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 50, per ship Jessie; acknowledged by lord Glenelg, 28th August, 1838.)

My Lord, Government House, 5th April, 1838.

The accompanying Memorial having been sent to me by Mr. John Henry Berner in the manner prescribed by the Regulations, it becomes my duty to forward it to your Lordship, though in so doing I beg not to be understood as urging in any degree on your Lordship the prayer that is contained in it.

Mr. Berner came to this Colony in the year 1830, and shortly afterwards entered the Household establishment of Sir Ralph Darling, where he remained up to the time of that Governor's departure. On the 20th October, 1831, being the day preceding that on which Sir Ralph Darling left the Colony, a written order was given by Sir Ralph Darling for Berner to receive a Town allotment at Parramatta; but Sir Richard Bourke refused to confirm the same, it having been given subsequently to the receipt in the Colony of the Regulations forbidding free grants. Sir Richard Bourke however referred the subject for the consideration of the Secretary of State, and it was by order of Lord Goderich that Berner's claim was finally rejected. Sir Richard Bourke's Despatch, on the subject of this and other grants of land, which he did not consider himself authorized to confirm, is dated 7th Feby., 1832, No. 18, and the decision of Lord Goderich is contained in his reply of the 6th July, 1832, No. 107. I have only further to remark that, in this latter Despatch, the applicant is styled *Thomas* Henry Berner, in lieu of John Henry Berner.

I have, &amp;c.,

GEO. GIPPS

Approval of  
proposed  
estimates.Transmission  
of memorial  
from  
J. H. Berner.Details *re*  
claim of  
J. H. Berner.

[Enclosure.]

THE Humble Memorial of John Henry Berner, of Sydney, in the Colony of New South Wales, an Emigrant Settler.

To The Right Honorable The Principal Secretary of State for the Colonial Department, etc., etc., etc.,

Sheweth,

1. That your Memorialist arrived in the said Colony in the year 1830, as an Emigrant Settler, bringing with him a small Capital.

2. That, soon after his said arrival, your Memorialist obtained a situation in the Establishment of His Excellency the Governor, now Sir Ralph Darling, and continued therein until the time of His Excellency's departure from the Colony.

3. That, whilst in the said service, your Memorialist married a young Female who was also in the establishment of His Excellency the Governor.

4. That His Excellency was so well satisfied with the conduct of your Memorialist and his wife, that he was pleased to promise to your Memorialist a grant of an Allotment of land in the township of Parramatta as a means of promoting their success in life.

5. That, in pursuance of the said promise, your Memorialist had the honour to receive from the Honorable the Colonial Secretary a letter dated the 21st October, 1831, informing him, by direction of His Excellency the Governor, that His Excellency had been pleased to order that he should receive an allotment in the township aforesaid, and requesting that he would therefore notify to the Surveyor General the spot he was desirous of obtaining. *Vide Appendix.*

6. That, on the day following the date of the said letter, namely, on the 22nd October, 1831, His Excellency Governor Darling embarked for England, so that your Memorialist had not the opportunity of reporting his selection until the arrival of his successor, the late Governor Sir Richard Bourke, who took charge on the 2nd December following.

7. That, upon your Memorialist's applying to His Excellency Sir Richard Bourke for the Grant so promised by Sir Ralph Darling, he was surprised and grievously disappointed to find that His Excellency was not willing to confirm the same on the ground that, in making such promise, his predecessor in the Government had exceeded his powers; and consequently the said promise has to the present time remained unfulfilled.

8. That it is not for your Memorialist to presume to judge as to the question of Sir Ralph Darling's powers, since that is a point of fact upon which none can be so competent to decide as your Lordship; but he would venture with all humility to submit, that the interests of the subject ought not to be sacrificed for the sake of errors of office, and that the faith of the Crown having been pledged by the official and written promise of its constitutional Representative, your Memorialist is entitled, upon every just and equitable principle, to claim the full benefit of so solemn an engagement.

Wherefore your Memorialist humbly prays that your Lordship will be pleased to take the premises into your most favorable consideration, and thereupon to instruct His Excellency the

1838.  
5 April.

Memorial from  
J. H. Berner  
soliciting grant  
of town  
allotment.

Governor of the Colony aforesaid to make to your Memorialist a Grant of an Allotment of land in the township of Parramatta, in fulfilment of Sir Ralph Darling's aforesaid promise.

1838.  
5 April.

And your Memorialist will ever pray, etc., etc., etc.

J. H. BERNER.

Sydney, New South Wales, 19th February, 1838.

[Appendix, referred to in Paragraph 5.)

MR. T. C. HARINGTON TO MR. J. H. BERNER.

Sir, Colonial Secretary's Office, 21 October, 1831.

I am directed by the Governor to inform you that His Excellency has been pleased to order that you shall receive an allotment in the Town of Parramatta, and to request that you will therefore notify to the Surveyor General the spot you are desirous of obtaining.

Order for town allotment for J. H. Berner.

I am, &c.,

T. C. HARINGTON.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 100, per ship John Renwick.)

Sir, Downing Street, 7th April, 1838.

7 April.

I beg to call your attention to the first clause of the Australian Company's Charter, which provides that all Grants of Land, which shall be made to the Company, shall be passed under the Great Seal of the Colony in pursuance of such Warrants under the Royal Sign Manual as may for that purpose be issued; And I have to request that you will direct the Law Officers of your Government to prepare the Drafts of such Instrument as may appear best adapted to give effect to this provision of the charter, which you will transmit to me.

Instructions re deeds for land grants to A.A. company.

I have, &c.,

GLENELG.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 54, per ship Jessie; acknowledged by lord Glenelg, 28th August, 1838.)

My Lord, Government House, 7th April, 1838.

With reference to your Lordship's Despatch of the 2nd October, 1837, No. 380, announcing to my predecessor that two Roman Catholic Clergymen, the Revd. John Brady and the Revd. James Goold, had been selected by the Revd. Mr. Ullathorne to proceed to New South Wales, and that the former of them was intended for Norfolk Island, I beg to report to Your Lordship that these two gentlemen came to the Colony in the same ship (the "Upton Castle") with myself, and that, shortly after my arrival, I was surprised at hearing accidentally from

Arrival of Revds. J. Brady and J. Goold.

1838.  
7 April.  
Appointment of  
Revd. J. Brady  
for duty at  
Windsor.

Mr. Brady that the Roman Catholic Bishop, instead of sending him to Norfolk Island, had appointed him to do duty at Windsor within the Colony of New South Wales. Immediately on learning this I requested Dr. Polding, first personally and afterwards by letter, to explain his reasons for thus deviating from your Lordship's instructions, and expressed to him my apprehensions that your Lordship would be displeased at finding that Norfolk Island was still unprovided with a regular Minister of the Catholic Church. Of the answer which I received from Dr. Polding, I have now the honor to enclose a Copy; and I have further to explain that Dr. Polding has repeatedly assured me that he will very shortly be able to send thither the Revd. Mr. Dowling, who is now at Maitland, or the Revd. Mr. Walker at present in Van Diemen's Land, and that the want of a Roman Catholic Clergyman will be in the mean time the less felt, as Mr. Harding, a Catechist of the Roman Catholic Church, has been very recently Despatched to Norfolk Island from Sydney.

Proposed  
transfers of  
R.C. clergy.

I beg your Lordship to believe that I have not failed to represent to Dr. Polding the very great importance, which your Lordship attaches to securing the services of a competent Minister of Religion at Norfolk Island; and that I have only acquiesced in the arrangement made by Dr. Polding from a desire to avoid the exercise of any act of authority, which might disturb the good understanding now happily existing, and which it is so desirable to maintain, between the Executive Government and the Head of the Roman Catholic Church.

Necessity for  
chaplain at  
Norfolk island.

I have, &c.,  
GEO. GIPPS.

[Enclosure.]

RIGHT REV. J. B. POLDING TO THE COLONIAL SECRETARY.

Sir,

Sydney, 15th March, 1838.

I have the honor to acknowledge your communication of the 14th Inst. relative to the appointment of the Reverend Mr. Brady and enclosing a despatch from Lord Glenelg on the same object.

Under the conviction that the services of the Reverend Mr. Brady will be far more valuable in the Colony than at Norfolk Island. I have in accordance with his own inclinations commenced arrangements, which will give those services to this Colony, and at the same time provide Norfolk Island with that spiritual assistance of which the R.C. Prisoners have been so long deprived. Mr. Brady was not aware, till he arrived in this Colony, of the confined range of Duty at Norfolk Island. He has been accustomed to a more active life, which he prefers. One of the Reverend Clergy under my jurisdiction has long desired to retire to a situation less arduous than that which circumstances required him to occupy, and I trust he will be prepared to proceed to Norfolk Island in the course of a short time.

I have, &c.,  
J. B. POLDING.

Explanation re  
appointment of  
Revd. J. Brady  
and chaplain  
for Norfolk  
island.

SIR GEORGE GIPPS TO LORD GLENELG.

1838.  
9 April.(Despatch No. 55, per ship *Jessie*; acknowledged by  
lord Glenelg, 28th August, 1838.)

My Lord, Government House, 9th April, 1838.

At the request of Mr. Justice Willis, I have the honor to forward to your Lordship copies of two letters, which have been addressed by His Honor to the Secretary of this Colony on the subject of his salary, from the day of his embarkation in England to that on which he entered upon his duties in New South Wales.

Transmission  
of letters from  
J. W. Willis.

Mr. Justice Willis has been paid only half salary for this period, in conformity with the general rule, established for all officers not actually in performance of their duties, and this half salary even has been issued in the understanding that he is to refund it, if not sanctioned by the Secretary of State; but he now claims full salary on the strength of the 6th Clause in the Charter of Justice of New South Wales, referred to in his letter.

Claim by  
J. W. Willis  
to full salary  
from date of  
embarkation.

The only observations I feel it necessary to offer on this matter are that, by the Charter of Justice issued in the 4th year of the Reign of George the 4th, only one Judge was appointed to the Supreme Court of New South Wales, and that, though subsequently two Puisne Judges were added under the provisions of the New South Wales act, 9th Geo. 4th, Cap. 83, Sect. I, no new Charter of Justice was issued in consequence of the passing of that act. The construction put upon the sixth Clause\* of the Charter of Justice by the late Acting Governor of this Colony and by the Auditor General is that full salary can only be granted, in cases where the appointment is a new one, as it was in the case of Chief Justice Forbes under the Charter of Justice, and of Mr. Dowling under the 1st Clause of the New South Wales Act; and the reason assigned by the Auditor General for this opinion is that in other cases there will be generally a person acting on the spot, and entitled to the other half under the general regulations of page 19 in the Book issued from your Lordship's office in the year 1837.

Criticism  
of claim.

In the case in question, however, I think it my duty to point out that Mr. Kinchela, who held a temporary place on the Bench from the time of Mr. Dowling's advancement to the seat of Chief Justice to that of Mr. Willis' arrival, received not half but full salary, and that therefore the half salary even to Judge Willis is unprovided for. In this your Lordship will not however I hope understand me as objecting to the issue of full

\* Note 76.

1838.  
9 April.

salary to Mr. Kinchela, for I am on the contrary impressed with the idea of its propriety; knowing that, if half salary only were allowed, no person properly qualified would be found willing to accept the office of temporary Judge in this Colony.

I have, &c.,  
GEO. GIPPS.

[Enclosure No. 1.]

MR. JUSTICE WILLIS TO COLONIAL SECRETARY THOMSON.

Sir, Sydney, 27th Decr., 1837.

As it appears by the 6th Clause\* of the Charter of His late Majesty King George the 4th for establishing Courts of Justice in New South Wales "That the Salary shall commence and take place in respect to any person, who shall be resident in Great Britain or Ireland at the time of Appointment, upon and from the day on which any such person shall thereupon embark or depart from Great Britain or Ireland to take upon him the execution of his Office," and that this clause *was acted upon* not only in the case of Sir Francis Forbes, the late Chief Justice, but also in that of Mr. Dowling, the present Acting Chief Justice, when he embarked from England for this Colony in 1827 to take upon himself the Office of a Puisne Judge of the Supreme Court. I humbly conceive that I am clearly entitled to be placed in the same situation, and to receive *the whole*, instead of *half* of my Salary, as a Puisne Judge of the Supreme Court, from the 10th July, the date of my Embarkation from England (in consequence of being appointed by Her Majesty the Queen to fill that Office) until the 3rd of November, 1837, the period of my arrival in this Colony to take upon myself its duties. I am aware that, where there is not, as in the New South Wales Charter, an *express Provision* that the *full* amount of Salary should be received, that *half* only is *usually allowed*; but I do not conceive that any usage with regard to other Colonies can controul this Charter, more especially as the length of the Voyage and additional Expences seem a sufficient reason for the clause having been inserted.

Under these Circumstances, I venture to request that you will have the goodness to state my claim for *full salary* to His Excellency The Acting Governor; and to obtain for me His Excellency's Warrant for £240 Ss. 2d., the difference between *half* and *full* Salary during my voyage.

I have, &c.,

JOHN WALPOLE WILLIS.

[Enclosure No. 2.]

MR. JUSTICE WILLIS TO COLONIAL SECRETARY THOMSON.

Sir, Surrey Hills, Sydney, 7th March, 1838.

In reply to your obliging letter received this day, I beg to say that, as I humbly construe the Charter of Justice equally to apply to a Judge now appointed from England to fill a Vacancy on the Bench in this Colony, as to those who were originally appointed, there being nothing whatever in my humble judgement to restrict it to the latter case, I shall feel much obliged by the question being referred for the decision of Her Majesty's Colonial Secretary of State.

I have, &c.,

JOHN WALPOLE WILLIS.

Claim by  
J. W. Willis  
to full salary  
during voyage  
from England.

Request for  
reference to  
secretary of  
state.



SIR GEORGE GIPPS TO LORD GLENELG.  
(Despatch No. 56, per ship Jessie.)

1838.  
10 April.

My Lord, Government House, 10th April, 1838.

I have the honor to transmit herewith the Duplicate of a Memorial from Captain Faunce, late of the 4th Foot, of which I believe the Original was taken to England by Sir Richard Bourke for the purpose of being presented by him in person to Your Lordship.

Transmission of  
memorial from  
A. T. Faunce.

I have, &c.,  
GEO. GIPPS.

[Enclosure.]

[A copy of this memorial is not available.]

SIR GEORGE GIPPS TO LORD GLENELG.  
(Despatch No. 57, per ship Jessie; acknowledged by  
lord Glenelg, 11th October, 1838.)

My Lord, Government House, 11th April, 1838.

11 April.

I have the honor to transmit herewith, a letter addressed to your Lordship, and with it two printed documents\* and one written one, which have been this day put into my hands by Mr. Macleay, late Secretary of this Colony.

Transmission of  
papers from  
A. Macleay.

I have, &c.,  
GEO. GIPPS.

[Enclosure.]

[A copy of the written paper is not available.]

SIR GEORGE GIPPS TO LORD GLENELG.  
(Despatch No. 58, per ship Jessie; acknowledged by  
lord Glenelg, 25th August, 1838.)

My Lord, Government House, 12th April, 1838.

12 April.

A vacancy having occurred in the situation of Third Police Magistrate of Sydney by the resignation of Mr. Adolphus Young, I have the honor to report that I have nominated Mr. Ryan Brenan to succeed him; and, in the event of this appointment being confirmed by your Lordship, I propose, for reasons presently to be stated, that Mr. Brenan should hold it in conjunction with the Office of Coroner which he already fills.

Resignation of  
A. Young and  
appointment of  
J. R. Brenan  
as police  
magistrate.

The salary attached to the office of Third Police Magistrate is only £300 a year; and so inadequate is this sum to procure the permanent services of any competent individual that, since it was first created in October, 1833, it has been vacant by the resignation of the holder no less than five different times; the gentleman, who was first appointed to it, namely, Mr. E. A. Slade, resigned in November, 1834, Mr. Robert Stewart resigned in

Inadequacy of  
salary of third  
police  
magistrate.

1833.  
12 April.

January, 1836, Mr. H. F. Gisborne resigned in October, 1837, Mr. R. Stewart a second time in Decr., 1837, Mr. Young resigned in March, 1838.

Salaries  
proposed for  
J. R. Brenan.

By the last Blue Book, the total emoluments of the office of Coroner were £228, so that the united salaries of the two offices, now to be held by Mr. Brenan, will amount to £528. It is however understood that Mr. Brenan is no longer to engage in practice as a Solicitor, which he has been allowed to do whilst holding the office of Coroner.

Practice *re*  
inquests.

For the convenience of persons serving on Juries, Inquests before the Coroner are usually held either early in the morning, or late in the evening; and for this reason the holding of them will not materially interfere with Mr. Brenan's duties as a Police Magistrate, which generally commence at ten o'clock in the morning, and finish between 2 and 4.

Salaries of  
first and  
second police  
magistrates.

The first Police Magistrate has a salary of £650 a year, which affords him a sufficient remuneration, but the second Police Magistrate, Mr. Windeyer, whose salary is only £350, holds in addition to that appointment the office of a Commissioner of land claims, the average emoluments of which may be stated at £200 a year, and are increasing.

Mr. Ryan Brenan was, as your Lordship may recollect, appointed by Sir Richard Bourke to the situation of Principal Superintendent of Convicts, but was subsequently superseded by the appointment from England of Captain McLean. I trust therefore that his claims may now meet your Lordship's favorable consideration.

I have, &c.,

GEO. GIPPS.

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SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 59, per ship *Jessie*; acknowledged by lord Glenelg, 28th August, 1838.)

13 April.

Suspension of  
H. F. White  
as assistant  
surveyor.

My Lord, Government House, 13th April, 1838.

I have the honor to report to your Lordship that, when I assumed this Government, I found that Mr. H. F. White, an assistant in the Surveyor General's Department, had been suspended from the performance of his duties by the late acting Governor, under circumstances which it is my duty to detail to your Lordship, and which I do not doubt your Lordship will concur with me in thinking render Mr. White unfit to remain in Her Majesty's service.

Duty assigned  
to H. F. White.

Mr. White was sent by the head of the Department, in August, 1836, to conduct a survey near Port Macquarie, distant about 150 miles to the Northward of Sydney; and it appears that, some

time after his arrival at that place, he purchased land in the neighbourhood of it.

1838.  
13 April.

In the month of January last, some misunderstanding having sprung up between Mr. White and the Police Magistrate of Port Macquarie (Mr. Gray), the latter, in justifying himself against the charge of improper interference in the laying out of a road, stated, in a letter to the head of the Survey Department, that Mr. White had done no duty for the Public for the two preceding months, but had employed himself, his men and his bullocks for his own private advantage on the land that he had purchased; and here I should mention that Mr. White had under his charge, for the purpose of assisting him in his survey, 7 men, 6 Bullocks and 3 horses. The Deputy Surveyor General very properly brought Mr. Gray's letter under the notice of the local Government, and at the same time called on Mr. White to answer the charges which were contained in it; Mr. White in his reply, though he attempted to justify himself against the charge of having done no work on the plea that he had performed as much as the state of his health would permit, admitted the fact of having employed the men and bullocks in the way stated by the Police Magistrate; in recrimination however, he brought forward a number of charges against the Police Magistrate, of which none, as your Lordship will perceive, contain matter of any serious import, and which after investigation Colonel Snodgrass, the late Acting Governor, pronounced to be "frivolous, vexatious, and uncalled for."

Charges made  
by W. N. Gray  
against  
H. F. White.

Frivolous  
charges made  
by H. F. White.

Having done this, and signified to Mr. White has disapprobation of the way in which the men and bullocks had been employed, Colonel Snodgrass expressed his readiness to allow the whole matter to drop, provided Mr. White would withdraw his unfounded charges against the Police Magistrate. Mr. White, however hesitating to do this, and in fact not having done it or returned any answer to Colonel Snodgrass, when the vessel in which I was embarked hove in sight, was suspended by Colonel Snodgrass, and thus the matter stood when I entered upon the Government.

Settlement  
proposed by  
K. Snodgrass.

Suspension of  
H. F. White.

A few days after my arrival, the letter, No. 10 among the documents sent herewith, was delivered to me; for, though addressed to Colonel Snodgrass, it was not received until after he had given up the Government. In it, Mr. White, taking no notice of the charges against himself, flatly refuses to withdraw those which he had preferred against Mr. Gray, and intimates also an intention of resisting the authority of Government, if ordered to remove from Port Macquarie to another district. The tone, assumed by Mr. White in this letter, appeared to me, I must say,

Refusal of  
T. F. White  
to withdraw  
charges.

1833.  
13 April.  
Proposed  
dismissal of  
H. F. White.

so indecorous towards the late Acting Governor, and so unbecoming the situation in which he was placed by his own acknowledged delinquency, that I deemed it my duty to continue his suspension; and I have now further to submit to your Lordship whether, under all the circumstances of the case, he can be considered a fit person to remain in Her Majesty's service.

I enclose to your Lordship the whole of the documents, which are in my possession, having reference to the case and a schedule or index of their contents.

I have, &c.,  
GEO. GIPPS.

[Enclosure No. 1.]

MR. W. N. GRAY TO DEP. SURVEYOR-GENERAL PERRY.

Dear Sir,

Port Macquarie, 5th Jany., 1838.

Denial of  
statement of  
H. F. White.

Mr. White, the Asst. Surveyor, having wrote you that I altered the line of road he had marked out, I expected to have heard from some quarter officially concerning it by this trip of the Steamer; but, not having heard anything of it, I beg leave to inform you there is not one word of truth in it. So anxious was I to get Mr. White to mark the line of road up the Hastings, so as it might be passable for a Cart, that I offered to drive him in my Buggy.

Charges by  
W. N. Gray  
against  
H. F. White.

You would be doing a great service to the Settlers here, were you to give orders for the road immediately to be made. If you will make inquiry, you will find that Mr. White has not done *one* day's work for the Government for the last two Months. The Men and Bullocks under his Charge are generally employed upon his own Farm fencing in a Paddock of Eighty Acres, and carting Bricks and Slabs to build a House. Were either I or Mr. Thompson, the Clerk of Works here, to do Such a thing, we would immediately be dismissed.

I have no particular wish to injure Mr. White; all that I want is to have the road marked out for the good of the District; but, if you wish it, you may make this report official.

Yours faithfully,  
W. N. GRAY, P.M.

[Enclosure No. 2.]

MR. H. F. WHITE TO DEP. SURVEYOR-GENERAL PERRY.

Sir,

Sydney, 16 Jany., 1838.

Reply by  
H. F. White to  
charges made  
by W. N. Gray.

I have the honor to acknowledge the receipt of your letter No. 38/12, enclosing one from Mr. Gray, the Police Magistrate at Port Macquarie, in which he states that it is untrue that he has deviated from the line I marked at the Hastings for the road, and, so anxious was he to get it marked, that he offered to drive me in his Buggy.

Also that you will find that I have not done one day's work for the Government for the last two months, the Bullocks and Men in my charge being generally employed on my own Farm.

That, were either he or Mr. Thompson, the Clerk of Works, to do such a thing, they would be immediately dismissed.

That he has no particular wish to injure me; all that he wants is to have the road marked for the good of the district.

In reply to the first part of Mr. Gray's letter in which he denies having made the road in places where I have not marked it. I beg to repeat my statement that he has done so, and that, if an investigation be made, I can prove the fact.

With reference to Mr. Gray's assertion that he offered to drive me in his Buggy, I have to remark that he has no vehicle of any description in the district.

As to my not having done one day's work for two months, I request you will peruse the enclosed Certificates, shewing that my Health has been for a longer period than two months, and still is so bad as to render me unfit for any surveying duty.

I have also to request your attention to the enclosed letter from Mr. W. S. Parker, who happened by chance to be present on two days out of five that I was surveying in his Neighbourhood; and, notwithstanding the fact of my health being so bad, I have been frequently out surveying during the period mentioned, as will be seen by reference to my letters Nos. 37/55, 37/56 and 37/57, and also by the survey of the ground proposed as an addition to the Town of Macquarie, forwarded in my letter No. 38/5 also by my letter No. 37/52, transmitting plans and descriptions of 36 allotments in the town of Macquarie. I have also marked out 5 miles of the Road to the Hastings. Indeed I have felt so satisfied that the quantity of work done by me would not be objected to, that I did not think it necessary to send the certificate of my health.

Respecting Mr. Gray's statement that I have employed my Men and Bullocks, I beg to State that my Pack Bullocks being very intractable, if they are not constantly at work, I find it necessary to work them when I have not occasion for their services on pack; and, with regard to my men, I did not think there was any impropriety in allowing them to be employed in their spare time, as it is customary in the District to allow the Prisoners in the Service of the Government to employ themselves during certain hours in the day as they think proper, called their spare time; The Men even in the road parties, where they go as a place of punishment, being allowed by Mr. Gray to work for the Settlers.

Referring to Mr. Gray's assertion that "He has no particular wish to injure me," I am prepared to prove that he, at the time he charged me with not having done one day's work for the Government, knew of my having been out marking part of the Road to the Hastings, 12 miles from the Town, and that he also knew of my not being in a fit state of health to attend to surveying.

Indeed I cannot conceive how Mr. Gray can take upon himself to say that I have not done *one* day's work for two months, when he has been during that time at his own Farm about 30 Miles from Macquarie for two or three days at a time.

I have, &c.,

H. F. WHITE, A S.

[Sub-enclosures.]

#### CERTIFICATES.

I CERTIFY that, in the absence of Dr. Moncrieff, Colonial Surgeon of the District, sub-poenaed to Sydney, and whose duties I was performing here, I attended Mr. H. F. White, Surveyor, here from the 21st of October to the 13th of November last, the time of Dr. Moncrieff's return, and that during that period it was absolutely necessary for the recovery of his health to keep his room or to take only a very moderate exercise.

ED. FATTORINI, M.D.

Port Macquarie, 13 January, 1838.

Certificates  
re health of  
H. F. White.

1838.  
13 April.

Reply by  
H. F. White to  
charges made  
by W. N. Gray.

1838.  
13 April.  
Certificates  
re health of  
H. F. White.

I HEREBY certify that, on my return to my Station at Port Macquarie on the 13th November, 1837, I relieved Doctor Fattorini of the Medical Care of H. F. White, Esqr., Asstt. Surveyor, who was a considerable time afterwards confined to his House from a severe attack of Indisposition, and that up to this period he has been under treatment, and in my opinion unfit for any active duties in the bush.  
Port Macquarie, 13 January, 1838. GEO. F. MONCRIEFF.

WE, the undersigned, have examined H. F. White, Esqr., Assistant Surveyor, as to the present state of his health and beg to state as our opinion that he is at this moment quite unfit to undertake any surveying expedition into the interior.

GEO. F. MONCRIEFF, Col. Asstt., Surgeon.  
ED. FATTORINI, M.D.  
T. GALLOWAY, M.D., Surgeon, R.N.

Port Macquarie, 13 Jan., 1838.

I CERTIFY that I was with Mr. White, Surveyor, on the 21st and 22d December, 1837, during which days he was Surveying Mr. Walshe's land and marking allotments at the Sugar Plantation, and that it was raining the greater part of the day of the 22d while he was out.  
Clanfield, 13 Jan., 1838. W. S. PARKER.

[Enclosure No. 3.]

MR. W. N. GRAY TO COLONIAL SECRETARY.

Sir,

Port Macquarie, 23 Jan., 1838.

Transmission  
of letter from  
S. Partridge.

I have the honor to forward a copy of a Letter, received from Mr. Partridge, the Superintendent of Convicts at this Station, which I request you will lay before His Excellency the Governor, so as Mr. White may be called upon to bring forward the charges he alludes to, that I may have an opportunity of replying to them. I did not consider that my Situation required me to make any report on Mr. White's conduct or in any way interfere with the Surveying Department; but, being informed that Mr. White wrote to the Surveyor General that I had changed a line of Road that had been marked out, I considered it necessary to write to Captain Perry that it was not the case. At the same time reported in what manner Mr. White employed the Government Men and Oxen under his charge, which has been remarked by several Individuals for the last two months, viz.: the men splitting and fencing, and the Oxen drawing in the rails to fence Mr. White's Farm, and also drawing Bricks to build a large sized House upon the said Farm.

I have, &c.,

W. N. GRAY, P.M.

[Sub-enclosure.]

MR. S. PARTRIDGE TO MR. W. N. GRAY.

Sir,

Superintendent's Office, 15 January, 1838.

Statement re  
conversation  
with  
H. F. White.

I consider it my duty to lay before you the particulars of a conversation, which took place yesterday between Mr. Surveyor White and myself.

Mr. White came to me and said, "You will recollect bringing me a Message some time in December concerning marking the line of road from Sarah River to King's River."

I replied, "perfectly well."

Mr. White, "You will recollect the answer that I made that I had projected an alteration in the line of road for about half a mile, and that I should wish to have that done first."

I replied, "I do."

Mr. White, "Will you give me a certificate of the words made use of to you?"

I replied, "Certainly not, I am not in the habit of giving such certificates," meaning when the Bearer of a verbal Message from one Gentleman to another, I was not in the habit of giving Certificates respecting them.

Mr. White again pressed me, saying, "it can in no way injure you, for I must tell you the truth at once. Mr. Gray has written to Head Quarters, reporting me, stating that I had not marked the line as he wished, and that I had not done a day's work for a considerable time; you had better give me the certificate which can be of no manner of harm to you."

I still refused to give any certificate whatever. Mr. White then said, "If you will not give me the certificate, when I go to Sydney, I will expose all the actions that have been carried on at Port Macquarie."

I replied, "You may do as you think proper; for my own part, if all the people in the Colony were watching me, I should do as I act now, and I care for nobody." With that, I turned and went into my House leaving him where he was standing.

I have, &c.,  
S. PARTRIDGE.

[Enclosure No. 4.]

MR. H. F. WHITE TO COLONIAL SECRETARY.

Sir, Sydney, 18 Jany., 1838.

Mr. Gray, the Police Magistrate at Port Macquarie, having in a letter to the Surveyor General stated that there was not one word of truth in a letter, which I wrote to the head of my Department, reporting Mr. Gray's having made the public road to the Hastings in some places where I had not considered it expedient to mark it. I have the honor to request you will forward to His Excellency the Governor my application to be allowed to prove the truth of my representation, in order that I may be enabled to exonerate myself from the charge of having made a false statement, a charge which I cannot allow to be recorded against me without an endeavor to prove how void it is of foundation.

Mr. Gray has stated in his letter to the Deputy Surveyor General that he has no particular wish to injure me, his sole object being the welfare of the district; and it will therefore, I would beg to submit, be but justice to allow him to prove his charges, and to show that his Zeal for the welfare of the district, which had lain dormant until I found it necessary to represent his interference with duties, for which I alone am responsible, has not misled his judgement, and induced him to bring my conduct into question by a Violation of truth.

In addition to charges of a definite nature, which I can meet satisfactorily, Mr. Gray has said that I have committed Acts, which, had he committed them, would Subject him to dismissal; and these Charges of Mr. Gray, who, as a Police Magistrate, has, I may remark, no sort of superintendence over my official conduct, having been entertained, I consider it necessary to shew, not only how inconsistent it is in this Gentleman to bring forward such unfounded accusations, but how unfit he is to exercise an Authority he has perverted in many instances. I therefore beg to urge an investigation be instituted, and that I be permitted to prove the groundlessness of Mr. Gray's charges against me, and the truth of the undermentioned charges which I bring against Mr. Gray as Police Magistrate at Port Macquarie.

1st. With having for some weeks employed a Man under sentence to an Iron Gang, and in Irons, in putting together a Boat which had been broken, belonging to an Acquaintance of his at Port Macquarie,

1838.  
13 April.

Statement re  
conversation with  
H. F. White.

Request by  
H. F. White  
for inquiry.

Charges by  
H. F. White  
against  
W. N. Gray.

1838.  
13 April.

Charges by  
H. F. White  
against  
W. N. Gray.

2d. With frequently lending to his acquaintances the Government Bar Boats, Oars and Men, to take goods to their Farms, one of them having been away for some weeks at Tryal Bay, with the Crew, Oars and paid Coxswain, having taken shingles there, and during the absence of which a Vessel was on the bar for some hours and might have been wrecked, but for the assistance of an extra Boat, Oars and Men, furnished by private individuals, having myself lent Oars at the request of Mr. Gray.

3. With having employed an Ironed Gang to fill up an Allotment of ground in the Town to a level with the Street, about 20 feet, to enable the Proprietor to build a house thereon, and with having allowed the same Gang to cut and lay sleepers for a house on the same.

4. With having employed a Gang of Men and a hand Cart every morning in collecting manure for his garden.

5. With having employed a Gang of men every morning to carry water to the houses of Individuals.

6. With having employed Government means to make a private carriage road and erect a Bridge.

7. With having taken money from one of my surveying party on the plea that he was a Prisoner of the Crown, which money must in that case have belonged to me, having been given by me to him for his meritorious behaviour, and with having given the Same money, belonging to me, to a Constable, the said Constable being himself a Prisoner of the Crown and therefore equally ineligible with my man to possess Money.

8. With an exhibition of his ignorance of Municipal Law, which it is his duty to understand as a Police Magistrate, he having caused a free man to be put into the Stocks without the Sentence of a Court having been passed upon him.

I have the honor to request this Letter may be Submitted to His Excellency the Governor, accompanied by my letter answering the Charges of Mr. Gray transmitted to you by the Deputy Surveyor General.

I have, &c.,

H. F. WHITE, A.S.

[Enclosure No. 5.]

MR. W. N. GRAY TO COLONIAL SECRETARY.

Sir, Police Office, Port Macquarie, 2d Feby., 1838.

Reply by  
W. N. Gray to  
charges made  
by H. F. White.

I have the honor to acknowledge the receipt of yours of the 23rd Ultimo (which came to hand only yesterday), accompanied with a charge against myself and other documents relative to Mr. White Assistant Surveyor and I beg leave to reply as follows:—

1st Charge.—With having for some weeks employed a man under sentence to an Iron Gang and Irons in putting together a Boat, which had been broken, belonging to an Acquaintance of his at Port Macquarie.

A very old Man (an Invalid), a Boat Builder by trade and now receiving a sentence of 12 months' Irons for absconding, was lately applied for by Mr. Thomson, Clerk of Works, to build a Boat for his Department in the Lumber Yard, there being no Boat Builder in the Department, which request I granted, and had the Man



taken to Gaol to and from the Lumber Yard in charge of a Constable. When the Government Boat was finished, he repaired by my orders a small Boat for a boy of fourteen years of age, Mr. H. Stephens, which was broken by neglect of the Government Boat's Crew, and on that account I consider the Government had a right to repair it. I beg also to State that on many occasions Men in Irons are worked in the Lumber Yard for Government purposes, but there is always a Constable placed over them.

2nd Charge.—With frequently lending to Acquaintances the Govt. Bar Boat, Oars and Men to take Goods to their Farms, one of them having been away for some weeks at Tryal Bay, with the Crew, oars and paid Coxswain, having taken Shingles there, and during the absence of which a Vessel was on the Bar for some hours, and might have been wrecked, but for the assistance of an extra Boat, oars and men furnished by private Individuals, having myself lent oars at the request of Mr. Gray.

Your Excellency must be fully aware that I have no power whatever over the Government Bar Boats, as they are under the Harbour Master. If I require a Crew for my own Police Boat, I am obliged to apply to him for them. I am aware the Harbour Master once lent Mr. Oakes, the Commissioner of Crown Lands, a Boat to go to the McLeay River, which boat returned as quick as possible. I told the Harbour Master that he was wrong in allowing the Boat to go so far from home; at this time, great disturbance was taking place at Tryal Bay amongst the Cedar Cutters, and, without a Boat, the Commissioner could have been of no use; there were two Bar Boats here when the Vessel Mr. White alludes to was in distress, the Pilot in one, and myself in the other. Mr. White's oars were only required in case of accident. Had there been Twenty Boats, they would have been of no Service.

3d Charge.—With having employed an Iron Gang to fill up an allotment of Ground in the Town to a level with the Street, about 20 feet, to enable the Proprietor to build a house thereon, and with having allowed the same Gang to cut and lay the Sleepers for a House on the Same.

By this 3d Charge, I suppose Mr. White must mean a house built by Dr. Moncrieff on a piece of Ground, purchased from Lieut. Morton, which ground was filled up by my predecessor but with no intention to Serve anyone, as he was obliged to take the Earth from the Street in making it. Mr. White is correct as far as I ordered two or three of the Ironed Gang one day in my own presence to assist the Carpenters employed in laying the Sleepers, they being too heavy to lift; but the Sleepers were cut by the Proprietor and drawn in by Major Innes's team. Mr. White must be perfectly aware of this and that the ground he alludes to was not filled up by me, neither was there any other place the material could be put.

4th Charge.—With having employed a Gang of Men every morning with a hand Cart to collect Manure for his Garden.

4. There is a great number of Cattle going about the Streets of this Town. About once a week, the Mudmen are sent under an overseer to clear the Streets of the Manure and other filth, which is brought to the Government Garden attached to my House. *I have no private Garden.*

5th Charge.—With having employed a Gang of Men every morning to cart water to the Houses of Individuals.

1838.  
13 April.

Reply by  
W. N. Gray to  
charges made  
by H. F. White.

1838.  
13 April.

Reply by  
W. N. Gray to  
charges made  
by H. F. White.

5. This charge I perfectly deny and cannot see upon what grounds it is made.

6th Charge.—With having employed Government means to make a Carriage Road, and erect a Bridge.

6. In this Charge, Mr. White must allude to a Bridge commenced by Major Sullivan and which was almost completed on my taking charge; it is at one end of Lake Innes, and certainly is of more service to Major Innes than any other Person, the Road Gang had been at work upon it 12 months previous to my Arrival. I finished the work in six weeks and reported having done so. If Mr. White thought I was acting wrong in finishing the work, why did he not report it 18 months ago, as no men have been at work there Since.

7th Charge.—With having taken money from one of my surveying party, on the plea that he was a Prisoner of the Crown, which money must have in that Case have belonged to me, having been given by me to him for his Meritorious behaviour, and with having given the same money belonging to me to a Constable, the said Constable being himself a Prisoner of the Crown, and therefore equally ineligible with my man to possess Money.

7. On going my rounds through the Town one night between ten and eleven o'Clock, I saw a Person run round a back Street, I ran after him, called a Constable, gave him in charge for being out after hours; he proved to be one of the Surveying Party. On searching him, a Bottle of Rum and twenty shillings were found upon his person. Next day he was brought before Mr. W. B. Carlyle, J.P., and myself, and received a punishment of 60 Lashes for being out after hours and refusing to state how he became possessed of the rum. Another of the Surveyor's Men having been brought before Mr. Carlyle and myself for being drunk and riotous in the Streets, and violently assaulting the Constable, one of which had his Clothes actually torn off him, The twenty Shillings was taken from the Prisoner and given to the Chief Constable to purchase Clothes for the Constable thus had his torn. Mr. White is perfectly aware of this, as it all took place in open Court which the Records will shew.

8th Charge.—With an exhibition of Ignorance of Municipal Laws, which it is his duty to understand as a Police Magistrate, he having caused a free man to be put in the Stocks, without the Sentence of a Court being passed upon him.

In this Charge, Mr. White is perfectly correct, so far that a free man was put in the Stocks without being brought up to the Police Office, but not so on its being illegal, as I am perfectly aware even a Constable can put a Man in the Stocks on particular occasions, or secure him in the best manner possible. I have been nearly five years a Magistrate in this Colony, and there is not a single case but would prove that I had a perfect knowledge of my duty.

Health of  
H. F. White.

In my letter to the Surveyor General, I stated that Mr. White had not done a day's work for two months, and, from the Certificates given by Drs. Moncrieff and Fattorini, it is clear Mr. White was incapable of doing work from sickness. It was impossible for me to know he was sick, as I saw him generally daily riding out to his own Farm, and to where his party were employed splitting for to fence his Farm.

I have also frequently met him at dinner Parties, and, judging from appearances, there was nothing the matter with him. As to laying out the additional allotment in this Town, it could be little more than one day's work.

It would be impossible to prove it, but, from what I have been told, I am perfectly convinced that Mr. White went to the Plains on the 21 January for the real purpose of measuring and dividing a private property belonging to Mr. Wilson and family.

It is not to be supposed that I can be much of a Judge if a Surveyor does his duty or not; but, as far as employing the Men and Oxen under his Charge, I still say, were either Mr. Thompson or myself to act so for our own benefit, we should expect to be dismissed.

Mr. White states his Oxen require to be worked to make them steady; but this I deny, as all but one have been in the Department for nearly six years. When Mr. White first came to this district, and took charge of them, he was afraid they would be restive having been so long idle; but to his and my astonishment they went perfectly quiet. Even if they require work, he could have in many ways done so for the Service of Govt. I cannot conceive what Mr. White means by working his Men in spare hours; it is notorious that they have been worked at all hours in his Farm in fencing and drawing in Building Materials for the last *two months at least*, which has been observed by many besides myself. With regard to Mr. White's statement that it is customary in this District to allow the Prisoners in the Service of Government to employ themselves during certain hours of the day as they think proper; There is a letter from the Colonial Secretary in this Office, authorizing the Police Magistrate to allow some of the well behaved Men to work on the Saturday, provided they have given entire satisfaction to their Superintendent with regard to the work done through the week; but Mr. White could shew no instance but his own of the Person, who was over them, ever employing them to his own advantage as he has done.

I have still to answer that part of Mr. White's letter, wherein he states I altered the line of Road; it was done by the Overseer when I was in Sydney, but Mr. White is perfectly aware whenever I returned, the line, the Overseer was pursuing by mistake, was stopped and the proper line made, as the road will now shew, and Mr. Ackroyd was present when Mr. White went along the line with me.

Mr. White uses a subterfuge in stating that I had no Such vehicle as a Buggy, when I offered to drive him out to mark the line of road. I had certainly not *one* of my *own* property, but had two, the property, one of Major Innes, the other Mr. Allen's, and pressed Mr. White much to go.

Should his Excellency wish to question Dr. Moncrieff with regard to the charge against me for assisting to build his House, he proceeds on Subpoena to Sydney by this Steam Boat. I particularly request his Statements may be taken in writing, as he is an intimate friend of Mr. White's and none of mine. Major Innes also proceeds to Sydney by this Steam Boat, and, if he is required to, he can prove that I have nothing to do in giving the Boat to Mr. Oakes; and the Certificate of Good Conduct, given by him to Mr. White, alludes to the period previous to Mr. White going to the Manning River about three or four months back.

1833.  
13 April.

Criticism by  
W. N. Gray  
of statements  
by H. F. White.

Witnesses  
available.

1838.  
13 April.

Mr. White states that I am frequently at my Farm for three or four days at a time. I never have been more than *one hour* on my Farm at one time, neither do I take any management of it myself as I pay a Gentleman in the Neighbourhood to take the Sole charge. If enquiry is made, there is not one Settler in the District that I have ever in any way neglected my duty.

I have, &c.

W. N. GRAY, P.M.

[Enclosure No. 6.]

DECISION BY ACTING GOVERNOR SNODGRASS.

Decision by  
K. Snodgrass  
in case of  
H. F. White.

HAVING perused with attention the reply of the Police Magistrate of Port Macquarie to the charges of Mr. Assistant Surveyor H. F. White, I am of opinion as regards the first charge that, under the circumstances stated by Mr. Gray, that with reference to the first charge, he was justified in Sending the Man alluded to therein to the Clerk of the Works. On the 2d Charge, it appears to me, that no blame whatever attaches to Mr. Gray. On the 3d Charge, I am of opinion that he was called upon to take away the Earth and otherwise assist in clearing the allotment filled up by orders of his Predecessor, which it does not appear that he did, although he admits of allowing one or two Men in Irons to assist in his own presence in laying some Sleepers, in which he cannot be altogether justified.

On the 4th that he was quite right in having the Clearing of the Streets taken to the Government Garden for the Purpose of Manure by Prisoners of the Crown. On the 5th that this Charge is vague and therefore cannot be answered. On the 6th I am further of opinion that, if the Road, Mr. White calls a private one, was begun by the predecessor of Mr. Gray, the latter would naturally think it beneficial to the Public (which I believe it is) and finish it accordingly; in doing which no blame can attach to him. With respect to the 7th and 8th Charges, I find that Mr. H. F. White is interfering very indecorously with the decision of a Bench of Magistrates and with the Administration of Justice.

Having thus given a Summary of my opinion upon the Charges preferred against the Police Magistrate, I now revert to those brought forward against Mr. White, although I disapprove of the manner in which they have been preferred. I am of opinion that, notwithstanding it does not appear that he had not done so much work as could be expected from his state of health as reported by the Police Magistrate, yet it is quite evident that he did work on his own Farm, and undoubtedly for his own profit and advantage, for which he assigns reasons quite inadmissible. The letter of the Superintendent of Convicts distinctly states that Mr. White had employed both Government Men and Oxen for two months in splitting fencing and drawing materials for his own Farm. I have examined Major Innes on the several points referred to above, and he bears testimony to the perfect innocence of the Police Magistrate on every charge brought against him; whereas he does not do so with respect to that, preferred against Mr. White, of having employed Govt. Men and Cattle upon his own Farm for his own profit and advantage; and I have therefore no hesitation in pronouncing the whole of Mr. White's Charges against the Police Magistrate of Port Macquarie as frivolous, vexatious and uncalled for; and I have to regret that there is so much cause to form a very

different opinion on the charges preferred against Mr. White of having worked Govt. Men and Horses for his own profit, for doing which it would certainly be my duty, however painful, to suspend or dismiss him from the Situation of Asst. Surveyor; but, in consideration of the high character given by the head of his Department of his Zeal and activity, and the general satisfaction he has given to the Settlers, I will refrain at present from taking this Step; but I require him to withdraw the groundless charges he has brought forward against the Police Magistrate and request that he may not be again employed as a Surveyor in the District of Port Macquarie, to which another Officer is to be sent capable of keeping the Surveying party in some better State of discipline than they appear to have been in, as Shown by the 7th Charge drawn out by Mr. White himself and commented upon by the Police Magistrate.

1838.  
13 April.  
Decision by  
K. Snodgrass  
in case of  
H. F. White.

K.S.

Let a copy of the Police Magistrate's reply be sent for the perusal of the Deputy Surveyor General, and inform him that Mr. Gray does not admit of having altered the line of Road, as complained of by Mr. White, and which is corroborated by Major Innes.

[Enclosure No. 7.]

ORDER FOR SUSPENSION OF MR. H. F. WHITE.

Mem. for Colonial Secretary, 23 Feby.

HAVING waited until the Upton Castle with Sir George Gipps on board is signalized without receiving Mr. White's reply to that part of my letter of . . . that relates to his withdrawing the Charges he brought against the P. Magistrate of Port Macquarie, brought by him in retaliation but in no way vindicatory of what had been alleged against himself, and, understanding also that he has declined or complained against being removed to another District, as ordered by the Deputy Surveyor General, I am left no alternative but to direct that Mr. Asst. Surveyor H. F. White be suspended from his situation for having, while at Port Macquarie, made use of Government Cattle and Men on a Farm he had purchased for his own profit and interest, and against the established rules of the Service and orders of the Department and Government; For having his party, in consequence of their being so allowed to work for himself or others, in a disorderly state of discipline; and for bringing forward charges against the Police Magistrate at Port Macquarie of a frivolous, vexatious and groundless nature.

Order for  
suspension of  
H. F. White.

Sydney, 23 Feby.

K. SNODGRASS.

[Enclosure No. 8.]

DEP. SURVEYOR-GENERAL PERRY TO COLONIAL SECRETARY.

Sir, Surveyor General's Office, 17th January, 1838.

Having received from the Police Magistrate at Port Macquarie a note in a Private form (but with a discretionary sanction to make it official) charging Mr. Asst. Surveyor White with neglect of duty, misappropriation of the Services of the Prisoners attached to his party for the purpose of assisting him in his public duties, and making a false Statement respecting the interference of the Magistrate in the work that he was performing, in pursuance of my instructions, I furnished Mr. White with a copy of the Note above referred to, and called upon him for an explanation of the Conduct

Transmission  
of papers *re*  
charges against  
H. F. White.

1838.

13 April.

Transmission  
of papers *re*  
charges against  
H. F. White.

computed to him in the above particulars; he has given in a Letter of yesterday's date, which I have the honor to transmit herewith (to be returned) for the Information of His Excellency the Governor, who I have no doubt will find the Explanation Satisfactory, and the exculpation Complete as far as regards the performance of his duty to the best of his abilities, considering the very indifferant State of his health. The matter would have rested here, were it not that an allusion is made to it in your Letter No. 30/17 of the 11th Instant, in consequence of my having casually mentioned the circumstance to his Excellency the Governor; but, such being the case, I have the honor to request that you will lay before His Excellency the Governor the whole of the papers connected therewith, viz.:

1st. Mr. White's report of the 13 November, 1837, transmitted to you by my letter of the 25 of the same Month, No. 37/570, but to which I have not received a reply.

2d. A copy of Mr. Gray's note of the 5 January, 1838.

3d. Mr. White's reply to my letter of the 8th January, 38/12, enclosing a Copy of the above, accompanied by Medical Certificates of ill health, and other Certificates as to his conduct in the district; to which I have only to add that I have always found Mr. White to be a most intelligent, active and Zealous Officer, ardently attached to his profession, and giving general Satisfaction to the Settlers in whatsoever District he has been employed.

I have, &c.,

S. A. PERRY, Dy. S.G.

[Enclosure No. 9.]

MR. H. F. WHITE TO DEP. SURVEYOR-GENERAL PERRY.

Sir,

Sydney, 22d Feby., 1838.

Letter  
acknowledged.

I have the honor to acknowledge your letter No. 38/39 20th Inst., transmitting to me a Copy of His Excellency the Acting Governor's decision on the charges I had brought against the Police Magistrate at Port Macquarie, as well as on those preferred against me by that Officer, also forwarding to me a Copy of Mr. Gray's defence, and informing me that he does not admit of having altered the road as complained of, which fact is corroborated by Mr. Innes.

In reply to that part respecting the alteration of the road, I have to repeat once again that the road has been made in places where I did not deem it expedient to mark it. I have already urged an investigation in order that I might be able to prove the correctness of my Statement.

With regard to any *exparte* Statement which may have been given by Mr. Innes on the Subject, I have to remark that, after it was a matter of official Correspondence, Mr. Innes said, in the presence of two Gentlemen, that he had never been on the line I marked nor on that made by Mr. Gray.

With reference however to Mr. Innes's statements that he knew nothing of the Subject, I would beg to Submit that his Statement Should not be received on the grounds that one of the Deviations from the line I marked was made by Mr. Gray to avoid its being carried through a paddock belonging to him, through which Mr. Innes did not wish it to pass.

It cannot be stated by Mr. Gray that this deviation was made by the Overseer, while he was in Sydney (Mr. Gray in his private

Allegations  
*re* deviation  
of road by  
W. N. Gray.

note to the Deputy Surveyor General denies the road being altered at all) as Mr. Gray asked me if I would alter the line I had marked, so that it would avoid Mr. Innes' paddock. I refused, stating that I had marked what I considered the best line, and would not alter it for any one.

The Deviation is about a quarter of a mile from where my marks are.

Before making any observations on the defence of Mr. Gray to the Charges brought by me against him, I beg to State that, after having been given to understand that persons should be sent to Port Macquarie to investigate them, who could have no interest with either party, I am much surprized that a decision Should be made on the mere Statement of Mr. Gray, the party accused, corroborated by the Evidence only of Mr. Innes, a friend of Mr. Gray and connected with him in the Charges I made.

Respecting the 3d Charge, viz., With having allowed an Iron Gang to fill up an Allotment in the Town of Macquarie to a level with the street about 20 feet to enable the Proprietor to build a house thereon, and with having allowed the same Gang to cut and lay Sleepers there for a House on the same, to which Mr. Gray replies that he supposes that I must mean a house built by Dr. Moncrieff on a piece of ground purchased from Lieut. Morton, which ground was filled by his predecessor, but with no intention to Serve any one; that one day he, Mr. Gray, ordered two or three of the Iron Gang in his presence to assist the Carpenters employed in placing the Sleepers, and thus the ground, I allude to, "*was not filled up by him.*"

In reply to this Explanation of Mr. Gray, I have to State that, in making the Street by which the allotment is bounded, some Earth naturally fell from it into the allotment, the allotment being so much lower than the Street, and the side of the Street not being walled up. Mr. Gray is right in saying this was done by his predecessor with no intention to serve anyone; but to prove the truth of what I had Stated Mr. Gray had allowed the Iron Gang to do, I request the Copy of the following letter to Dr. Moncrieff may be read and his answers to two of the questions contained therein.

Sir,

Sydney, 20 Feb., 1835.

Having felt it my duty to report to the Govt. that Mr. Gray, the Police Magistrate at Port Macquarie, had allowed the Iron Gang to be employed in filling up an allotment of Ground, purchased by you from Lieut. Morton, and with allowing part of the same Gang of men to be employed at work on Sleepers there, as you must be acquainted with the circumstances better than any other person, I have to request you will return me answers to the following questions:—

1st. Whether an Iron Gang was employed by the Sanction of Mr. Gray in filling up an allotment purchased by you from Lieut. Morton for the purpose of enabling you to build a house thereon?

Answer, "The Iron Gang did fill up a Portion of my Allotment to enable me to build a house thereon by the Sanction of the Police Magistrate."

GEO. MONCRIEFF.

2d. Whether Men forming part of the same Iron Gang were on Several occasions at work in cutting Sleepers which had been brought there by you.

Answer, "They were."

GEO. F. MONCRIEFF.

1835.  
13 April.

Allegations  
re deviation  
of road by  
W. N. Gray.

Surprise of  
H. F. White  
at decision.

Allegations re  
employment of  
iron gang by  
W. N. Gray.

1838.  
13 April.

Allegations re  
employment of  
iron gang by  
W. N. Gray.

When the allotment was in the possession of Lieut. Morton, he asked Mr. Gray to allow the Iron Gang to fill it up so that he could build upon it, but Mr. Gray told him he could not do it as it was not for the good of the public. It was in consequence of this refusal that Mr. Morton sold the allotment to Dr. Moncrieff at a very low price, immediately after which, that which had been refused to Mr. Morton as improper was done for Dr. Moncrieff.

His Excellency the Governor has misapprehended the complaint on this Subject, as appears by His Excellency's decision. "That he is of opinion that Mr. Gray was called upon to take away the Earth and otherwise assist in clearing the allotment filled up by his predecessor."

On referring to my letter, it will appear that I did not complain of Mr. Gray's having taken away earth from the allotment.

Allegations re  
construction of  
private road.

In answer to the 6th charge, "With having employed Govt. means to make a private carriage road and erect a Bridge." Mr. Gray states that I must allude to a Bridge commenced by Major Sullivan and which was almost completed on his taking charge. He does not give any explanation why the road was made, which was commenced by him.\*

His Excellency justifies Mr. Gray in making the road by his belief that it is beneficial to the Public.

I beg to state that it cannot be beneficial to the public, as it leads only from Mr. Innes' house to the Sea-beach where there are no Farms, nor can it lead to where there are any. Mr. Gray States himself that it is of more use to Mr. Innes than any other person.

Mr. Gray then States that it would be impossible to prove it, but, from what he has been told, he is perfectly convinced that I went to the Plains on the 21 January for the real purpose of measuring a private property, etc. Mr. Gray here states that he is *perfectly convinced* of a circumstance, which he admits it would be *impossible* to prove; so far does he allow his feelings to mislead his reason.

With reference to that part of Mr. Gray's letter which States "that the laying out of the additional Sections in the Town could be little more than one day's work," I beg to refer to this part of his letter in which he States "that it is not to be supposed he can be much of a Judge if a Surveyor does his duty or not."

Exoneration  
of W. N. Gray  
from charges.

His Excellency States in his Minute that he has examined Major Innes, and he bears testimony to the perfect innocence of Mr. Gray on every charge brought against him, although His Excellency himself remarks that in one instance Mr. Gray was not altogether justified.

Accompanying this is the copy of a letter written by Major Innes, in which he States that he did not say that every statement made by me respecting the Police Magistrate was untrue, and I cannot comprehend how he can bear testimony to the innocence of Mr. Gray without denying the truth of the Accusations made against him.

Refusal by  
H. F. White  
to withdraw  
charges.

In reply to that part of His Excellency's Minute, which requires me to withdraw the charges I have brought against Mr. Gray, I have the honor to refer to the enclosed copy of a Letter from Mr. Steele, J.P., and to that of Dr. Moncrieff, as evidence of the truth of the charges I have made, and which Charges His Excellency informed me were very serious; and to observe that I cannot,

\* *Marginal note.*—I have to request that the copy of a letter (attached to this) from Mr. Steele, a Magistrate in the District may be read.



consistently with truth or reason, withdraw charges as groundless, which I know to be, and am proving to be, strictly true and well founded.

1838.  
13 April.

His Excellency concludes his decision by requesting that I may not be again employed in the district of Port Macquarie, to which another Officer may be sent, capable of keeping the Surveying Party in some better state of discipline than mine appear to have been.

Protest by  
H. F. White re  
removal from  
Port Macquarie.

I have to reply—

1st. That I went to the objectionable district of Port Macquarie under a positive stipulation with the Deputy Surveyor General that I should not be removed; that I have entered in consequence into arrangements which I cannot alter or abandon without serious pecuniary loss; and that I consequently object to remove from Port Macquarie or to release the Government from the engagement, which it has made through the head of my department without being reimbursed for my losses.

2ndly. That I object to being removed because such removal would be an indirect censure, which I cannot submit to, as I have proved my strict attention to my duties, the absolute untenableness or harmlessness of Mr. Gray's charges, and the perfect satisfaction of the head of my Department, he not having passed any censure, direct or otherwise, on my conduct.

3rdly. That I object to being removed from my district as a *Surveyor* for having brought, and supported in my character as a *Citizen* as far as opportunity has been offered, *serious charges* against a public delinquent.

4thly. That I object to being removed on the plea of a want of discipline in my party, as the fact, if it exists, originates in the nature of things, and in the material of the Police at Port Macquarie, rather than in a want of firmness or discretion on my part.

I cannot conclude this Communication without expressing my regret that His Excellency's urgency for my reply to his decision, intimated to me by the Deputy Surveyor General this evening, should have precluded the possibility of my bringing together a more convincing body of fact, or a more elaborate and satisfactory argument; but I trust that, in even this brief and hasty reply, His Excellency will perceive Sufficient reason for renewing his original intention of instituting a fair and open enquiry into charges touching the character and conduct of two of the Officers of his Govt., and without which I will never rest satisfied either as a public functionary or an Individual of respectable standing in Society.

Request  
for inquiry.

I have, &c.,

H. F. WHITE, At. Surveyor.

[Sub-enclosure No. 1.]

MAJOR INNES TO MR. H. F. WHITE.

Sir,

Sydney, 10 Jan., 1838.

In reply to your letter of this day's date, asking me to inform you if I had told His Excellency the Acting Governor that every statement, you had made in a letter to the Colonial Secretary respecting the Police Magistrate at Port Macquarie, was false, I have to inform you that I did not.

Statement by  
A. C. Innes.

I remain, &c.,

A. C. INNES.

1838.  
13 April.

[Sub-enclosure No. 2.]

MR. C. STEELE TO MR. H. F. WHITE.

Sir,

Sydney, 23 Feby., 1838.

In reply to your letter of the 22d Inst. requesting me to state whether a road leading from the house of Mr. Innes to the Sea-Beach at Lake Innes is of benefit generally to the Public, and whether it could have been made with any view to public utility.

Value of road  
to lake Innes.

I have to say that I am surprised that any question shd. have been raised on the subject, as, by reference to the Map of the County, it might at once be determined; but, as you require my opinion from my knowledge of the District, I have to say that I consider it to be of no use whatever to the Public, and that it can only be of use to the Individual through whose land it passes and made solely with a view to his benefit.

I am, &c.,

CHARLES STEELE.

[Sub-enclosure No. 3.]

MR. C. STEELE TO MR. H. F. WHITE.

Sir,

Sydney, 13 Feby., 1838.

I have received your letter of the 12th Instant, requesting me to state if I know certain complaints made by you against the Police Magistrate of Port Macquarie, contained in a letter of yours to the Colonial Secretary (a copy of which is forwarded with your letter) to be true.

Opinion of  
C. Steele re  
charges against  
W. N. Gray.

As I have been accused of having a personal feeling towards the Individual in question, I reluctantly address you on the subject; but, at the same time, I conceive that I am bound to say that I can testify on Oath to the truth of part of these complaints, and as to the rest, which have not come under my notice, I have heard respectable people speak of them as facts.

I am, &c.,

CHARLES STEELE.

[Enclosure No. 10.]

DEP. SURVEYOR-GENERAL PERRY TO COLONIAL SECRETARY.

Sir,

Surveyor General's Office, 26th Feby., 1838.

Transmission  
of letter from  
H. F. White.

In transmitting to you for the information of His Excellency the Governor the accompanying letter from Mr. Asst. Surveyor H. F. White, in reply to one which I addressed to him on the 20th Instt. conveying the Acting Governor's decision on certain charges which Mr. White preferred against the Police Magistrate at Port Macquarie and which His Excellency, after a minute enquiry, pronounced to be "*frivolous vexatious and uncalled for*," and in consequence required that Mr. White should withdraw the *groundless charges*, I have the honor to state that on the 22d Instt. I distinctly informed Mr. White of His Excellency's desire to have an answer to his Minute, requiring the withdrawal on the following day; but, although this answer is dated Sydney the 22d, it was not received at the Office until the 26 Instt., three days after the termination of His Excellency's Administration, and when it must have been known that Colonel Snodgrass had not the power to overturn the decision of the Acting Governor.

Delay in reply  
by H. F. White.

I have, &c.,

S. A. PERRY, Dy. S.G.

LORD GLENELG TO SIR GEORGE GIPPS.

1838.  
14 April.

(Despatch No. 101, per ship John Renwick; acknowledged by Sir George Gipps, 23rd February, 1839.)

Sir, Downing Street, 14 April, 1838

I have the honor to transmit to you the copy of a letter from the Secretary to the Board of Treasury with its enclosures respecting an advance of Fifteen Thousand, Two hundred and Forty three Pounds, which has been issued by their Lordships' directions to Mr. Barnard for Emigration Service on account of your Government.

Advance to agent for colonial service.

You will cause the said amount to be paid over without delay from the Colonial Funds to the Military Chest in New South Wales.

I have, &c.,

GLENELG.

[Enclosure.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 12 April, 1838.

I am commanded by the Lords Commrs. of H.M. Treasury to transmit Copy of a letter from Mr. Barnard, and of its Enclosure, respecting an advance which is required on account of the Current Services of the Govt. of N. S. Wales, with Copy of the Report of the Commrs. of Audit thereon, and to request that, in submitting the same to Lord Glenelg, you will inform his Lordship that, in pursuance of the arrangement that has been sanctioned in regard to the advance of Funds required in this country for defraying charges relating to Emigration to the Australian Settlements, My Lords have authorised the issue to Mr. Barnard of £15,243 on account of the Govt. of N. S. Wales.

Advance authorised.

I am further directed to request that you will move his Lordship to instruct the Governor of N. S. Wales to cause the said amount to be paid over without delay from the Colonial Funds to the Military Chest on the Station in repayment of the advance made to the Agent General.

Refund required to military chest.

I am, &c.,

A. Y. SPEARMAN.

[Sub-enclosure No. 1.]

MR. E. BARNARD TO MR. A. Y. SPEARMAN.

Sir, London, 5 April, 1838.

In compliance with the Instructions signified in Mr. Stewart's letter of the 19th June, 1838, directing me, in the event of Money being required for any of the Crown Colonies, to address the Lords Commrs. of the Treasury, accompanied by a Statement according to the form transmitted in the letter; I have now the honor to enclose, for the information of their Lordships, a statement shewing that the sum of £15,243 is required on account of the Current Services of the Govt. of N. S. Wales.

Application for advance by E. Barnard.

I am, &c.,

E. BARNARD.

[Sub-enclosure No. 2.]

## STATEMENT OF NEW SOUTH WALES AGENCY.

1838.  
14 April.  
Financial  
statement *re*  
New South  
Wales agency.

Balance in hand 1st Jany., 1838 .....	£378
Recd. in pursuance of Treasury warrant dated 20 Jany. ....	12,267
	<hr/>
	£12,645
Paid between 1st Jany. and 5 April, 1838 .....	£10,719
	<hr/>
	£1,926

## Estimate of Payments to be made.

Freight, Stores, etc., for Emigrant Ships, now payable .....	£7,669
Do. on acct. of Do. expected to sail before 1 July .....	7,700
Pensions and Salaries .....	700
Incidental Payments .....	1,100
	<hr/>
	17,169

Balance to be provided for ..... £15,243

*Note.*—The Balances in hand on acct. of other Colonies is as follows:—

V. D. Land .....	£3,456
Gibraltar .....	£89
Malta .....	£365

Which Balances do not exceed the amount, which will be required for the Current Services of the respective Colonies.

EDWD. BARNARD,

Agent General for Crown Colonies.

2 Parliament Street, 5 April, 1838.

[Sub-enclosure No. 3.]

AUDIT COMMISSIONERS TO LORDS COMMISSIONERS OF  
H.M. TREASURY.

My Lords,

Audit Office, 6 April, 1838

Opinion  
of audit  
commissioners  
*re* advance to  
agent.

In obedience to your Lordships' order of reference, dated 5th Instt., on a letter of E. Barnard, Esq., of the same date transmitting a Statement, shewing that a sum of £15,243 is required by him almost immediately for the service of the Colony of New South Wales; We have the honor to report that, as it does not appear that any advance can be made by Mr. Barnard out of the funds of the other Colonies for which he is Agent towards meeting the demand, and as nearly the whole amount demanded arises out of the New Emigration Arrangements, we have only to state that, if the demands of £7,669 and £7,700 for freight and Stores, etc., arise out of the arrangements, which have been sanctioned by your Lordships or by the Secretary of State, we apprehend that it will be necessary to cause the advance requested to be made to Mr. Barnard, directions being at the same time given thro' the Secretary of State to the Colonial Authorities to transfer the amount to the Military Chest.

We are, &amp;c.,

F. S. LARPENT,  
H. F. LUTTRELL  
HENRY ARBUTHNOT.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 60, per H.M. ship Buffalo; acknowledged by lord Glenelg, 8th November, 1838.)

1838.  
14 April.

My Lord, Government House, 14th April, 1838.

I beg to report to your Lordship that I have this day intimated to Mr. James Bowman, late Inspector of Colonial Hospitals in this Colony, that, as he has now ceased to perform any duty for more than two years, I cannot, without your Lordship's express sanction, continue his name any longer on the Monthly pay list of the Medical Department.

Removal of  
J. Bowman  
from monthly  
pay list.

Mr. Bowman's case was fully reported to Your Lordship by Sir Richard Bourke in his Despatch of the 15th June, 1836, No. 65; and it is, I am given to understand, in consequence of no answer having been received to that despatch that payment has been continued to Mr. Bowman of his salary, at the rate of £850 a year, in the idea that he might be entitled to a gratuity, equal to two years' pay, under the Despatch from Lord Goderich, dated the 29th September, 1831, No. 27.

I have, &amp;c.,

GEO. GIPPS.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 61, per H.M. ship Buffalo; acknowledged by lord Glenelg, 7th November, 1838.)

My Lord, Government House, 16th April, 1838.

16 April.

Herewith I have the honor to transmit to Your Lordship a Memorial from Mr. Edwin Park, soliciting a Grant of land in consideration of his having come out from England in the year 1830 on the faith of the Government Regulations of 1827.

Transmission of  
memorial from  
E. Park.

Mr. Park, your Lordship will observe, does not claim a secondary grant of land under the recent Regulations of the 27th June, 1837, but a primary one on the ground of his having been prevented obtaining one, seven years ago, by the introduction of the Land Regulations of 1831.

Claim for  
primary land  
grant.

There is no reason to doubt the correctness of Mr. Park's statement, as far as the date of his arrival in the Colony and the amount of Capital brought with him are concerned; but, on the other hand, there is no proof whatever of his having come out with the intention of devoting himself to Agricultural pursuits; and, even allowing this to have been the case, there was full time, between the date of his arrival in 1830 and the promulgation in the Colony of the New Regulations, on the 1st July, 1831, for him to have put in his claim to the Local Government;

Criticism  
of claim.

1838.  
16 April.  
Criticism  
of claim.

as he did not do so, any disappointment, that he may have experienced, is I think justly chargeable on his own remissness or delay; and consequently, in transmitting his Memorial, it is not my intention to press in any way upon your Lordship a compliance with the prayer of it.

I have, &c.,

GEO. GIPPS.

[Enclosure.]

Memorial  
of E. Park  
soliciting  
land grant.

THE Humble Memorial of Edwin Park, of Woodstock, in the County of Bathurst, and Colony of New South Wales, Grazier,

To Her Majesty's Principal Secretary of State for the Colonial Department, etc., etc., etc.,

Humbly sheweth,

1. That, in the year 1830, your Memorialist emigrated from Great Britain to the Colony aforesaid, where he arrived in the month of November of the same year.

2. That your Memorialist's views in proceeding to the said Colony were to settle therein permanently, as an agriculturist or grazier; and he accordingly emigrated on the faith of his receiving a Grant of Land proportioned to his Capital, under the Government Regulations of 1826-7.

3. That your Memorialist brought with him to the said Colony a capital, immediately available for agricultural purposes, equal to the amount entitling him, under the said Regulations, to a Primary Maximum Grant of two thousand five hundred and Sixty (2,560) Acres of Land. In testimony hereof, *Vide Appendix A.*

4. That, soon after his arrival aforesaid, your Memorialist commenced a series of journeys throughout the interior of the Colony for the purpose of enabling him to decide as to the most eligible locality wherein to select his land and to settle, the said journeys necessarily consuming several months of his time.

5. That, on the return of your Memorialist from the interior to Sydney in the month of May or June, 1831, he found, to his great surprise and disappointment, that a new code of Regulations had been adopted by His Majesty's Government, whereby the system of alienating Crown lands otherwise than by sale had been entirely abolished; and, from the absolute and unconditional terms in which the said Regulations were promulgated by the local Government, your Memorialist, in common with the Colonists generally, could come to no other conclusion than that all outstanding claims to free Grants were thereby intended to be for ever barred and extinguished. *Vide Appendix B.*

6. That, your Memorialist having thus, as he conceived, become precluded from all chance of obtaining a Grant from the Crown, he soon after purchased a private estate of nineteen hundred and twenty (1,920) Acres, being the estate of Woodstock aforesaid, whereon he has ever since resided.

7. That, in making permanent improvements upon the said estate, consisting of fences, cultivation, and the erection of a substantial dwelling-house and offices, your Memorialist has expended about one thousand pounds (£1,000) sterling.

8. That your Memorialist, from a desire to improve the fleeces of the Colony, has from time to time imported from England, at a very heavy expense, considerable numbers of fine-woolled sheep, selected and purchased on his account from the celebrated flocks of Lord Western, in the county of Essex; and so valuable an acquisition have the said importations been deemed by the flock-masters of the Colony, that some of the rams have been eagerly purchased from your Memorialist at the high price of thirty five pounds (£35) sterling per head.

1838.  
16 April.

Memorial  
of E. Park  
soliciting  
land grant.

9. That, from a desire also to improve the breed of horses within the Colony, your Memorialist, in conjunction with a brother settler, recently ordered the purchase in England of two superior Stallions, which were accordingly shipped at your Memorialist's half-risk; but both of them unfortunately died at sea from exhaustion induced by foul weather in crossing the Bay of Biscay; whereby your Memorialist became a direct loser to the amount of three hundred pounds (£300) sterling in Cash.

10. That your Memorialist is now possessed of eight thousand (8,000) Sheep, from four hundred (400) to five hundred (500) head of Cattle, and about thirty (30) horses, which, with his real estate aforesaid and other property, are equal to a capital of about fourteen thousand pounds (£14,000) sterling.

11. That it was not until his attention was called to the Government Notice on the subject of "additional Grants," dated the 27 June last, and published in the New South Wales Government Gazette of the date following, that your Memorialist became aware that it never was intended by His Majesty's Government that the new Regulations of 1831 should be construed to the prejudice of rights accruing under the former Regulations; and, being now satisfied that in having supposed that the Government had broken faith with him, and in having therefore abandoned his claim as hopeless, he was led astray by the incautious and uncandid manner in which the said new Regulations were notified by the local authorities, he humbly appeals to your Lordship for that redress which the justice of his case requires, and which he feels confident your Lordship will cheerfully accord.

Wherefore your Memorialist humbly prays that your Lordship will be pleased to take the premises into your most favorable consideration, and thereupon to authorize and instruct His Excellency the Governor of New South Wales to cause such enquiry to be made into the truth of the foregoing statements as to your Lordship may seem proper; and, upon the truth thereof being established by reasonable evidence, to make to your Memorialist a Primary Maximum Grant of two thousand five hundred and sixty (2,560) acres of Land in the aforesaid Colony.

And your Memorialist will ever pray, etc., etc., etc.

Sydney, New South Wales, 23 February, 1838. EDWIN PARK.

[Appendix A, referred to in Paragh. 3.]

CERTIFICATE.

I HEREBY certify that it was known to me in the year 1830, in the course of my business as a Merchant of the town of Sydney in the colony of New South Wales, that Mr. Edwin Park, the present Memorialist, brought out with him to the said Colony, a capital equal to two thousand Pounds (£2,000) sterling, available for agricultural purposes in the said Colony. Certificate re capital of E. Park.

Witness my hand this ——— day of ———, 1838.

THOS. GORE.

[Appendix B, referred to in Pargh. 5.]

EXTRACTS from Government Notice, dated 1st July, 1831.

1838.  
16 April.  
Regulations  
re disposal  
of land.

"It has been *determined* by His Majesty's Government that *no land* shall, in future, be disposed of in New South Wales or Van Diemen's Land, *otherwise* than by *public sale*."

"His Majesty's Government having deemed it expedient to *substitute* new Regulations for those at present in force, respecting the system of granting land in the Australian Colonies, and according to which *no land* will in future be disposed of *otherwise than by public sale*," etc.

EXTRACT from Government Order, dated 1st August, 1831.

"HIS EXCELLENCY the Governor directs it to be notified that *all Crown Lands* will in future be disposed of *only* according to the Regulations published in the Government Notice of the 1st of last month" (i.e. the Notice from which Extracts are given above).

EXTRACT from "Summary of the existing Land Regulations" dated the 1st November, 1831, and officially published, "for general information" in the Australian Almanack for the year 1832.

"His Majesty's Government having *determined* to dispose of Crown Lands *by Sale only* (printed in Italics) *all former Regulations on this subject have been rescinded*."

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 102, per ship John Renwick.)

17 April.

Sir,

Downing Street, 17 April, 1838.

Omission to  
notify leave of  
absence granted  
to Revd.  
F. Wilkinson.

The Revd. Mr. Wilkinson, an Assistant Chaplain in New South Wales, returned to this country in the course of last year on leave of absence.

He brought with him a letter from the Bishop of Australia stating that the Governor had no objection to allow him leave of absence; but Sir Richard Bourke does not appear to have reported to this Department the leave so granted to Mr. Wilkinson.

I have pointed out this omission in order to apprise you that, in case of leave of absence being granted to any Member of the Ecclesiastical Department of your Government, it will be necessary for you to report the same to this Department according to the rule observed in regard to other Public Officers.

I have, &c.,  
GLENELG.

LORD GLENELG TO SIR GEORGE GIPPS.

(A circular despatch per ship John Renwick; acknowledged by Sir George Gipps, 3rd December, 1838.)

Sir,

Downing Street, 17th April, 1838.

Order for  
return for  
house of  
commons.

I have the honor to enclose herewith the Copy of an Order of the House of Commons dated the 3rd instant; and I have to desire that you will lose no time in causing a return of



the Religious Establishments of all denominations in the Colony under your Government, together with the expense of the same as required by this Order, to be prepared and transmitted to me, in order that it may be laid before the House of Commons.

1838.  
17 April.

I have, &c.,

[Enclosure.]

GLENELG.

RESOLUTION.

Resolved,

Martis, 30 die Aprilis, 1838.

That an humble Address be presented to Her Majesty that She will be graciously pleased to give directions that there be laid before this House a Return of the number of persons on the Ecclesiastical Establishment of the Church of England, and of the Presbyterian Church, and other religious denominations, maintained by grant of public money in each of the Colonies, and in the territories of the East India Company; stating the rank of each, where stationed, the expenses of fixed salary, and of allowances of each, and the total expenses of each Colony (or presidency and dependency) for such Establishments, in sterling money, for the last year the account can be made up, so as to exhibit the whole amount paid for the support of Religion of every denomination. (See Parliamentary Paper No. 536, Session 1836.)

Return  
required of  
religious  
establishments.

Ordered,

That the said Address be presented to Her Majesty by such Members of this House as are of Her Majesty's most honorable Privy Council.

J. H. LEX, Cl., Dom. Com.

[A printed copy of the parliamentary paper, numbered 536, was annexed. This paper was a return of persons on ecclesiastical establishments in the territories of the East India company.]

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 62, per H.M. ship Buffalo; acknowledged by lord Glenelg. 9th November, 1838.)

My Lord,

Government House, 17th April, 1838.

Herewith I have the honor to enclose the Duplicate of a letter from Mr. George Mackillop and others in Van Diemen's Land, of which I believe the original has already been forwarded to Your Lordship direct.

Claim by  
settlers for  
compensation  
for losses at  
Port Phillip.

The object of this application is to obtain, on the part of gentlemen not connected with the Port Phillip Association, some compensation for losses or disappointments, similar as they allege to those for which a compensation of £7,000 has been allowed to the Association.

I have only to remark on this application that the whole question of compensation to the original settlers at Port Phillip appears to me to have been set at rest by your Lordship's Despatch to Sir Richard Bourke of the 10th July, 1837, No. 341, in which your Lordship's approval was expressed of the proceedings of the

Decision re  
compensation  
to original  
settlers.

1838.  
17 April.

Executive Council of New South Wales in respect to that matter, and Sir Richard Bourke's Despatch of the 12th November, 1836, No. 121.

Any attempt to reopen the question of compensation, or to extend it to other parties, could not fail, in my opinion, to be attended with very great inconvenience. I have, &c.,

GEO. GIPPS.

[Enclosure.]

[*A copy of this letter will be found in a volume in series III* ]

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 63, per H.M. ship Buffalo.)

18 April.

My Lord,

Government House, 18th April, 1838.

Legal opinion  
obtained *re*  
attack on  
aborigines by  
expedition  
under  
T. L. Mitchell.

With reference to that part of your Lordship's Despatch of the 26th July, 1837, No. 353, which directs that the proceedings of the Executive Council of New South Wales, relative to the attack made on the Black Natives by the exploring party under Major Mitchell on the 27th May, 1836, should be laid before the Law Officers of the Colony, who should report whether they find any cause to doubt the lawfulness of Major Mitchell's proceedings, or regard a further enquiry necessary for vindicating the authority of the Law, I have the honor to inform your Lordship that the same has been done, and to enclose a Copy of the Report which has in consequence been made by the Attorney General.

I have, &c.,

[Enclosure.]

GEO. GIPPS.

[*A copy of this report will be found in a volume in series V.*]

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 64, per H.M. ship Buffalo.)

20 April.

My Lord,

Government House, 20th April, 1838.

Request for  
indent of  
convicts *per*  
ship *Neva*.

At the desire of the Superintendent of Convicts, I beg leave to request of your Lordship that this Government may be furnished with an Indent of the Female Convicts, who were shipped in England on board the ship "Neva" in 1835, which vessel, with the whole of her crew, convicts and passengers, was unfortunately lost\* in Bass' Straits. Such information is necessary to enable the local Government to answer satisfactorily the enquiries, which are now so frequently made respecting the fate of Convicts in this country, as the local authorities may for the want of it incur the suspicion of gross negligence or inaccuracy.

I have, &c.,

GEO. GIPPS.

\* Note 78.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 65, per H.M. ship Buffalo; acknowledged by lord Glenelg, 27th November, 1838, and 17th January, 1839.)

My Lord, Government House, 23rd April, 1838.

1838.  
23 April.

I have the honor to transmit herewith a letter, which has been addressed to Your Lordship by Six of the Principal Officers of the Colonial Medical Department, in which they represent to your Lordship the hardships, which in their opinion they have been subjected to by the alteration effected in their Department, when it was placed under a Military Inspector of Hospitals (Dr. Thompson), and expressing a wish to be allowed to retire from the service in the event of their Department being continued under Military Superintendence.

Transmission  
of letter of  
complaint and  
resignation  
from medical  
officers ;

I also do myself the honor to transmit to your Lordship a copy of a letter, which the Deputy Inspector of Hospitals has addressed to me, in consequence of its having come to his knowledge that the officers above alluded to had prepared a representation to your Lordship; and, in order further to explain the case, I must ask your Lordship's attention to the previous correspondence between your Lordship and my Predecessor on the subject of the Medical Department in this Colony, contained in the following Despatches:—

and of letter  
from  
J. V. Thompson.

From Sir Richard Bourke to Your Lordship.—15th June, 1836, No. 65; 30th Novr., 1836, No. 133; 12th Octr., 1837, No. 99.

From Your Lordship to Sir Richard Bourke.—20th Decr., 1836, No. 241; 14th Feby., 1837, No. 264; 23d July, 1837, No. 348; 29th Sept., 1837, No. 375.

Reference to  
former  
despatches.

From this correspondence, your Lordship must be aware that the Colonial Medical Department has been for the last two years in a very unsatisfactory state.

Unsatisfactory  
state of  
medical  
department.

The measure of placing the Department under a Deputy Inspector of Hospitals, with the ultimate intention of assimilating it to the Military Medical Departments in other Colonies, was I am inclined to think a judicious one; but, for many reasons that I need not stop to enumerate, it was not one agreeable to the wishes or feelings of the officers of the Department in New South Wales. I feel it also a duty, though a painful one, to express my opinion that Dr. Thompson, whatever may be his other merits, was not exactly the man calculated to carry successfully into effect a measure in itself unpalatable to his subordinates, being wanting on the one hand in blandness of manner or conciliatory address, before which opposition might have gradually given way, and on the other in that firmness and decision of purpose, which would have overruled it.

Incapacity of  
J. V. Thompson  
to reorganise.

1838.  
23 April.

Rupture  
between  
J. V. Thompson  
and J. Mitchell.

Libel action  
brought by  
J. Mitchell  
against  
J. V. Thompson.

A rupture of a more open nature than what had previously existed between Dr. Thompson and his subordinates seems to have occurred on the occasion of the dismissal of Dr. Mitchell, the officer who had been for many years, previous to Dr. Thompson's arrival, in charge of the Colonial Hospital at Sydney; Dr. Mitchell's dismissal and the cause of it was reported to your Lordship by Sir Richard Bourke, in his Despatch of the 29th Sept., 1837, No. 375; and I have now to make your Lordship acquainted with other circumstances growing out of that dismissal, which have tended still further to throw the Department into confusion. Dr. Mitchell's cause having been warmly espoused by a portion of the Newspaper press of the Colony, and aspersions consequently cast on the character and motives of Dr. Thompson, I regret to say that the latter was imprudently led to address a letter to the Editor of a Paper called the "Colonist," by which he laid himself open to a prosecution for libel. The cause, which was at the suit of Dr. Mitchell, came on during the last sittings of the Supreme Court, and a verdict was given against Dr. Thompson with £100 damages and costs, amounting perhaps to an equal sum. The action was at first brought on three Counts, the two first of them charged as libellous certain orders that were issued by Dr. Thompson for the regulation of his Department, and the third only had reference to the letter, which appeared in the Colonist Newspaper, as addressed by Dr. Thompson to the Editor. The Departmental orders, which formed the two first Counts, being considered privileged publications, the Attorney General was directed by the late Acting Governor (before I arrived in the Colony) to defend the action on the part of Government; but these two Counts being subsequently abandoned, and the issue thus reduced to the question of the publication in the Newspaper, I directed the Attorney General not to defend the action *ex officio*, leaving him however quite free to defend Dr. Thompson in his private capacity. The trial took place on the 23rd March last, and I enclose herewith the "Colonist" Newspaper of the 28th March, which contains, I believe, a very fair report\* of it. Your Lordship will observe by this report that the matter, charged as libellous in Dr. Thompson's communication to the Editor of the Colonist, consisted of extracts from official documents, written either by the late Governor (Sir Richard Bourke) himself, or by his orders; and therefore it might appear at first sight that they would have admitted of an early justification; but it was the fact of their being Extracts only, and not entire documents, on which the issue entirely turned, Dr. Thompson having unfortunately sent to the Editor

\* Note 79.

only so much of the official documents, as bore against Dr. Mitchell, and suppressed the parts of them which bore with nearly equal severity on himself.

I have had no communication with the Judge who presided at the trial, but the Attorney General who was in Court, tho' for reasons presently to be stated he did not defend Dr. Thompson, has informed me that he sees no reason to question the propriety of the verdict, or the moderation of the damages.

The Attorney General further states that he separated himself from the defence with the entire concurrence of the Counsel, who had been retained by Dr. Thompson in his private capacity, and also with the concurrence of his Attorney, it being clear to all of these gentlemen that a verdict must be given against their Client, and it being also their opinion that higher damages would be given against him, if the Attorney General appeared in the defence, than if he separated from it; as in the former case the Jury would hardly be brought to believe that the Government was not a party concerned.

I have the honor to enclose copies of the two Departmental orders, which were charged as libellous in the two Counts of the Indictment that were subsequently abandoned; also a copy\* of Dr. Thompson's communication to the Editor of the "Colonist," which formed the third count, and the only one on which the Plaintiff went to trial; and further I enclose Copies of the entire documents from which Dr. Thompson sent only extracts.

Having thus made your Lordship acquainted with the present state of the Medical Department, I feel that it may be expected of me that I should suggest to your Lordship the measures that ought to be adopted; as however Sir Richard Bourke will in all probability be in England before your Lordship can receive this Despatch, and will doubtless, if referred to, afford your Lordship more satisfactory information than I can pretend to offer I feel it less incumbent on me to express any decided opinion. The parties and their respective merits are all known to Sir Richard Bourke, whilst to me they are for the most part strangers, being stationed in parts of the Colony, which I have not yet had an opportunity of visiting.

On the question however of compensation to the Officers whose letter I now forward to your Lordship, I feel little hesitation in saying that, if they quit the service upon the grounds set forth by them, they can have but a feeble claim to it; whilst on the other hand, though most of them are I believe men independent in circumstances, and in possession even of considerable property, they are not so without exception, and it might be hard

1838.  
23 April.

Libel action  
brought by  
J. Mitchell  
against  
J. V. Thompson.

Proposed  
reference to  
Sir R. Bourke  
for reforms.

Problem of  
compensation  
to retiring  
officers.

\* Note 80.

1838.  
23 April.

therefore to force them all to retire unconditionally, and more-over one of them, Mr. Robertson, has already expressed to me his willingness to remain and even to withdraw his name from the letter.

Preference for  
army surgeons  
in medical  
department.

In conclusion, I will only add that I entirely concur in the opinion, expressed by Sir Richard Bourke in his Despatch to Your Lordship, of the 30th Novr., 1837, No. 133, that it is desirable to introduce Army Surgeons into the Colonial Medical Department, provided it be determined to maintain a Military officer at the head of it.

I have, &c.,

GEO. GIPPS.

[Enclosures.]

[Copies of these papers are not available.]

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 66, per H.M. ship Buffalo; acknowledged by lord Glenelg, 27th November, 1838.)

24 April.

My Lord, Government House, 24th April, 1838.

In my Despatch of yesterday's date, No. 65, I have reported to your Lordship on the state of the Medical Department of this Colony, in as far as the disagreements between the officer at the head of it and his subordinates are concerned; I now propose to reply to those portions of your Lordship's Despatches of the 20th December, 1836, No. 241; 14th February, 1837, No. 318; 29th September, 1837, No. 375, and of their Enclosures, which have reference to the position of the Principal Medical officer, in respect to the head of the Government and to whatever relates to his own ease and comfort, in carrying on the duties of his department, and more particularly to the points touched on by Sir James McGregor in his letters to your Lordship's Under Secretary of 14th December, 1836; 27th June, 1837; 17th August, 1837.

Despatches  
acknowledged.

In the first place, I have to report that Dr. Thompson has, I believe, always had free access to the Governor in the same way as every other head of a Department; though his official correspondence has like their's been conducted in the usual manner through either the Military or the Colonial Secretary, and through the latter exclusively in all that concerns the Civil Branch of his duties since my assumption of the Government.

Access of  
J. V. Thompson  
to governor.

His emoluments, being granted to him by the Treasury, are not in any way under my control. I must however say that I have no reason to suppose them inadequate to his rank or station; and that this was the opinion of Sir Richard Bourke, I am led

Emoluments of  
J. V. Thompson.

to infer from a Minute in the following words, made by him on your Lordship's Despatch of the 14th Feby., 1837, No. 264.

"This Despatch is in reply to some communication, made by the Deputy Inspector General to Sir James McGregor or some other person, without my knowledge. I have acted since his arrival conformably to the instructions now given by the Lords of the Treasury, and do not propose to recommend any further or extra allowance whatever either for Deputy Inspector General or Deputy Purveyor."

I have further to report to your Lordship that the other suggestions, contained in the letters of Sir James McGregor above referred to, have all been carried into effect, with the sole exception of an increase to the usual allowance of Travelling money to Dr. Thompson. The appointment of Dr. Thompson being a Military one, all his allowances and that for travelling among the rest are governed by the Army Regulations. He receives the same travelling allowances as Field Officers or other heads of Departments of corresponding rank; and he has moreover forage for two horses.

The longest journey that Dr. Thompson has ever yet performed is, as I understand, from Sydney to Windsor, a distance of 35 Miles; and, though I have no power to grant him any general increase of allowance, I have informed him that I will not object to receive as a special case any representation he may think fit to make, in the event of his ever being required to perform journies of unusual extent or with unusual expedition.

I enclose for your Lordship's further information.

1st. A statement of the pay and allowances, of which Dr. Thompson is in receipt;

2nd. A Comparative Statement of the whole expence of the Colonial Medical Department in the years 1836 and 1838;

by which your Lordship will perceive that the measure of placing the Colonial Hospital under Military Superintendence has not been attended with any saving to the Public.

I have only further my Lord to explain that neither in this letter nor in that, which I had the honor to address to you yesterday, have I any intention to complain of the way in which the strictly professional duties of the Medical Department in this Colony are performed.

I have, &c.,

GEO. GIPPS.

1838.  
24 April.

Emoluments of  
J. V. Thompson.

Travelling  
allowances.

Statements  
submitted.

Economy not  
effected by  
reorganisation.

[Enclosures.]

[Copies of these papers are not available.]

1838.  
25 April.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 67. per H.M. ship Buffalo; acknowledged by lord Glenelg. 16th November, 1838.)

My Lord, Government House, 25th April, 1838.

Despatch  
acknowledged.

In acknowledging the receipt of your Lordship's Despatch of the 26th July, 1837, No. 353, on the subject of the treatment of the Aboriginal Inhabitants of this Country, and the measures which are to be adopted when any of them come to a violent death by the hands of the Queen's officers or by persons acting under their orders, I regret very much that I have to state to your Lordship that a case has already occurred, in which I have found it necessary to act on your Lordship's Instructions.

Encounter  
between police  
and aborigines  
reported.

Your Lordship will perceive by the accompanying report, made to me by Major Nunn of the Mounted Police, that, previously to my arrival in the Colony, a rencontre had taken place between a part of the Police under his orders and a Tribe of the Natives, in which there is but too much reason to suppose that a number of the latter lost their lives.

Papers  
submitted to  
executive  
council.

On the receipt of Major Nunn's Report, I deemed it my duty to lay it before the Executive Council, as well as your Lordship's Despatch above alluded to, and also a Copy of the Report of the Committee\* of the House of Commons, which was appointed during last Session of Parliament to enquire into the condition of the Aborigines in British Possessions; and I have now the honor to enclose for your Lordship's information a Copy of the Minutes that were made by the Council on that occasion.

Inquiry ordered  
at Invermein.

I had previously consulted the Attorney General on the same subject, and, as the advice† of the Council was entirely in concurrence with the opinion expressed by him, I have since given orders for an investigation into all the circumstances of the case to take place before the Police Magistrate and Bench of Justices, which hold their sittings at Invermein in the County of Brisbane, that Bench being the nearest to the scene of action, though distant from it perhaps not less than 150 miles.

Type of  
commissions  
to magistrates.

As your Lordship expressed an opinion, in the Despatch above alluded to, that an investigation in cases of this nature might be held before such of the Magistrates as have Commissions for the whole Colony, it is essential for me to state that the Commissions of all Magistrates without exception are for the whole Colony, and that therefore I could not have made a selection of any particular Magistrates, without exposing myself to the charge of partiality and of deviating without sufficient reason from the course of proceeding, adopted in the Colony in cases of a similar nature, where the lives of white men are concerned.

\* Note 9.

† Note 81.



As the affair took place far beyond the boundaries of location, and in a Country\* which has rarely, if ever, been visited by Europeans, it is impossible to ascertain with any great degree of correctness the exact scene of it, or the particular Tribe which Major Nunn fell in with. From the distance, however, that Major Nunn supposes his party to have travelled during an absence of 53 days, it is probable that the distance of the place was not less than that which I have mentioned from the extreme Northern point of the County of Brisbane. The Limits of Location do not extend to the Northward beyond that County; but your Lordship is well aware that very numerous licences are annually granted to Settlers to graze their flocks and herds to an unlimited distance beyond. I should not perhaps very much err, if I were to say that nearly half the Cattle and sheep of the Colony are thus depastured beyond what are called the Limits of Location; and any attempt to reduce the number of these Licences would be considered fatal to the prosperity of the Colony.

1838.  
25 April.  
Difficulty in locating scene of encounter.

Grazing licenses beyond limits of location.

The Surveyor General is inclined to suppose that the affair happened in about Lat. 29° South, and Long. 150° East, which would place the scene of it about 300 miles to the North and 70 to the West of Sydney.

Site suggested by T. L. Mitchell.

I have, &c.,

[Enclosures.]

GEO. GIPPS.

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

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 68, per H.M. ship Buffalo; acknowledged by lord Glenelg, 16th November, 1838.)

My Lord,

Government House, 27th April, 1838.

27 April.

In my Despatch No. 67 of the 25th instt., I detailed to your Lordship the measures which I thought it right to adopt, in consequence of a recent collision between a party of the Mounted Police and a Tribe of the Native Blacks, and I have now the honor to acquaint you that I have further deemed it necessary, with the advice of my Executive Council, to issue a Government Notice declaring that, in all cases where any of the Aboriginal Inhabitants of this Territory shall lose their lives in consequence of a quarrel or collision with white men, an Inquest or Inquiry shall be held, precisely similar to that which is held in the located parts of the Territory when a white man comes to a violent or sudden death, and also declaring that the Commissioners of Crown Lands, beyond the Boundaries of Location, shall act as Protectors of Aborigines.

Notice proposed re inquests on aborigines.

Your Lordship will perceive by the Copy, which I enclose of the proposed Notice and which will appear in the Gazette of

\* Note 82.

1838.  
27 April.

Wednesday next, that it is founded partly on your Lordship's Despatch of the 26th July, 1837, No. 353, and partly on the suggestions thrown out in the Report of the Committee of the House of Commons on the treatment of the Aborigines in British Possessions which sat in the last Session of Parliament.

Difficulty in checking outrages on aborigines.

Your Lordship is, I am sure, well aware of the extreme difficulty of devising any measure that shall effectually check the outrages, which, I regret to state, are now of frequent occurrence beyond the boundaries of Location. I may not be very sanguine of the entire success of the one I have resorted to, but, being the only one within my power, I hope it will meet your Lordship's approbation.

Notice *re* retention of black women by white men.

I have also deemed it necessary to republish a Notice, which appeared in the Government Gazette on the 16th Septt., 1837, on the subject of the forcible retention by white men of women belonging to the Aboriginal Tribes, which there is reason to fear is often the immediate cause of these outrages.

I have, &c.,

GEO. GIPPS.

Reasons for delay in publishing notices.

P.S., May 2nd, 1838.—Since the above Despatch was written, I lament to say that information has been received, both from the North and South, which, being calculated to exasperate the public mind against the Blacks, renders it in my opinion desirable to defer the publication of these Notices for a few weeks.

Murders by aborigines.

To the North, and in the neighbourhood of Major Nunn's late operations, a man in charge of a Cattle Station, belonging to a person named Fitzgerald, has been found barbarously murdered, and also two other men belonging to a Surveying party under Mr. Finch.

From the South, we have accounts of a large Convoy of Sheep and Cattle, belonging to a gentleman of the name of Faithfull, having been attacked on the 13th ulto. on their way to Port Phillip, and eight men killed\* out of eighteen, who formed Mr. Faithfull's party. The particulars of this last occurrence I have not yet received; but I have directed a Civil Stipendiary Magistrate and a party of the Mounted Police to proceed with all possible haste to the spot, and have given them particular instructions for their guidance.

The Blacks, who are supposed to have murdered the two men belonging to the Surveying Party, have been taken, and will be tried before the Supreme Court.

I have, &c.,

GEO. GIPPS.

[Enclosure.]

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

\* Note 83.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch marked "Separate and Confidential," per H.M. ship Buffalo.)

1838.  
27 April.

My Lord, Government House, 27th April, 1838.

In my public Despatch of the 25th instt., No. 67, I have detailed to your Lordship the measures which I have thought it right to adopt, in consequence of the late unfortunate Collision between a party of the Mounted Police and a Tribe of the native Blacks, and in another Despatch of this day's date, No. 68, I have reported to your Lordship that a Government Notice is on the point of being issued, declaring the Commissioners of Crown Lands beyond the boundaries of location to be charged with the duty of protecting the Native Blacks.

Despatches  
*re* aborigines.

Your Lordship must be, I am sure, aware that these matters are calculated to produce a considerable sensation in the Colony, and that therefore much management is required in the treatment of them. In the Executive Council, an apprehension arose of the mischief that might ensue, if any offence were given to the Officers and Men of the Mounted Police, who are (as your Lordship doubtless knows) all Volunteers from Regiments of the Line serving in New South Wales, and at liberty to resign their Police duties and return to their Regiments when they please.

Tact required  
in action *re*  
natives.

I need scarcely, I hope, state that I was equally with the Council desirous of avoiding anything either in substance or mode of expression that could unnecessarily have a tendency of the sort.

With respect to the spot (Invermein) fixed on for the investigation, some inconvenience will without doubt be felt from the distance of it from Sydney; but the choice only seemed to lie between Invermein and Sydney itself; and the opinion of the Council was decidedly against having the investigation in Sydney. Invermein is selected simply because it is the place nearest to the scene of action of any where an ordinary Police Court is held.

Inquiry to be  
held at  
Invermein.

Major Nunn has stated to me that he thinks the party of Natives, he fell in with, must have consisted of not far short of 1,000 persons, including women and children; that they consisted of tribes but little accustomed to intercourse with white men; and that they are particularly dexterous with their spears as well as with a peculiar instrument called a Boomerang which they hurl with great effect.

Number of  
aborigines in  
encounter  
with police.

Your Lordship will observe that Major Nunn does not state in his report the number of men that were killed; but, from the conversation I have had with him, I should not think they were less than ten or twelve, besides a number wounded.

Number  
of killed.

1838.  
27 April.  
Retaliatory  
outrages by  
aborigines  
reported.

I lament to say that we have since heard of some outrages, which have the appearance of being retaliatory on the part of the Blacks. One white man at a distant Cattle station, belonging to a Mr. Fitzgerald, on the river Gwyder, has been most barbarously murdered, and some Cattle belonging to the same person slaughtered in a way that seems also to indicate its having been an act of revenge, rather than one of ordinary rapine, though I am not without hope that they may prove unfounded.

I have, &c.,  
GEO. GIPPS.

Reports  
confirmed.

P.S., May 2nd, 1838.—I regret very much to have to state that the rumours, alluded to in the concluding paragraph of the above Despatch, have proved but too true; two men belonging to a Surveying party having been found murdered in a part of the Country, not very distant from the scene of Major Nunn's operations.

Capture of  
murderers.

The parties however, who committed these murders, have all been taken, and, as there seems no reason to doubt their identity, they will all be tried at the next Sittings of the Supreme Court.

Attack on  
party travelling  
to Port  
Phillip.

Atrocities of a still more serious character have also, I regret to say, been reported, since the above Despatch was written, from quite another part of the Country. A party consisting of no less than eighteen men, who were driving a large herd of Cattle and a considerable number of sheep from the County of Murray to Port Phillip, were attacked on the 13th ulto. by a party of 300 Blacks and eight of them killed. I have as yet no particulars of the occurrence; but I have directed a Civil Stipendiary Magistrate and a party of the Mounted Police to proceed with all possible despatch to the spot. G. GIPPS.

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SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch marked "Confidential," per H.M. ship Buffalo; acknowledged by lord Glenelg. 16th November, 1838.)

1 May.  
Confidential  
opinions.

My Lord, Government House, 1st May, 1838.

Two months having now elapsed since I entered on the Government of this Colony, I hope I may be permitted to address your Lordship confidentially on some points connected with it, and to impart to your Lordship, with less reserve than that which usually pervades an official document, the first impressions which it has made upon me.

Lull in  
party strife.

I am in the first place happy, my Lord, to be able to say that the political hostility, existing between opposite parties, does not appear to be of that mischievous or dangerous nature which I expected to find it. I am told indeed that the present lull in the

public mind is to be attributed in great measure to my own arrival, each party being anxious by a show of moderation to gain me to its side, and that I shall before long see party spirit break out again with renewed fury; that this will to a greater or less degree be the case, I have not the slightest doubt; but nevertheless I am bound to acknowledge that the present state of the Colony is one of remarkable tranquillity.

1838.  
1 May.  
—  
Lull in party  
strife.

The public mind seems most fixed at the present moment on the subjects of Assignment, Transportation, and Immigration, or in other words on the means of obtaining labor. That the sudden withdrawal of Assigned servants would be fatal to the prosperity of the Colony seems to be the impression of nearly every one; and I must confess that I cannot help, in great measure, partaking in this opinion, although there is not, as I believe your Lordship is aware, any bias in my mind in favor of forced labor.

Problem of  
supplying  
demand for  
labour.

So long as the demand for labour, created by the influx of Capitalists, continues at its present rate, the supply afforded by means of Immigration alone must I think be found deficient.

Inability to  
supply demand  
by immigration.

There are men, who looking rather to their own immediate wants than to the ultimate good of the Country, are desirous either to confine within very narrow limits the number of women and children to be brought out in Emigrant ships, or to seek for a supply of labour from India or from China; and a meeting on this subject is, I believe, to be held in Sydney on the 25th instt. I am very happy that I have received your Lordship's instructions on the subject of Immigration from India, as this means of supplying labor would, if carried to any extent, be fraught in my opinion with evils of the highest magnitude.

Selfish proposals  
of section of  
community.

The most important incident of a domestic nature, that has occurred in the Colony since the departure of Sir Richard Bourke, is the schism which has unfortunately broken out among the Ministers of the Presbyterian Church, and which was reported to your Lordship by the late acting Governor on the 17th Feby. last, in his Despatch No. 25. Dr. Lang denies *in toto* that he has separated himself from the Church of Scotland, or gone beyond what is warranted by the Institutes of that Church; and he assigns, as his sole reason for refusing to reenter the Presbytery, the immorality and laxity of discipline which has been allowed to exist in it. I have for some time been endeavoring to bring about a reconciliation between these parties through the mediation of some of the Lay members of their Church, but I must acknowledge that I am not very sanguine of success; should I fail, I shall be under the necessity of submitting the whole case to your Lordship.

Schism in  
Presbyterian  
church.

1838.  
1 May.

Reports re  
outrages by  
aborigines.

My Despatches, Nos. 67 and 68, will put your Lordship in possession of all the facts that have come to my knowledge, respecting the outrages lately committed beyond the boundaries of location, and particularly on the line of our communication with Port Phillip, by the Aboriginal Inhabitants; I have sent a Stipendiary Magistrate to the spot, where eight white men were murdered\* on the 13th ulto., and a party of the Mounted Police, who are to act under his orders.

Problem of  
new form  
of government.

Upon the subject of the new form of Government that is to be given to New South Wales, less discussion has taken place since I have been in the Colony, than might have been expected. If this question is to be settled in the present Session of the Imperial Parliament, no representation of mine can reach your Lordship in time to be of any avail; if, on the contrary, it is to be deferred to the next Session, it will be early enough for me to express to your Lordship my opinions a few months hence. I will therefore only at present say that the persons, with whom I have communicated (confidentially of course) on the subject of the proposal† of Lord Howick, are The Bishop, The Chief Justice, Mr. Justice Burton, The Colonial Secretary, The Attorney General; of these gentlemen, the Bishop of Australia is the one, who is, I think, most disposed to regard the proposal in a favorable light, though he doubts whether it be well adapted to the wants of the Colony. The other gentlemen are of opinion that it will not satisfy any party, and that it is particularly illsuited to a population of so very scattered a nature as that of New South Wales.

Reception of  
Sir G. Gipps  
by colonists.

I cannot conclude this letter without expressing to your Lordship how much cause I have to be satisfied with the reception, which I have met with from persons of all classes in the Colony. Addresses of Congratulation have been presented to me from all the places, which have any pretensions to be called Towns, and also from several Societies and public Bodies in Sydney.

I have, &c.,  
GEO. GIPPS.

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SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 69, per H.M. ship *Buffalo*.)

My Lord, Government House, 1st May, 1838.

Inconveniences  
of disability of  
convict to hold  
property.

I beg to bring under your Lordship's Notice a case of some difficulty, which has occurred in this Colony, and which exhibits in a strong point of view the inconveniences which frequently arise from that part of the 2nd Clause‡ of the Act of 2nd and 3rd Willm. 4th, Ch. 62, which declares a Convict to be incapable of holding property.

\* Note 83.

† Note 84.

‡ Note 85.

Your Lordship is, I believe, aware that the property, which Convicts may bring with them to this Country or to which they may become equitably entitled during the period of their captivity, is not usually confiscated, but placed in the Savings Bank of the Colony, and restored to them generally on their obtaining a Ticket of Leave, instead of being kept, as would be conformable to the Act, until they became free either by the expiration of their sentence or by the effect of a pardon from the Crown.

As the sums, thus coming to any Convict on his obtaining a Ticket of Leave, are in general of small amount, little inconvenience has been found to arise from this practice. On the 10th Feby. last, however (being some days before I arrived in the Colony) an application was made to the late Acting Governor by a Convict of the name of Henry Herring to be permitted to draw from the Savings Bank the sum of £714 for the express purpose of employing it, after payment of his debts, partly on Mortgage, and partly as an investment in a business, which he said he was about to engage in; and, as no answer had been returned to him, when I assumed the Government, I found myself called on to decide whether it should be given to him or not.

Judging that to issue such a sum of money to a Convict for the avowed purpose of investing a part of it on Mortgage would be an open infringement on the Clause of the Act above mentioned, I caused it to be signified to Henry Herring that I could not comply with his request, though I would advance him any such small portion of his money, as he might stand in need of to purchase clothes or other necessaries to enable him to start fairly in the new career, that was opened to him by his having been indulged with a Ticket of Leave. In reply to this communication, I received a second application from him, representing that, in the full confidence that the indulgence granted to others would not be refused to him, he had contracted debts in the Colony, which he was anxious to discharge, and particularly a debt for his own maintenance at an Inn, at which he had been living in Sydney during the time that he had been waiting for an answer to his application, and which, owing to the change in the Government consequent on my arrival, had been unavoidably longer than it would otherwise have been.

I, therefore, not wishing to depart further in his case from what has become an established practice than the nature of it seemed to require, consented to his receiving half the amount, or £357, in order that he might discharge his debts; and I hope your Lordship will not consider that, in so doing, I have made a bad exercise of my authority. The largest sum that had been previously issued to any Convict, under similar circumstances,

1838.  
1 May.

Practice re  
disposal of  
property of  
convicts.

Application by  
H. Herring  
to withdraw  
money from  
savings bank.

Qualified  
refusal of  
application.

Second  
application for  
money to pay  
debts.

Withdrawal  
of money  
authorised.

1838.  
1 May.

Previous  
precedents.

Claim by  
H. Herring for  
restitution of  
watches and  
jewellery.

Career of  
H. Herring.

Money in  
possession of  
H. Herring.

Conduct and  
special treat-  
ment of  
H. Herring.

was I find £175 to Andrew Beaumont on the 9th May, 1833; and, in order to enable your Lordship to judge of what has been the practice of the Colony in this respect, I enclose a return of all the sums issued to men on their acquiring Tickets of Leave during the last two years.

I have further to inform your Lordship that Henry Herring now claims restitution\* of a quantity of watches and jewellery, that was also taken from his person at the time of his arrival in this Colony in 1825; and, with respect to which, I must beg to refer Your Lordship to a Despatch from General Darling to Mr. Under secretary Hay dated the 10th October, 1826.

The watches and jewellery appear from this Despatch to have been sent to England at that time; but what subsequently became of them nobody in this Colony can now tell.

As the history of Henry Herring is somewhat curious, it will I think be right for me to give to your Lordship such a summary of it, as I can collect.

He first arrived in this Colony in the year 1807 by the Ship "Duke of Portland," having been tried at the Somerset Assizes on the 9th August, 1806, for some offence unknown, and sentenced to transportation for life under the name of Henry Millson.

He escaped from the Colony and got back to England, where he was tried again for some offence, equally unknown to us, at the Devon Assizes on the 14th July, 1814, and again sentenced to transportation for life, under the name he at present bears of Henry Herring. He arrived for the second time in the Colony by the ship "Indefatigable" in 1815.

He a second time escaped from the Colony and returned again to England; but, being recognized and apprehended, was a third time sent to this Colony, under sentence of transportation for life, by the Ship Minstrel (2) in 1825.

It was on this last occasion that English coin, to the amount of £380 and 360 Spanish Dollars, were found on his person, besides the watches and jewellery above mentioned. The money was placed in the Savings Bank, where it has accumulated with interest, first at  $7\frac{1}{2}$  and latterly at 10 per Cent., and therefore would now amount to a larger sum than that which I first mention as being due to him in February last, vizt., £714, had he not been allowed at different times to receive various sums of money, amounting in the whole to £319 17s. 6d.

Herring has, I am informed, of late years conducted himself very properly; he is one of the Class, called Specials or Gentleman Convicts, and he has been confined first at Wellington Valley and latterly at Port Macquarie.

\* Note 86.



I have in conclusion to request your Lordship's instructions, as to what is to be done with the money yet remaining in his name in the Savings Bank, and also as to the answer which is to be returned to him respecting the watches and jewellery, which he now claims to have restored to him.

I have, &c.,

GEO. GIPPS.

1838.  
1 May.  
Instructions  
requested.

[Enclosure.]

[*This was a return of sums issued from the savings bank to ticket-of-leave holders since January, 1836. The total amount was £693 15s. 2½d.*]

Return of sums  
issued to  
ticket-of-leave  
holders.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 70, per H.M. ship Buffalo; acknowledged by lord Glenelg, 7th November, 1838.)

My Lord,

Government House, 3rd May, 1838.

3 May.

With reference to my Despatch of the 13th March last, No. 38, on the subject of the Female Factory at Parramatta, in which I stated to your Lordship my great apprehension that I should not be able to keep both Mrs. Leach and Mr. Clapham in consequence of the disagreements that had sprung up between them, I have now to report to your Lordship that I have deemed it my duty to remove Mr. Clapham, and that he has been dismissed from the 1st instant.

Dismissal of  
J. Clapham  
as steward  
at female  
factory.

Notwithstanding my most earnest exhortations to Mrs. Leach and Mr. Clapham to lay aside their private quarrels and unite their best efforts for the good of the Establishment, I have, at each of my successive visits, found matters gradually growing worse; and I have further to report that, on my going there on Friday last the 28th ulto., the Police Magistrate complained to me in a very serious manner of Mr. Clapham. He stated that Mr. Clapham had, under pretence of mustering the women, attempted to make a speech to them, contrary to very express orders that I had given to him; and also that he had gone into the women's sleeping rooms, after they had been put into them for the night, contrary to the regulations of the Establishment.

Complaints by  
magistrate  
against  
J. Clapham.

He also reported to me that Mr. Clapham, far from laying aside his animosity towards Mrs. Leach, had renewed his accusations against her on account of what had passed on board the "Ben-coolen" in their way from England, and had brought forward a charge that he had never mentioned before, namely, that Mrs. Leach was in the habit of drinking and that he had himself carried her drunk to her cabin; and lastly the Police Magistrate reported some instances of personal disrespect on the part of Mr. Clapham to himself.

Charges by  
J. Clapham  
against matron.

1838.  
3 May.

Reason for  
dismissal of  
J. Clapham.

In consequence of these complaints, I judged that there was no longer anything to be hoped for in the way of a reconciliation between Mr. Clapham and Mrs. Leach, and finding moreover that the Prisoners in the Factory had become acquainted with the nature of their disagreements, and had begun even to range themselves as partisans on one side or the other, I could not but fear that some outbreak among them might be the consequence of my retaining Mr. Clapham any longer on the Establishment; therefore I adopted the measure, which I now submit for your Lordship's approval.

Testimony in  
favour of  
matron.

I have only to add in justice to Mrs. Leach that I do not attach the smallest credit to the assertions that Mr. Clapham has made respecting her, as far as they bear against her moral character or respectability.

I have, &c..

GEO. GIPPS.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 71. per H.M. ship Buffalo; acknowledged by marquess of Normanby, 9th March, 1839.)

4 May.

Opinion of  
executive  
council *re*  
gratuities to  
surgeons on  
immigrant  
ships.

My Lord,

Government House, 4th May, 1838.

I have the honor to enclose for your Lordship's information a Copy of a Minute of Proceedings in the Executive Council in this Colony on the 6th ulto., in consequence of my bringing under the consideration of the Council the question of Gratuities to Surgeons of Emigrant Ships.

Your Lordship will perceive that the Council did not coincide with me in thinking that a gratuity should be considered as something payable only on the successful issue of the undertaking for which it was promised, and not granted as a matter of course, or to its full amount, in cases where a Surgeon in Charge of Emigrants might merely perform his duty, so as to be exempt from blame, and that therefore they advised the payment of the whole gratuity to Mr. Rogers of the ship "Layton," notwithstanding seventy children died on board that vessel between England and New South Wales; and that a fever broke out among the immigrants by her, after they were settled in the Country.

Your Lordship will however perceive that the Council afterwards recommended that gratuities should on all future occasions be regulated, "somewhat on the principle on which Head Money is granted to Surgeons of Convict Ships," a principle which comes so near to the one I proposed that I made no objection to the adoption of it.

I would respectfully beg leave to propose to your Lordship that, in the event of your Lordship's approving of gratuities being regulated on this principle, the fact of their being so should be explained to the Surgeons of Emigrant ships at the time they are engaged by the Agent General for Emigration, and that your Lordship's decision should be communicated also to this Government for our guidance.

1838.  
4 May.  
Proposals re  
gratuities.

I have, &c.,  
GEO. GIPPS.

[Enclosure.]

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

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 72, per H.M. ship Buffalo; acknowledged by lord Glenelg. 15th December, 1838.)

My Lord, Government House, 5th May, 1838.

5 May.

With reference to my Despatch of the 13th ulto. No 59, in which I reported the suspension of Mr. H. F. White of the Surveyor General's Department, I have now the honor to enclose a statement in the shape of a letter to your Lordship, which I have been requested to forward by Mr. White.

Transmission  
of letter from  
H. F. White.

I have, &c.,  
GEO. GIPPS.

[Enclosure.]

[A copy of this letter, dated 1st May, 1838, is not available.]

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 104, per ship Maitland.)

Sir, Downing Street, 7 May, 1838.

7 May.

I have the honor to transmit for your information the Copy of a letter addressed to this Department by desire of the Master General and Board of Ordnance on the subject of the Controul to be exercised by the Lt. Governor of Van Diemen's Land over the Officers of Ordnance, stationed in that Colony, in matters connected with the Convict Establishments.

Transmission of  
instructions re  
control over  
ordnance  
officers.

I have thought it right to Communicate to you a Copy of this letter for your information and guidance in the event of any doubt arising on the subject in the Colony under your Government.

I have, &c.,  
GLENELG.

1838.  
7 May.

[Enclosure.]

MR. R. BYHAM TO UNDER SECRETARY STEPHEN.

Sir,

Office of Ordnance, 25 April, 1838.

I have the honour, by command of the Master General and Board of Ordnance, to acknowledge the receipt of your letter dated 31st ultimo, in answer to their communication of the 23d February, regarding the alleged interference of Sir John Franklin, Civil Lieutenant Governor of Van Diemen's Land, with the Ordnance Officers at that Colony, in respect to certain duties entrusted to the latter and their correspondence with the heads of their Department at home; and enclosing a copy of a dispatch from Sir John Franklin in which he makes the following proposals:—

First—that, whenever the Ordnance Officers send home reports to the Master General and Board recommending any change of system for the employment, clothing, or lodging of Convicts, for whose welfare and discipline the Lieutenant Governor alone is responsible, those Officers may be required to furnish copies for his information of such reports, at the same time they are transmitted to this Country, in order that, if on perusal of them he should be of opinion that the representations therein contained are not well founded, or that those representations, if acted on, would not be for the good of Her Majesty's Service, but would be prejudicial to the ends of transportation and to the interests of the colony, he may have an opportunity of communicating at the same time with the Secretary of State, with a view to prevent the issue of instructions, the execution of which it might be necessary for the Lieutenant Governor either to postpone on his own responsibility, or to leave in operation to the prejudice of the public service until countermanded by orders from the Secretary of State; and

Secondly—that the Officers in Van Diemen's Land, under the Treasury, Ordnance and Army Medical Board, should consider themselves as strictly under the orders of the Lieutenant Governor for the time being, whether holding Military Command or not, in all matters whatsoever in any manner relating to the expenditure, clothing, and lodging of Convicts, or to their medical care and superintendence, and that their correspondence should be conducted through the established channel of the Colonial Secretary.

In the propriety of the above suggestions, Lord Glenelg, for the reasons detailed in your letter, expresses his concurrence, and trusts that the Master General and Board may find it practicable to adopt them without prejudice to the branch of the public Service under their control.

The Master General and Board command me to acquaint you in reply, for his Lordship's information, that, although these propositions involve to a certain extent the abrogation at Van Diemen's Land of the restrictions enjoined by the Duke of Wellington's letter of 3d December, 1827, in respect to the powers of Governors and Commanding Officers abroad to call for copies of the communications passing between the Officers of this Department and their immediate superiors at home, yet, referring to the peculiar situation of Van Diemen's Land, the distance of the settlement from this country, and the nature of the duties confided to the Lieutenant Governor, adverting also to the other considerations dwelt upon by Sir John Franklin in his dispatch in support of his application, and to which Lord Glenelg gives his concurrence as being in

Instructions *re*  
control of  
lieut.-governor  
in Tasmania  
over ordnance  
officers employed  
on convict  
services.

conformity with the system observed by the departments under the orders of The Lords of the Treasury, the Master General and Board have decided upon the expediency of modifying the Instructions forwarded to the respective Officers as stated in my communication to you of the 23d February last.

Had the Master General and Board had Sir John Franklin's letter before them, when they issued those Instructions, they would not have insisted so strictly on the points prescribed by the Duke of Wellington's letter of the 3d December, 1827, which (as Lord Glenelg justly conceives) has reference particularly to that branch of the duties of the respective Officers which regards Barracks, although the principle is applicable to all correspondence between the Master General and Board and their Officers.

The Master General and Board are willing to admit that the distance of the colony over which Sir John Franklin presides, the peculiar circumstances attached to it, and the particular duties to which that Officer refers as respects the supply of Clothing, etc., all make a considerable difference between this case and others such as are adverted to in the Duke of Wellington's letter. The Master General and Board consider that, whenever the duties of the Respective Officers have reference to matters coming especially under the cognizance of the *Ordnance Department*, and an expense is incurred which is to be accounted for in the *Ordnance Estimates*, those Officers are in such case responsible as a body, and their communications with the Master General and Board come under the regulation laid down by the Duke of Wellington; but in cases like the present, where they simply act in their respective capacities as Engineer Officer, or Storekeeper, under the authority of the Lieutenant Governor who is responsible, and where the expenditure incurred forms no item in the *Ordnance Estimates*, and looking also to the instructions contained in the Treasury letter to the Secretary of State for the Colonies of the 9th October, 1837, the Master General and Board are prepared to assent to the course proposed by Lord Glenelg, a course, as it appears, pursued without inconvenience by other Departments. They have accordingly sent orders to the respective officers at Van Diemen's Land to this effect, at the same time particularly cautioning them to abstain, as far as possible, from giving any cause for dissatisfaction to the Lieutenant Governor and to use their best endeavours to conduct harmoniously the public service.

With reference to the question of providing Convict Mechanics and Labourers for the Service of the Royal Engineer Department, from the proceedings in regard to which the present correspondence arose, and adverting to the arrangements which were authorized by Lord Glenelg, as notified in your letter of the 5th December, 1836, the Master General and Board direct me to state that they cannot but regret to find that any difference of opinion should have arisen between the Lieutenant Governor and the Ordnance Respective Officers on the subject. The Master General and Board certainly never intended to interfere with the previous assignment of Labourers to individuals, nor incautiously to break up any existing distribution of the Convict Mechanics amongst the public Departments, but that the Lieutenant Governor should to the fullest extent, which circumstances at the time might permit, distribute to the Engineer Department the Convict Mechanics and Labourers under his control. The terms of your letter above quoted appear to

1838.  
7 May.

Instructions re control of lieut.-governor in Tasmania over ordnance officers employed on convict services.

Supply of convict mechanics for engineer department.

1838.

7 May.

Supply of convict mechanics for engineer department.

the Master General and Board quite satisfactory upon the subject; and they are at a loss to account either for the Lieutenant Governor's interpretation that it related to Convict Labourers only, or for that of the Respective Officers as described by the Lieutenant Governor to extend without reference to circumstances to every Convict Mechanic in the Colony already employed by the Colonial Government.

I have, &amp;c.,

R. BYHAM.

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SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 73, per ship *Minerva*.)

My Lord,

Government House, 7th May, 1838.

Confinement of J. Waggoner as criminal lunatic.

I have the honor to transmit herewith a Copy of the Notes, taken by the Chief Justice of this Colony at the trial of John Waggoner, acquitted on a charge of murdering James Heron on the ground of insanity; and I have in conformity with the Act of 39th and 40th Geo. 3rd, Cap. 94, Sect. 1, to request that I may be honored with Her Majesty's commands, as to the way in which he shall be disposed of.

Until Her Majesty's pleasure shall be signified, I have caused him to be lodged in the Lunatic Asylum of this Colony, and I would venture to suggest that he should be confined there, or placed under private treatment, during the continuance of his malady, at the discretion of the Governor.

I have, &amp;c.,

GEO. GIPPS.

[Enclosure.]

[*These notes have been omitted.*]

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LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 105, per ship *Maitland*.)

9. May.

Sir,

Downing Street, 9 May, 1838.

Despatch acknowledged.

I have received Sir Richd. Bourke's Dispatch No. 82 of the 5th Sept. last, with Copies of two letters addressed to the Colonial Secretary of New South Wales by the Collector and Comptroller of Customs at Sydney representing the necessity of fixing the Pay of the Clerks in their Department according to the scale adopted by the Legislative Council of the Colony for Clerks, whose Salaries are charged on the Colonial Treasury.

Refusal to alter system for salaries of clerks in department of customs.

Having referred the subject for the consideration of the Lords Commissioners of the Treasury, I have the honor to acquaint you that their Lordships are of opinion that, as the Salaries of the Clerks in the Departments of the Collector and Comptroller at Sydney, as well as those of the other officers of the Customs Establishment in New South Wales, have been regulated upon

the same principle as those of the Customs Establishments throughout the British Colonial Possessions, it would not be expedient to sanction the alteration referred to in your Predecessor's Dispatch.

1838.  
9 May.

I have, &c.,

GLENELG.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 74, per ship *Minerva*; acknowledged by lord Glenelg, 30th October, 1838.)

My Lord,

Government House, 9th May, 1838.

I have the honor to forward to your Lordship a Memorial from Mr. F. Beddek of Windsor in this Colony, praying your Lordship to give him a grant of land on the ground that his application for one was improperly refused by Sir Ralph Darling in 1829.

Transmission of memorial from F. Beddek.

The reason why his application was then refused is not stated in the communication that was made to him on the 29th Decr., 1829; but the report of the Land Board, to which Mr. Beddek's claim was referred by General Darling, shews it to have been in consequence of his failing to prove that he was in possession of the amount of Capital that was required in order to entitle him to a Grant, he having stated that he had £500 in the hands of Mr. Icely, a Merchant of Sydney, but that gentleman, when called upon, would not come forward to admit that such was the fact. In this report which is dated the 16th Decr., 1829, the following words occur respecting Mr. Beddek; "he emigrated to the Colony in Decr., 1827, and, having been bred a Solicitor, has settled in Windsor with a view of following that profession. He was sometime ago married to Miss Blatchford, who received a Grant of land as a Marriage portion."

Report by land board *re* claim for land grant.

Your Lordship will perceive from this statement that there is not the smallest ground on which Mr. Beddek can support his application, unless it be admitted that every person, arriving in the Colony prior to the year 1827, had an indefeasible right to a grant of land; an idea which, preposterous as it is, seems to be entertained by many applicants to your Lordship.

Denial of claim.

I have, &c.,

GEO. GIPPS.

[Enclosure.]

THE Memorial of Francis Beddek, Esq., of Windsor, in  
New South Wales,

To The Right Honourable Lord Glenelg, Her Majesty's Principal  
Secretary of State for the Colonies,

Memorial of F. Beddek soliciting land grant.

Humbly Sheweth,

That your Memorialist emigrated to this Colony in the Year 1827, on the faith of the Regulations issued from Downing Street concerning Grants of Land, dated April, 1826.

1838.  
9 May.

Memorial of  
F. Beddek  
soliciting  
land grant.

That, on arriving in the Colony, he made the usual application for his Grant with a statement of his being ready to prove the possession of a sufficient available capital.

That, in reply, he received the accompanying communication from the Colonial Secretary marked (A) which left him in entire ignorance of the reasons which it appears prevented him at that *present time* from obtaining land, and rendered his case different from that of every Gentleman who emigrated at the same period.

That, being precluded by this means from pursuing the usual occupations of a Settler, he devoted himself to those of the profession for which he had been educated, and Commenced practice as an Attorney.

That, having unfortunately delayed the making of his complaint until the publication of the new Regulations concerning the alienation of Land (by which Grants were to cease), he hastily concluded that his Case had become hopeless; but, finding that additional Grants of Land are still being made to those who claim them under the Regulations on the faith of which he emigrated, he trusts he has been misled, and, though it may be late in the day, his application for justice will not be disregarded.

Your Memorialist therefore humbly begs that his Excellency the Governor may be directed to institute the necessary enquiries concerning Memorialist's available capital, and any other particulars that may be supposed to affect his Title to the Privileges and advantages enjoyed by others who emigrated with him; and, if nothing is elicited which can be held to invalidate his claim, That the usual Grant may be bestowed upon him.

Windsor, 20th April, 1838.

FRANCIS BEDDEK.

[Sub-enclosure.]

MR. T. C. HARINGTON TO MR. F. BEDDEK.

Colonial Secretary's Office,

Sydney, 28th December, 1829.

Sir,

In reply to your application of the 20th Octr. last for a Grant of Land, I am directed by His Excellency the Governor to inform you that your request cannot be complied with under present circumstances.

I am, &c.,

for the Colonial Secretary,

T. C. HARINGTON.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 106, delivered by Mr. Gould.)

10 May.

Sir,

Downing Street, 10 May, 1838.

I have the honor to transmit to you a copy of an application which I have received from Mr. H. Gould,\* who is proceeding to Australia with a view to prosecute his Ornithological researches; and I beg to recommend him to your countenance and protection and to express my wish that he may receive every aid and assistance, in furtherance of his objects, which you may be able to afford to him.

I have, &c.,

GLENELG.

Recommendation  
in favour  
of J. Gould.

\* Note 87.



[Enclosure.]

1838.  
10 May.

MR. JOHN GOULD TO LORD GLENELG.

My Lord, Zoological Society of London, 8 May, 1838.

Being about to visit Australia strictly for scientific purposes and the completion of a work on the Birds of that interesting country, I am desirous of availing myself of your Lordship's kind aid and assistance in the furtherance of my researches; I therefore beg leave respectfully to enclose to your Lordship a Prospectus of the work\* above alluded to and to state the principal assistance, which I am anxious to obtain, vizt., that, during my stay in the Colony which in all probability would not be more than two years, if any of Her Majesty's Ships should be proceeding to the New Colony at Port Hessington, † near the gulf of Carpentaria, Norfolk Island, Swan River, etc., I may be permitted to proceed thither myself or to send a collector in either of them, who, after remaining at any of those places for a sufficient time to effect the object of his visit, may be allowed to return to Sydney by the same means, should a convenient opportunity present itself; and that the Governors and other Officers of the Colonies I propose to visit may be requested to render me every assistance in their power compatible with existing regulations. I feel sure, my Lord, that I need not dilate upon the advantage, which assistance of this kind would render to the cause of science; and I therefore trust that my request will not be considered an improper one, and that your Lordship will be pleased to give it your earliest consideration, as the Vessel, in which I leave England, positively sails at the end of this week.

Request by  
J. Gould for  
assistance in  
ornithological  
research.

I have, &amp;c.,

JOHN GOULD.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 75, per ship Minerva; acknowledged by  
lord Glenelg, 30th October, 1838.)

My Lord, Government House, 11th May, 1838.

11 May.

At the request of Mr. Jas. Reid, formerly a Lieutt. in the Army, I transmit to your Lordship a Memorial, which I received from him on the 27th March last, and to which I directed an answer to be returned, that his application for an additional grant of land was "wholly inadmissible," inasmuch as, by his own showing, he emigrated to this Country in the year 1823, and not in consequence of any inducement held out by the Government orders of 1826 and 1827.

Transmission of  
memorial from  
J. Reid.Refusal of land  
grant for  
J. Reid.

I need not state to your Lordship that proof of having emigrated, in consequence of the inducement held out by the Government orders of 1826 and 1827, is absolutely required in order to give a man a title to an additional grant under the existing regulations.

I have, &amp;c.,

GEO. GIPPS.

\* Note 87.

† Note 88.

1838.  
11 May.  
—  
Memorial of  
J. Reid  
soliciting  
land grant.

[Enclosure.]

THE Memorial of James Reid of Rosebrook and Newcastle in  
the said Colony,

To His Excellency Sir George Gipps, Captain General and Governor  
in Chief of the Territory of New South Wales and its Depen-  
dencies, etc., etc., etc.,

Sheweth,

1. That your Memorialist emigrated to the Colony in the year  
of 1823, being then a Lieutenant upon Half pay.

2. That your Memorialist brought with him an order from Earl  
Bathurst that the Governor Sir Thomas Brisbane should make to  
your Memorialist a Grant of Land.

3. That, in pursuance of the said order, His Excellency was  
pleased to call upon Memorialist to state "what number of con-  
victs his means would enable him to take off the Stores, free of  
expense to Government for ten years," and upon Memorialist reply-  
ing "*Twenty*" the Surveyor General was directed to put him pos-  
session of 2,000 acres.

4. That Memorialist selected the land in the County of Durham  
and Parish of Wolfingham near Maitland, of which he took pos-  
session in May, 1823; that Memorialist strictly fulfilled the condi-  
tions by keeping and maintaining twenty convicts free of all expense  
to the Government for the period of ten years, involving for the  
first few years a cost of £400 pr. annum.

5. That the new Land Regulations of His Majesty's Government  
issued in the year of 1826-7 (Sections 15 and 16), the extent of the  
Primary maximum grants was enlarged from two thousand to two  
thousand five Hundred and Sixty acres, and it was the established  
practice of Sir Ralph Darling's Government to give to meritorious  
Settlers, who had emigrated a few years previously to this date  
of the said resolutions, and who were possessed of adequate capital,  
the benefit of the said enlargement, by adding to the Land they had  
already received as many (as many) acres as should make their  
primary Grant equal to their maximum.

6. That, in pursuance of the said practice, Sir Ralph Darling was  
pleased in the year 1829 to grant to your Memorialist the extra five  
Hundred and Sixty (560) acres, thereby placing him, in common  
with other emigrants of his class, upon the same footing as those  
who had emigrated subsequently to the date of the said new  
Regulations.

7. That, in thus giving to Emigrants of your Memorialist's class  
the benefit of Sections 15 and 16 of the said regulations, it was  
considered by Sir Ralph Darling's Government that they thereby  
became fairly entitled also to the benefits of Sections 19, 20 and 21,  
whereby additional Grants were to be received at the end of Seven  
years from the date of the Primary Grants, provided the conditions  
therein set forth were fully complied with; and, in illustration  
hereof, your Memorialist begs to mention three instances which  
occurred in his own immediate neighbourhood, namely, in the cases  
of Messrs. Robt. and Helenus Scott of Glendon and Mr. James  
P. Webber of the Patterson, all of whom emigrated about the same  
time as your Memorialist, received originally the like quantity of  
Land as himself (2,000 acres), which as in his own case was subse-  
quently enlarged to the New Maximum of 2,560 Acres, and, after  
the lapse of Seven years from the dates of their Primary Grants,

obtained respectively an additional Grant of 2,560 acres, the previous and original Land made on the aforementioned condition of a specific number of convict Servants being considered by the Secretary of State as a Contract with "the Government."

8. That your Memorialist would before now have claimed the additional Grant to which, for the above mentioned reasons, he conceives himself to be justly entitled, but that, from the absolute and unconditional terms in which the New Regulations of His Majesty's Government of June, 1831, abolishing the system of alienating Crown Lands otherwise than by Sale, were promulgated by the local Government, he understood, in common with the Colonists generally, that the said regulations were intended to bar and extinguish such claims altogether; nor was it until his attention was called to the Government Notice of 27 June last, respecting additional Grants that he became aware that it never was contemplated by His Majesty's Government that the said regulations should be construed to the prejudice of rights arising out of Regulations and usages of previous date.

9. That, although your Memorialist had served as an officer in His Majesty's Army ten years during the War on full pay, the aforesaid Land, together with a small allotment of Land in the Town of Newcastle, is the only Boon (if it can so be called) he has ever received, and upon which he has expended upwards of £2,000 in building two large Houses.

10. That Memorialist has held possession of his said Lands to the present time and is prepared to prove he has expended more than five times the value, the said improvements consisting at Rosebrook of Three Hundred Acres of cleared Land, about 2,000 rods of 3, 4, and 5 railed fence, a dwelling House of seven rooms with kitchen and offices, Stockyards, lofts, etc., etc., etc., in addition to which he has expended upwards of £4,000 on allotments purchased by him from Govt. in the aforesaid town of Newcastle.

11. That, in Cash, live Stock and real Estate, your Memorialist is possessed of abundantly more capital available for the improvement of his additional Grants (if obtained) than is required by the Regulations.

12. Wherefore your Memorialist humbly prays that Your Excellency will be pleased to take the premises into your favourable consideration, and cause any investigation to be made into the foregoing statements which to your Excellency may seem proper with a view to his receiving a Grant of 2,560 Acres.

And your Memorialist will ever pray.

J. REID.

24th March, 1838.

[Appendix A.]

SECTION 15.—The Largest grant that will be made to any fresh Settler, without purchase, is 2,560 Acres, the smallest 320. Section 16.—Lands to be granted in square miles, in the proportion of one square mile or 640 acres for every £500 Sterlg. of Capital, which the applicant can immediately command, to the extent of four Square miles or 2,560 Acres, which is the utmost that can be granted without purchase.

Regulations  
re land grants.

[Appendix B.]

Section 19.—Every grantee without purchase must, at the expiration of the before mentioned term of 7 yrs., prove to the satisfaction of the Surveyor General that he has expended in the cultivation and improvement of the land, a capital equal to the one fourth of its value, as that value was estimated at the time of his grant; on failure of such proof, the land will be forfeited to the Crown.

Section 20.—No additional Grant of Land will be made to any person who has not proved, as last mentioned, the necessary expenditure of Capital on the Lands already

1838.  
11 May.

Memorial of  
J. Reid  
soliciting  
land grant.

1838.  
11 May.

Regulations *re*  
land grants.

granted to him, and that he has sufficient capital on hand to enable him to cultivate to advantage the additional Grant for which he applies.

Section 21.—Persons receiving a second grant of Land without purchase will become liable to pay a quit rent upon the Lands comprised in such second grant immediately from the date of it; but any grantee, who can show an expenditure 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.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 76, per ship *Minerva*; acknowledged by  
lord Glenelg, 5th November, 1838.)

14 May.

Transmission  
of report *re*  
botanic garden.

My Lord,

Government House, 14th May, 1838.

Negotiations  
with  
A. Cunningham  
for withdrawal  
of resignation.

I have the honor to enclose herewith the report made by the late Superintendent of the Botanic Garden of Sydney (Mr. Allan Cunningham) on the close of the year 1837, at which time he resigned his charge of it, and with reference to the late Acting Governor's Despatch of the 9th Jany. last, No. 9, on the subject of the Botanic Garden and the resignation of Mr. Cunningham, I beg leave to explain to your Lordship that, feeling on my arrival in the Colony a very lively regret at the prospect of losing the services of a person so distinguished as Mr. Cunningham for his knowledge of Botany, I could not suffer him to leave the Colony without making an effort to induce him to change his purpose; I accordingly entered into a negotiation with him, through the medium of the gentlemen,\* under whose management the garden is placed, but I am sorry to say without success, as I found, on an attentive consideration of the proposal made by Mr. Cunningham to the Committee, that a compliance with his demands would have required an immediate outlay of more than £200, and an increase to the sums now voted by the Colonial Legislature for the advancement of science of not less than £530 per annum according to the estimate by Mr. Cunningham, but which I could not myself estimate at less than £850.

Instructions *re*  
vegetable and  
fruit gardens.

I transmit to your Lordship four documents, explanatory of this attempt to retain Mr. Cunningham in our employment, being particularly induced to trouble Your Lordship with them in order that your Lordship may know the true grounds of Mr. Cunningham's resignation, a report having I believe got abroad that he resigned in disgust, in consequence of having been interfered with in his duties and required to cultivate culinary vegetables in the garden. On this latter subject too, my Lord, I beg leave to state that I have given the most positive orders that no culinary vegetables of any sort shall be raised in the garden; that the fruit bearing trees shall gradually be removed, except

\* Note 89.

such as are of an exotic or ornamental character, and that the Kitchen garden properly belonging to Government house, which though adjoining the Botanic Garden is separated from it by a fence, shall be taken entirely out of the management of the Superintendent.

1838.  
14 May.

Instructions re  
vegetable and  
fruit gardens.

I have, &c.,  
GEO. GIPPS.

[Enclosures.]

*[These papers relating to the administration of the botanic garden will be found in a volume in series VI.]*

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 107, per ship Maitland; acknowledged by Sir George Gipps, 3rd May, 1839.)

Sir, Downing Street, 15 May, 1838.

15 May.

I have the honor to acknowledge the receipt of Sir R. Bourke's Despatch, No. 45 of the 15th of June last, in which he recommends the Establishment of a Government Steam Vessel at New South Wales for the purpose of maintaining the required Communication between the seat of Government and the out Stations.

Proposal for  
government  
steam vessel.

I enclose to you herewith the Copy of a letter, which was addressed by my direction to the Board of Treasury, recommending the proposal of your Predecessor to the favorable consideration of the Lords Commissioners, together with the reply which has been received to that Communication.

You will have the goodness at your earliest convenience to furnish me with the further information required by the Board of Treasury as to the practicability of carrying on the services in question with one Steam Vessel, with particular reference to the number of Voyages now performed by the Government or by hired Vessels, and the periods that would be occupied in those Voyages by a Steam Vessel.

Reports  
required.

I have, &c.,  
GLENELG.

[Enclosure No. 1.]

UNDER SECRETARY STEPHEN TO MR. A. Y. SPEARMAN.

Sir, Downing Street, 7th March, 1838.

With reference to my letter of the 12th of December last, I am directed by Lord Glenelg to state that, having now obtained more complete information on the subject, he is desirous to bring under the consideration of the Lords Commissioners of the Treasury the enclosed Copy of a dispatch from the governor of New South Wales recommending the establishment of a Government Steam Vessel for the purpose of maintaining the necessary communication between the Seat of Government and the out stations.

Proposal for  
government  
steam vessel.

1838.

15 May.

Proposal for  
government  
steam vessel.

Sir Richd. Bourke in the enclosed Dispatch shews the present amount of the Colonial Marine and expresses his opinion that the new settlements at Port Philip and Twofold Bay will require without delay the establishment of further means of communication along the Coast. By the employment of a Government Steam Vessel, he contemplates the possibility of a considerable reduction in the number of sailing Vessels, now employed in the Service of Government. He expresses his opinion that nearly one half of the annual cost of the Steamer would readily be borne by the Colonial Government, and that, if required, a sum would be paid into the Military Chest in aid of the first cost. For the purpose of more ready reference, I enclose an Extract of a Report from Vice Admiral Sir Pulteney Malcolm to the Board of Admiralty, respecting the Packet Service at Falmouth, bearing date the 16th of January, 1832, and presented to Parliament. This Report\* contains an Estimate of the first cost and outfit and the average annual charge of a Steam Vessel of the description, which would be required for the service of the New South Wales Government. Lord Glenelg can entertain no doubt of the advantage, which would result from the adoption of Sir R. Bourke's proposal and strongly recommends it to the sanction of the Lords Commissioners of the Treasury.

I am, &amp;c.,

J. STEPHEN.

Proposal  
recommended.

[Enclosure No. 2.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir,

Treasury Chambers, 14th May, 1838.

Criticism of  
proposal by  
lords of  
treasury.

The Lords Commissioners of Her Majesty's Treasury having had under consideration your letter dated 7th of March last, with the dispatch therein enclosed from the Governor of New South Wales relating to the employment of a Steam Vessel in lieu of the present Colonial Vessels employed by the local Government in that Colony, I have it in command from their Lordships to request you will observe to Lord Glenelg that, if it were clearly established that a Steam Vessel, of which the aggregate expense of every description might be estimated at £5,563 per Annum, would supersede the necessity both for maintaining the two Colonial Vessels now employed for various local purposes at New South Wales at an expense of £2,400 per Annum, and for having recourse to the hire of additional freight at a further computed expense of £3,347 per annum, the expediency of adopting Sir R. Bourke's suggestion would be obvious. It however appears to my Lords that further information, as to the practicability of carrying on the Services in question with one Steam Vessel, should be required before so heavy a charge as will attend the construction and equipment of a steam vessel of the size and power, referred to in Sir R. Bourke's dispatch, and in the Report of the Master Attendant at Sydney which accompanied it, is incurred; and My Lords suggest that his Lordship should instruct the Governor of New South Wales to furnish a more explicit report on this head, having reference to the number of Voyages now performed by the Government or by hired Vessels, and the periods that would be occupied in those voyages by a Steam Vessel.

I am directed further to request you will state to Lord Glenelg that, in the meantime, my Lords will obtain the opinion of the Lords of the Admiralty on the subject of the Propositions in the Master

\* Note 90.

Attendant's report, and respecting the probable cost of the vessel, but that, advertng to the communications they have had occasion to make to his Lordship relating to the expenses of the Marine Establishment in the Australian Colonies, they defer any particular remark on the observation of Sir R. Bourke, which has reference to the fund from which the expense of the Steam Vessel would be defrayed.

1838.  
15 May.

Criticism of proposal by lords of treasury.

I am, &c.,

A. Y. SPEARMAN.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 108, per ship Maitland; acknowledged by Sir George Gipps, 8th January, 1840.)

Sir, Downing Street, 16 May, 1838.

16 May.

With reference to your Dispatch of the 24th of November, 1836, and to my reply of the 8th of March last, No. 85, respecting certain payments which appeared in the accounts of the Colonial Treasurer of New South Wales, but were not inserted in the Quarterly Returns of new appointments and special Payments, which are transmitted periodically to this country, I have the honor to transmit to you, herewith, for your information and guidance, a Copy of a further letter on that subject which has been addressed to this Department by desire of the Lords Commissioners of the Treasury.

Transmission of letter from treasury.

I have, &c.,

GLENELG.

[Enclosure.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 9th May, 1838.

With reference to the communication made to you by direction of this Board on the 17th of February last respecting the admission by the Commissioners of Audit in the accounts of the Australian Penal Settlements of charges, comprized in the annual estimates and appropriation Ordinances passed by the Legislative Councils of these Colonies, I have it in command from the Lords Commissioners of Her Majesty's Treasury to request you will further observe to Lord Glenelg that, with the view of enabling the Commissioners of Audit to ascertain that the disbursements for which credit is taken in the accounts are in accordance with the appropriation Ordinances which may have been sanctioned, it will be necessary that the Estimates, upon which the Ordinances are founded, should specify in detail the several salaries and other charges intended to be provided for, or that they should be accompanied by abstracts containing such specification.

Instructions proposed re details with accounts for audit.

The Commissioners of Audit have further suggested to my Lords that it would greatly facilitate the examination of the accounts of the Treasurers of New South Wales and Van Diemen's Land, if the annual accounts current were to be accompanied by an explanatory statement from the local Auditor of any difference between the estimated and voted Charges and the actual expenditure, and if the entries of the payments in the accounts were likewise classified under the same heads as in the respective Estimates; my Lords

1838.  
16 May.

therefore request his Lordship will convey the necessary instructions in conformity with these suggestions, should he see no reason to dissent therefrom, to the officers in charge of the Governments of New South Wales and Van Diemen's Land.

I am, &c.,  
A. Y. SPEARMAN.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 77, per ship *Minerva*; acknowledged by  
lord Glenelg, 26th October, 1838.)

My Lord, Government House, 16th May, 1838.

With reference to your Lordship's Circular of the 5th Decr., 1837, on the subject of a letter which had been addressed to your Lordship by Mr. Isaac Scott Nind (not Hind as erroneously copied) on the 10th August last, I have the honor to inform your Lordship that on enquiry it appears that Mr. Nind's application is only the renewal of one, on which the decision of the Secretary of State was communicated to this Government by a Despatch from Mr. Stanley, dated the 17th May, 1834, No. 80, the words used by Mr. Stanley being, that "Mr. Nind has forfeited all claim to a Grant, upon more favorable conditions than those upon which land is now to be obtained, by having failed to apply for a location, and make a selection of it prior to the adoption of the new system."

Report *re* claim  
of I. S. Nind to  
land grant.

This decision of the Secretary of State was communicated to Mr. Nind, by order of Sir Richard Bourke, on the 29th Sept., 1834, and as Mr. Nind now produces no new facts whatsoever affecting the merits of his case, I think it unnecessary to trouble your Lordship with the papers which he has sent to me.

I will briefly however state that Mr. Nind, instead of turning Agriculturist on his arrival in the Colony in 1826, accepted a Medical appointment at King George's Sound; that he remained there three years, then went to England, and did not return to this Colony, until after the promulgation of the orders respecting the sale of land in 1831.

I have, &c.,  
GEO. GIPPS.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 109, per ship *Maitland*.)

17 May.

Sir,

Downing Street, 17th May, 1838.

Appointment of  
Revd. A. Marum  
to R.C. church.

I have the honour to acquaint you that I have, on the recommendation of the Revd. W. Ullathorne, sanctioned the appointment of the Revd. A. Marum as Roman Catholic Minister on the Establishment of New South Wales. Mr. Marum will receive the usual allowance of £150 on account of outfit and passage.

I have, &c.,  
GLENELG.



LORD GLENELG TO SIR GEORGE GIPPS.  
(A circular despatch per ship Maitland.)

1838.  
18 May.

Sir, Downing Street, 18th May, 1838.

I have the honor to transmit to you herewith the Copy of a Work by Mr. J. Murray of Manchester on the Natural History of the Silk Worm, and its introduction into the British Colonies.

Transmission of pamphlet on silk-worm.

I have, &c.,

GLENELG.

[Enclosure.]

*[This was an octavo pamphlet, containing sixty-seven pages, entitled, "The Natural History of the Silk Worm with the most approved methods of rearing Silk and cultivating the Mulberry, applied to our Colonies and Islands."]*

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 110, per ship Maitland.)

Sir, Downing Street, 18 May, 1838.

I have received Sir Richard Bourke's Dispatch No. 84 of the 7th Sept. last enclosing a Memorial from Mr. Thomas Moore, a Justice of the Peace at New South Wales, praying compensation for losses sustained under the circumstances therein detailed.

Memorial from T. Moore acknowledged.

Having referred this Dispatch and its enclosures for the consideration of the Lords Commissioners of the Treasury, I enclose to you herewith, for your information and guidance, a copy of a letter, which has been addressed to this Department by desire of their Lordships on the subject of Mr. Moore's Memorial.

I have, &c.,

GLENELG.

[Enclosure.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 9 May, 1838.

The Lords Commrs. of H.M.'s Treasury have had before them your Letter of the 15th February last, in which you transmit for their consideration, by direction of H.M.'s Secretary of State for the Colonies, the Copy of a Dispatch from Sir Richd. Bourke enclosing a Memorial from Mr. Thomas Moore, a Justice of the Peace at New South Wales, praying Compensation for losses sustained under the circes. therein stated, together with the annexed recommendations of the Judges of the Supreme Court and the Attorney Genl. of that Colony.

Compensation proposed for T. Moore for liability incurred in administration of estate of T. Rowley.

Referring to the suggestion of Sir R. Bourke that Mr. Moore, shd. be indemnified by payment from the Crown Land Revenue of the Colony for the loss, specified in his Memorial as having arisen from a mistaken assumption of authority by the Governor of the Colony in the year 1812, and from unauthorized Acts of that Officer and of the then existing Court of Civil Jurisdiction, I am commanded by

1838.  
18 May.

Compensation  
proposed for  
T. Moore for  
liability  
incurred in  
administration  
of estate of  
T. Rowley.

their Lordships to request you will observe to Ld. Glenelg that altho' Governor Macquarie may have acted under a misconception in the appointment of the Memorialist to execute the duties of Guardian to the Children and Trustee to the Estate of the deceased Captain Rowley, it does not appear to my Lords either that this Trust was authoritatively forced upon Mr. Moore or that the liability he has incurred arose out of any Act indispensably necessary for the fulfilment of the objects of the Trust, or required by any direction of the Colonial Court.

On the Contrary, Mr. Moore, having been pointed out to the Governor as an intimate friend of the deceased Officer, had undertaken the Trust altho', as alleged, reluctantly, and after considerable Solicitation, with his own free consent; and, altho' he may have been misled by the Terms of the Governor's deed, and by the acquiescence of the Court in the application he had made for permission to dispose of a portion of the Property, of which he had taken charge, in regard to his power to make such disposition, the liability, to which he has been subjected, would seem to have arisen entirely from his own inadvertency in entering into a guarantee not required either by the Terms of the Trust or of any order of the Court, and which is moreover distinctly stated in the Memorial not to have formed part of the Contract for the Sale of the Property, and wd. therefore appear not to have been requisite for effecting that sale or for executing any of the Powers, which the Governor's deed might have been supposed to confer.

Under these circes., notwithstanding the misapprehensions respecting the Powers vested in the Governor in which the transactions referred to in Mr. Moore's Memorial originated, and altho' there does not appear to be any reason to doubt the fidelity and good faith with which the affairs of the Trust improperly supposed to have been created by Governor Macquarie's Deed were administered by him, My Lords do not conceive that H.M. Govt. wd. be warranted in authorizing the grant from the Crown Land Revenues in N. S. Wales for indemnifying Mr. Moore, as proposed by Sir R. Bourke. But, advertng to the recommendations of that Officer, and of the Judges and Attorney General of the Colony, as well as to the opinion of Lord Glenelg which you have expressed in your Letter, I am commanded further to request that you will state to his Lordship that, shd. the Council at N. S. Wales, with the local information relating to the case to which they have access, see reason to recommend the Grants of the indemnity prayed for and to appropriate a sum to the purpose from the Colonial Revenue, my Lords would not object, under the very peculiar circes. of the case, to give their sanction for such appropriation.

I am, &c.,

A. Y. SPEARMAN.

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LORD GLENELG TO SIR GEORGE GIPPS.

(A circular despatch per ship Maitland: acknowledged by Sir George Gipps, 29th May, 1839.)

20 May.

Transmission  
of queries.

Sir,

Downing Street, 20th May, 1838.

I enclose for your information a series of questions on the subject of the means of finding employment in the British Colonies for young persons, who may have been detected in the

commission of crime in this Country, but for whom it has been found impossible to provide any effectual protection here against the temptations to which they are exposed in our large Cities. You will have the goodness to communicate to me such information as it may be in your power to supply, in answer to each of the questions proposed by Lord John Russell. I have, &c.,

1838.  
20 May.

GLENELG.

[Enclosure.]

QUESTIONS.

1. What are the kinds of Skilled Labour most needed and valuable in the Colony?
2. What is the average rate of Wages paid for such labour?
3. Is it redundant, or could the Market usefully absorb any, and what number of additional hands?
4. What is the average rate of Wages paid for unskilled labour?
5. Does the Supply of unskilled Labourers meet the demand, or is it materially deficient?
6. Is the demand for such labour steady, or is it likely to be materially increased or diminished within the next few years?
7. What Sum might an unskilled Labourer without family earn yearly?
8. Is there any extensive demand for female labour, and what might an unmarried Female earn yearly?
9. Would any considerable portion of the community be willing to receive Juvenile Offenders as Apprentices into their Houses, provided they were satisfied that they had not been confined in the ordinary Prisons, but in penitentiaries especially adapted for the purpose of their Instruction and reformation, and the Discipline which they had there undergone had proved effectual?
10. Would the Colonists be inclined to pay a small premium for the Services of such Apprentices, so as to cover the expence of their passage from this Country?
11. Would there be any difficulty in appointing an Officer as protector or Guardian of such apprentices, who might effectually watch over their interests during the period of their Indentures?
12. Would Boys, coming from such a Penitentiary instructed and skilled in Agricultural Labour in the use of the Plough, Spade, Axe, &c., and having some knowledge of Tailoring, Shoemaking, and of such Trades as are most needful for Emigrants, be sought for and preferred in the market for Skilled Labour?
13. In what number at one time would it be desirable to send out Boys?
14. Are there Facilities and Materials for the formation of a Committee to receive, superintend, and locate the Boys upon their arrival in the Colony, to report from time to time to Her Majesty's Government their proceedings, and to give accounts of the treatment, condition, and conduct of the Boys?
15. Would the Situations of the Boys be mostly in towns, or in the rural Districts?
16. How long after their arrival out would they be before they obtained Situations?
17. Where could they be kept in the interim, and how could they be employed?

Queries submitted *re* prospects of employment of skilled and unskilled labour.

1838.  
20 May.

18. If sent into the interior, how far would they be from the seat of Government?

19. Would there be any check in the Spot upon improper treatment from Masters, and any one in authority to whom the Boy could make known his complaints?

20. What would be the temptations and facilities for the Boys running away from their Masters?

21. Where would they in case of Escape be induced to go?

Queries submitted *re* prospects of employment of skilled and unskilled labour.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 111, per ship Maitland; acknowledged by Sir George Gipps, 8th January, 1840.)

21 May.

Sir,

Downing Street, 21 May, 1838.

I have the honor to transmit to you a Copy of a Letter from the Secretary to the Treasury with a report from the Commissioners of Audit on the account of Mr. Riddell as Treasurer at New South Wales; and I have to request that you will call on the Colonial Auditor for an explanation of the delays noticed in the report, and direct that officer to take the necessary steps forthwith for furnishing the explanations desired.

I have, &c.,  
GLENELG.

[Enclosure.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir,

Treasury Chambers, 11th May, 1838.

The Lords Commissioners of Her Majesty's Treasury having had before them a Report of the Commissioners of Audit dated the 3d Instant, submitting the State of the account of C. D. Riddell, Esq., as Colonial Treasurer of New South Wales from 1st of January to 31st of December, 1835, I have it in command to transmit to you an Extract from the said Report, in which the attention of My Lords is called to certain Queries, which arose upon the examination of this account, to which the Commissioners of Audit have not received answers; and I am to request that you will move Lord Glenelg to cause a communication to be addressed to the Governor of New South Wales instructing him to call on the Auditor of the Colony for an explanation of the delays noticed in the said Report, and to direct the Auditor to take the necessary steps forthwith for furnishing the explanation called for by the said Queries.

I am, &c.,  
A. Y. SPEARMAN.

[Sub-enclosure.]

EXTRACT from Report of Commissioners of Audit, dated 3d May, 1838, on accounts of C. D. Riddell, Esq., a Colonial Treasurer of New South Wales to the 31st Decr., 1835.

IN transmitting the State in question, We deem it however necessary to observe that the account has been made up and audited, although we have not received answers to the queries, 16 in number, which arose upon its examination, and which, with the exception

Queries on accounts unanswered by W. Lithgow and C. D. Riddell.

Report required from C. D. Riddell.

of the last in the series, were sent from this Office so long since as in July and August, 1836, addressed for the accountant to Mr. Lithgow, the Colonial Auditor, and of which duplicates were forwarded in the months of August and November, 1836.

The queries not having been of a description to lead to any eventual surcharge against the Treasurer personally, we have deemed it expedient to state the account without further delay, although, in the event of some part of the expected explanations proving unsatisfactory, it may become proper to call upon the Treasurer to recover from other Parties the amount of some inconsiderable errors referred to in the queries.

We had already been induced, with the like view of avoiding arrears, to state to your Lordships the account of Mr. Riddell as Colonial Treasurer for the prior year (1834) the greater part of the Queries upon which account, although forwarded to the accountant through Mr. Lithgow in March and June, 1836, were at that time and still remain unanswered, none of the queries upon that account having been of a nature to lead to any surcharge; a course of proceeding, which we have found it expedient to adopt in the cases of other accountants, where our queries were of a description calculated to lead to greater regularity in future, and not to surcharges against the accountant.

But as this want of attention, on the part of the Colonial Treasurer and Auditor, to our queries and to other communications, which have been addressed from this office to the local Auditor, since the commencement of 1836, impedes and, so far as we are aware, unnecessarily delays the passing of the Colonial Accounts, which from the distance of the Colony must always be much in Arrear; and, as we have not received the Treasurer's accounts for a later period than the 31st of March, 1836, although the accounts of the Commissariat for the same station have been received to the 31st of July, 1837, we have felt it our Duty to apprise your Lordships of the state of the case.

We have, &c.,

F. S. LARPENT.

H. F. LUTTRELL.

HY. ARBUTHNOT.

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SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 81. per ship Minerva.)

My Lord,

Government House, 25th May, 1838.

25 May.

Reports having reached me from various quarters of the inferiority in the victualling of Convict Ships from Ireland, in comparison with that of vessels fitted out under the direction of the Admiralty at Deptford, as also of inferiority in the quality of the clothing supplied to the Prisoners for the voyage, I have the honor to inform your Lordship that I judged it proper to cause a Board, consisting of the Deputy Commissary General, the Ordnance Storekeeper and a Medical officer, to be assembled for the purpose of inspecting and reporting on the provisions and stores remaining in the ships "Diamond," and "William Jardine," after the Convicts recently brought by them from Ireland

1838.  
21 May.  
Queries on  
accounts  
unanswered by  
W. Lithgow and  
C. D. Riddell.

Inferiority of  
equipment of  
convict ships  
from Ireland.

Board of  
inquiry  
appointed.

1838.  
25 May.

had been landed; and I now enclose to your Lordship a Copy of the Report (dated the 15th instt.) which has been made to me by the Board.

Result of  
inquiry.

A simple perusal of this report will, I hope, induce your Lordship to cause an enquiry to be made into the mode of victualling these ships, and of supplying the Convicts with clothing, bedding, etc., for the voyage.

The report shows so clearly the justice of the complaints which had reached me, that I do not feel it necessary to make a single comment on it.

With respect to the equipment of the vessels themselves, there seems to be little ground of complaint; nevertheless I think it right to enclose copies of two letters, which have been addressed to the Colonial Secretary by the respective Surgeons of these ships, there being a remark in one of them upon the deficiency in the Water Closets.

I have, &c.,  
GEO. GIPPS.

[Enclosures.]

[Copies of these papers are not available.]

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 112. per ship Maitland.)

Downing Street, 26th May, 1838.

26 May.

Sir,

Memorial from  
C. Neville  
acknowledged.

I have received Sir Richard Bourke's dispatch No. 95 of the 22d September last, enclosing a Memorial from Mr. Charles Neville, who had been temporarily employed by your Predecessor as a Landing Waiter and Searcher at the Port of Sydney, until superseded by the appointment of Mr. Bolton to that situation, praying for compensation for loss of office.

C. Neville to be  
appointed to  
vacancy.

I have referred Mr. Neville's Memorial to the Lords Commissioners of the Treasury for their consideration, and they have stated in reply that the Commissioners of Customs have been directed to bring the case again before their Lordships, should a vacancy occur at New South Wales, the duties of which Mr. Neville may be qualified to perform.

I have, &c.,  
GLENELG.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 113. per ship Maitland.)

29 May.

Sir,

Despatch  
acknowledged.

Downing Street, 29th May, 1838.

Having referred for the consideration of the Lords Commissioners of the Treasury Sir Richard Bourke's dispatch No. 91 of the 14th September last, in which he recommended that the Comptroller of Customs at Sydney should be appointed Collector

of Customs and Treasurer at Port Phillip, I have now the honor to transmit to you the enclosed copy of a letter in reply, written by direction of the Lords Commissioners, stating their objection to the proposed arrangement, but expressing their willingness to allow Mr. Webb, the present Sub-Collector at Port Phillip, to remain there for the present with such assistance as may be found necessary, taking charge of any sums which may be received on account of Land Sales or any other branches of the Colonial Revenue with an extra allowance at the rate of £100 per annum.

1838.  
29 May.

Arrangement  
for collection of  
revenue at  
Port Phillip.

I have, &c.,  
GLENELG.

[Enclosure.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 21 May, 1838.

With reference to your letter of the 24th Feby. last, I am commanded by the Lords Commrs. of H.M. Treasury to request you will state to Lord Glenelg that my Lords, having had under consideration the arrangements relating to the Customs Estab. at Port Philip, N. S. Wales, proposed in the Despatch of Governor Sir Richard Bourke of 14 Sept. last, have not deemed it necessary, on communicating with the Commrs. of Customs to sanction so large an addition to the expense of the Establishment in question as the adoption of that proposition would occasion, more especially as the services of Mr. Cooper will continue to be required at the Head office in Sydney, altho' the designation of Comptroller may not be retained.

Refusal to  
appoint collector  
of customs and  
treasurer at  
Port Phillip.

My Lords have moreover to observe that the very recent formation of the Settlement, Port Phillip, and the limited information that has yet been obtained as to the Trade likely to be carried on there, have prevented the Commrs. of Customs from offering an opinion as to the nature and extent of the Establishment, it will eventually be proper to plan there, and My Lords have therefore considered it sufficient and the most expedient course to leave Mr. Webb, the present sub-collector in charge of the Dept. at that station, and that he shd. carry on the duties of it with such assistance as the Governor on consulting with the Principal officers at Sydney may think necessary for a period of two years, at the expiration of which time the requisite information for enabling the Commissioners to suggest a more permanent arrangement will doubtless have been obtained. My Lords have therefore conveyed the proper directions in this respect to the Commissioners of Customs and have further caused the Commissioners to be apprized that it will be necessary for the present that the sub-collector of customs at Port Philip should take charge of any sums that may be received on account of Land Sales or any other branches of the Colonial Revenue at that station, and disburse or otherwise dispose of the same in such manner as the Governor of New South Wales may direct: and that my Lords will not object to sanction the issue of a moderate remuneration to the sub-collector not exceeding £100 per annum for this extra duty, in addition to his Salary on the Establishment, with respect to the rate of which they are, however, at present in communication with the Commrs.

Administration  
of customs at  
Port Phillip.

Sub-collector to  
act as treasurer  
at Port Phillip.

1838.  
29 May.

I am further to request that, in submitting this communication to Lord Glenelg, you will move his Lordship to cause the requisite directions and information on the subject to be conveyed to the Governor of N. S. Wales.

I am, &c.,  
A. Y. SPEARMAN.

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LORD GLENELG TO SIR GEORGE GIPPS.  
(A circular despatch per ship Maitland.)

31 May.

Sir, Downing Street, 31 May, 1838.

Concessions to  
army medical  
officers in  
purchase  
of land.

I have the honour to acquaint you, for your guidance, that Medical Officers of the Army who have commuted their Half-Pay, will be entitled to the same advantages in the purchase of Land in the Australian Colonies as Subaltern Officers, who have sold their Commissions for the purpose of emigrating.

I have, &c.,  
GLENELG.

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LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 114, per ship Maitland.)

1 June.

Sir, Downing Street, 1 June, 1838.

Letters of  
denization for  
J. A. Curtoys.

I have received Sir Richard Bourke's despatch No. 129 of the 4th December last, and I have much pleasure in conveying to you Her Majesty's authority for issuing letters of denization to Mr. J. A. Curtoys, a Native of Spain resident at Sydney.

I have, &c.,  
GLENELG.

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SIR GEORGE GIPPS TO LORD GLENELG.  
(Despatch No. 82, per ship Spartan; acknowledged by  
lord Glenelg, 10th November, 1838.)

2 June.

My Lord, Government House, 2nd June, 1838.

Despatch  
acknowledged.

Your Lordship's Despatch No. 361 of the 12th August last, with an enclosure from Dr. Fowles, was received in this Colony on the 8th Feby., but, as I did not myself arrive in the Colony until the 23rd of that month, and have since been unremittingly occupied on business of immediate urgency, I hope your Lordship will not consider that I have made any unnecessary delay in reporting on the very important questions raised by Dr. Fowles on the subject of land granting, and on the facilities which ought to be afforded to New Settlers.

Delay in reply.

Dr. Fowles first complains of the delay that a new Settler has to encounter in the acquisition of land, and states that, after spending of necessity a considerable time in fixing on the spot whereon it is most eligible to settle, he must wait another considerable period before the land, that he wishes to purchase, can

Allegations re  
delay to new  
settlers in  
acquisition  
of land.



be put up at auction; that he is then exposed to be outbid by persons who do not wish to admit New Settlers to their neighbourhood, or by speculators who fraudulently take advantage of his necessities.

1838.  
2 June.

Dr. Fowles then proceeds to recommend to your Lordship certain measures, which he thinks would have the effect of relieving him from these disadvantages; but, before I proceed to the consideration of these proposed remedies, I will crave permission of your Lordship to make some observations of my own on his complaints.

Reforms proposed.

Reply by Sir G. Gipps to allegations.

The loss of time, in finding out the most eligible spot on which to settle, is one to which a new comer in a strange land is necessarily exposed; all the Government can do is to give him every possible facility in knowing where vacant lands are to be had, and I have heard no complaint of this not being done to the utmost power of the officers of Government whose duty it is to afford the information.

Necessity for delay in selection of land.

Secondly, as to the delay to which he is subject, after he has made his selection and demanded that the land he wants to purchase should be put up to auction. This delay is not of three months' duration as stated by Dr. Fowles, but of one month only, it being specially provided by the regulations now in force that new settlers may have land put up to auction at one month's notice, instead of three, provided, that is to say, it has already been surveyed; and I do not see well how the time can be made less, for, if an auction is to be had at all, due notice of it must be given.

Practice *re* sale by auction of land selected.

Thirdly, Dr. Fowles complains that, on the day of the sale, he is likely to be outbid not by bona fide purchasers, but by persons who wish to keep him from their neighbourhood, or by others who wish to extract a bribe from him for their silence. With respect to the persons by whom a new settler is likely to be outbid, I am disposed to think that Dr. Fowles is mistaken in supposing them for the most part not to be bona fide purchasers; most of the old settlers of the Colony are men of wealth, and able to purchase land in their own neighbourhood, tho' they will not for reasons very easily understood do this, until they find new settlers coming as they think too near to them. So long as these lands are vacant, they are suffered to depasture their flocks and herds on them, either for nothing or at a rent scarcely more than nominal, and therefore they have little inducement to extend their purchases; but they stand ready to do so, whenever they are by the appearance of a new comer placed in danger of losing the land for ever. With respect to the second class of persons complained of by Dr. Fowles, there can be no doubt that

Opposition to new settlers at sales by auction.

Purchases by old settlers.

1838.  
2 June.

Operations  
of land  
speculators.

they exist, and they are well known by the name of Land Sharks in the Colony; but their practises are not, I have reason to believe, near so extensive as Dr. Fowles supposes them to be. They will sometimes endeavour to extort money even from new Comers by threatening to bid against them; but their manœuvres are oftener played off against old settlers, not only because they are better able generally speaking to pay than new Settlers, but because land in a particular locality is more desired by the old settler than by the new one. It is often of great importance to the old settler to retain the possession of land in the immediate neighbourhood of that which he already possesses; but, in the wide space of this great Colony, it is a matter of comparative indifference to the new Settler, whether he fixes himself on one spot or another. If indeed the New Settler desire to have land in a particular situation, and such land has not been surveyed, he is doubtless exposed to greater uncertainty and delay; but I do not see how it can by possibility be prevented; the process in this case is the same for the new as for the old settler.

Practice *re* sale  
of land selected  
before survey.

So soon as a piece of land that has not been measured is applied for, it is advertised as being for sale, with an intimation that the day of sale will be fixed in a future notice. It is then ordered to be measured; but the Surveyor, to whom the order is addressed, is perhaps engaged on other work, or may have a number of prior orders unexecuted, in which case the second advertisement fixing the day of sale may not follow for many months. This uncertainty, however, the new Settler may avoid by choosing a piece that is already measured, of which there is generally a plentiful stock on hand; and, if he do so, the new settler can have it put up for auction in a month, though the old Settler must wait three. To know whether a piece of land has been measured or not, the settler has only to ask at the Surveyor General's office.

I now proceed to consider seriatim Dr. Fowles' remedies:

The first is, that there should be no artificial bounds to the Colony as at present.

This might perhaps enable new settlers to get good land somewhat cheaper than they now can do; but it would without doubt aggravate every other evil complained of by Dr. Fowles, and particularly the delays incidental to surveys would be vastly increased; the Surveyor General now has surveying parties distributed over a space of about 45,000 square miles; the same number of parties would, if there were no boundaries, have to be extended over three or four times that surface; By the opening of Port Phillip however, an immense tract of Country is now made accessible to the purchaser, which until lately was closed against him.

Proposal for  
abolition of  
limits of  
location.

The second remedy proposed by Dr. Fowles is that settlers of the Middling Classes should be allowed a free grant of land in the Colony, equal in value to what they have paid for their passage;

1838.  
2 June.

Proposal for free land grant equal in value to passage money.

This would be a direct infringement on the principle, that all lands are to be sold, and not given away, and it would moreover be scarcely possible to decide who were to be classed as Middling Settlers. To determine this point, an investigation would be required, that in many cases would be offensive. It would also be in effect the same thing, as if their passage were paid out of the immigration fund; or it would be in other words extending to all comers the advantages of a free passage, which are now (and in my opinion very properly) confined to the two classes of Mechanics and Farm laborers. And here it may not be improper for me to remark that the Colony is at present far more in want of laborers than of Capitalists. In fact Capital is I believe flowing into the Country faster than, for want of laborers, it can long continue to be advantageously employed, though this is a point on which much difference of opinion may exist.

Influx of capital.

The Third remedy proposed by Dr. Fowles is that a new settler should be allowed to select one section (640 acres) as a homestead at a minimum price of 5s. an acre, on which to settle himself and family;

Proposal for sale of one section at minimum price;

This perhaps would not be very objectionable, provided it were limited to land that had been put up to auction, and not bought; but, if so limited, it would soon come to be of little use; and, if not so limited, it would be an infringement on the principle of selling by auction, and productive of all sorts of fraud and collusion, and particularly it would enable the old and rich settlers to get lands in their own neighbourhood at 5s. an acre, by putting forward men of no Capital (men of straw) as the purchasers of them, which very lands they are now ready, as Dr. Fowles himself complains, to purchase at prices which the new settler cannot afford to give.

Dr. Fowles' Fourth remedy is that the Deposit money now paid on the fall of the hammer should be increased to 50 per cent.

for increase of deposit at auction sale;

Against this or against raising it at least to 25 per Cent., I see no serious objection; but I think the advantage of it would be found very trifling. The Colonial Treasurer gives it as his opinion that the proportion of land, on which the forfeiture of instalments occurs, is not greater than that of 1 to 20 of what is sold.

The Fifth proposed remedy is that not only land which has been offered at auction, but also land on which the forfeit of the deposit money has been made, should be open to the selection of

and *re* lands available for sale at minimum price.

1838.  
2 June.

new settlers at the minimum price of 5s. in the same way, as Dr. Fowles says, *it is open to Military Settlers*. Land of this latter description, however, is not open to Military settlers at the minimum price, and it would be very unfair that it should be. Such land may have been knocked down at any price varying from 5s. to £1,000 per acre. But supposing even that land had been knocked down at 20s. per acre, and a deposit of 2s. per acre forfeited, the presumed value of it would still be something not very far from 20s., say 16s. or 17s. at the least, and why should it, I would ask, be sold to anybody for 5s.?

Practice *re*  
land for naval  
and military  
officers.

Military and Naval Officers are never in this Colony allowed to have such land at the minimum price; the universal rule is that it must be put up again to auction.

Necessity for  
sale of land  
by public  
auction.

Having thus replied to all that Dr. Fowles has complained of in the present system of selling land in this Colony, I must in conclusion beg leave to state that there is nothing in my own opinion, and I believe also in the opinion of persons of most experience in the Colony, so essential for its continued prosperity, as to maintain inviolate the principle, to which the Government is pledged, of selling all lands by public auction to the highest bidder; and, though it may be expedient to continue the exception in favor of Military Officers, any further infringement on it is, I believe, in the highest degree to be deprecated.

I have, &c.,  
GEO. GIPPS.

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LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 115, per ship Maitland.)

4 June.

Sir,

Downing Street, 4 June, 1838.

Despatch  
acknowledged.

I have received Sir Richd. Bourke's Despatch, No. 116 of the 19th Novr., transmitting a Petition from Mr. Buckley,\* praying under the circumstances stated in the petition for a Grant of Land or some other assistance from Her Majesty's Government.

Refusal of land  
grant or pension  
for W. Buckley.

To the application for a Grant of Land, I must in any case have returned a decided refusal; but I confess that, in the present instance, I do not see any sufficient reason to justify the grant of a Pension as suggested by Sir Richard Bourke. Buckley has already obtained presents and a salary of £75 a year for services which he has rendered, but especially, when taken in connection with his former history, they do not appear to me sufficient to warrant any further remuneration from the Public.

I have, &c.,  
GLENELG.

\* Note 54.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 83, per ship Spartan; acknowledged by  
lord Glenelg, 5th November, 1838.)1838.  
5 June.

My Lord, Government House, 5th June, 1838.

I have the honor to transmit to your Lordship a copy of the speech\* with which I opened, on the 29th ulto., the Legislative Council of this Colony.

Transmission  
of speech  
to council.

I have further to inform your Lordship that, as soon as I had completed the delivery of my speech, a Petition, a copy of which is enclosed, was presented by the Attorney General, signed by many respectable inhabitants of the Colony, praying that the doors of the Council might be no longer closed against the Public, the prayer of which petition was by the Council unanimously acceded to.

Admission of  
public to  
debates of  
council.

Your Lordship will perceive by the "Votes and Proceedings" of the Council, sent herewith, that a doubt was afterwards raised by the Committee, which was appointed to frame Rules for the admission of Strangers, as to the power of the Council to admit them to its debates; but, notwithstanding these doubts, the original resolution\* was confirmed by the Council, the Chief Justice, with whom the doubts had arisen in the Committee, voting himself in favor of it. These doubts were explained by the Chief Justice to have been suggested by the general tenor of the New South Wales Act (9th Geo. 4th, Cap. 83), from which the Chief Justice said he gathered that it must have been the intention of the Imperial Legislature to establish a close Council and not an open one.

I feel it right to apprise your Lordship that not only was the Attorney General's proposition brought forward with my knowledge and full consent, but that I also in Council recommended the adoption of it; and I beg to explain to your Lordship that I did this not only from a conviction that on a general principle it is undesirable to veil the proceedings of the Council in secrecy, but also because it appeared to me that the measure of opening the Council to the Public might tend in a great degree to reconcile the people of the Colony to the repeated postponement in the Imperial Parliament of the measure which is to give to the Colony a Legislative Body, more suited than the present one to its actual wants and to its daily increasing importance.

Opinion of  
Sir G. Gipps  
in favour of  
admission  
of public.

I have, &amp;c.,

GEO. GIPPS.

[Enclosures.]

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

1838.  
7 June.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 116, per ship Maitland.)

Sir, Downing Street, 7 June, 1838.

Despatch  
acknowledged.

Having referred for the consideration of the Lords Commissioners of the Treasury Sir Richd. Bourke's Despatch No. 60 of the 7th July, 1837, on the subject of the detention of the Emigrant Ship "Lady McNaghten" at Sydney, and the expences incurred in consequence of the sickness, which prevailed on board that vessel, I have the honor to transmit to you for your information a copy of a Letter from the Secretary to the Treasury with a report from the Solicitor to that Board, and to acquaint you that, in compliance with the recommendation therein contained, I have directed the Agent General to pay to the Owners of the Vessel the sum of £302 13s. 10d. for demurrage, arising from the use of the ship as a Lazaretto from the 7th of April to the 10th of May, together with the amount of the wages of the Pilot during that period. These payments will be made from the Land Revenue of the Colony.

I have, &c.,

GLENELG.

Payment for  
demurrage on  
ship *Lady  
McNaghten*.

[Enclosure.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 30th May, 1838.

Approval of  
payment for  
demurrage.

I am commanded by the Lords Commissioners of Her Majesty's Treasury to transmit, with reference to your communication of 24th of March last on the subject of the detention of the Emigrant Vessel "Lady McNaghten" at Sydney, and the expences incurred in consequence of the Epidemic Disorder on board, Copy of a letter from the Solicitor to this Board, dated the 18th Instant, and to request that, in submitting the same to Lord Glenelg, you will state to his Lordship that it appears to my Lords it will be proper to authorize the Agent General for New South Wales to settle the claim of the owners of the vessel, submitted in the despatch from Sir R. Bourke of 7th of July, 1837 (No. 60), in the manner which Mr. Maule has pointed out, by payment of the sum of £302 13s. 10d. for demurrage arising from the use of the ship as a Lazaret from the 7th of April to the 10th of May, and also of the wages of the "Pilot" for the like period, during which the title to demurrage is admitted.

These payments will be chargeable to the Land Fund of the Colony, as incurred on account of Emigration; and, as their Lordships observe that the other charges attending the Quarantine of this vessel are reported by Sir R. Bourke to have been defrayed from the same fund, and were incurred for the necessary relief of the Emigrants on board the vessel or under the advice of the local Law officers, they do not consider it necessary to offer any further remarks on the statement, which accompanied the despatch of the late Governor of New South Wales.

I am, &c.,

A. Y. SPEARMAN.

[Sub-enclosure.]

1838.  
7 June.

MR. C. BOURCHIER TO MR. A. Y. SPEARMAN.

Sir,

Treasury, 18th May, 1838.

With reference to your letters of the 18th Ultimo and 8th instant, transmitting the several papers herewith returned respecting the emigrant ship "Lady McNaghten," and desiring my report as to the claim of Mr. Hustwick, the Master and part-owner, for demurrage and pay of a pilot, I beg leave to acquaint you, for my Lords' information, that it appears, by the charter party of affreightment, that demurrage was to be allowed for the detention of the ship beyond 60 days from the 15th of October, 1836, or time when she should be ready for service at Cork, and the time when she should be ready for discharge. I think it may be collected from the papers that the ship was ready for service at Cork on the 15th of October, 1836, and she sailed from thence on the 4th of Novr., which make 20 days' detention at Cork. These being added to the 40 days' quarantine at Port Jackson, complete the 60 days.

Legal opinion  
re claim for  
demurrage on  
ship *Lady  
McNaghten.*

Mr. Hustwick's claim is for the detention of his vessel after the termination of the quarantine, and it appears to me to be well founded.

With regard to the charge for the pilot, I think that, during the 40 days' quarantine, that expense should be defrayed by the Master of the Vessel; but that, for the additional 35 days, during which I consider him entitled to demurrage, his claim in respect of the pilot is just.

I am, &amp;c.,

CHAS. BOURCHIER.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 84, per ship Spartan.)

My Lord,

Government House, 7th June, 1838.

I have the honor to transmit herewith to your Lordship a copy of an application which has been made to me by Mr. C. Swanston and other gentlemen in Van Diemen's Land, begging to be allowed to open Coal Mines at Western-Port, a place situated in Bass' Straits and within the limits of this Government.

Application to  
open coal-mines  
at Western port.

The advantage of opening Coal Mines in this part of the Country must be apparent to your Lordship, when it is borne in mind that, in consequence of the recent settlement of Port Phillip, a very active navigation is likely to spring up between the different Ports in Bass' Straits, as well as between Port Phillip, Sydney, Hobart Town, and South Australia, in which it will be desirable to employ steam vessels. But, by the existing agreements between the Government and the Australian Agricultural Company, a monopoly of Coal\* is given to the latter throughout the whole extent of this Colony for 31 years (reckoned

Advantage of  
coal-mines at  
Western port.

Monopoly of  
coal-mining  
granted to  
A.A. company.

\* Note 92.

1838.  
7 June.

Monopoly of  
coal-mining  
granted to  
A.A. company.

from 1830) subject only to restriction or regulation by the Secretary of State. This agreement was, I believe, made in London, and I do not find that any exact copy of it has ever been transmitted to this Colony. The only document of an authentic description, which I have been able to discover, is a letter of which I enclose a Copy, written by order of General Darling on the 25th June, 1830, to the Agent of the Company, who was at that time Sir Edward Parry, and it is to the tenth paragraph of this letter that I would request your Lordship's attention. This paragraph seems to me ambiguous, inasmuch as it is not quite clear whether the words, "without the previous sanction of the Secretary of State," apply to the whole of it or only to the latter part. In neither case however does it appear to me that the local Government is restricted from working the Coal on its own account in the same way that the New-castle mines were worked prior to 1830; and, though I have not the least desire to embark in such an undertaking, I would rather do it than see the Public suffer in consequence of the bargain that was made by the Government with the Company in 1830.

Assertion of  
claims of  
government.

In a communication which I have caused to be made to the present agent of the Company, and of which I enclose a copy,\* I have assumed not only that the Government has the power of working the mines itself, but also the power, with the sanction of the Secretary of State, of allowing other parties to do so; but, as some weeks must elapse before I can get his answer, I do not think it right to delay this Despatch until I receive it.

Necessity for  
negotiations  
in London.

If any negotiation with the Company be necessary, it must take place I presume in London and not here; and therefore I think it essential to lose no time in bringing the subject before your Lordship. At present the only Coal Mines worked by the Company are situated at New Castle, 80 miles to the North of Sydney, and nearly 700 from Port Phillip; and it will evidently be a great hardship on the settlers at Port Phillip, and in other parts of Bass' Straits, to be forced to buy Coal procured from such a distance or from Van Diemen's Land, when it can be obtained abundantly in their own neighbourhood.

Situation of  
coal-mines.

I will not fail to address your Lordship again on this subject, as soon as I get an answer to the letter that I have caused to be written to the Company's Agent.

I have, &c.,  
GEO. GIPPS.

[Enclosures.]

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

\* Note 93.



LORD GLENELG TO SIR GEORGE GIPPS.

1838.  
8 June.

(Despatch No. 117, per ship Maitland; acknowledged by  
Sir George Gipps, 23rd February, 1839.)

Sir, Downing Street, 8 June, 1838.

With reference to my Dispatch of the 14th of April last No. 101, I have the honor to transmit to you the Copy of a letter from the Secretary to the Board of Treasury, stating that their Lordships have issued to Mr. Barnard the Sum of Five Thousand Pounds for Emigration Service on account of your Government.

Advance to  
colonial agent  
for emigration  
service.

You will cause the said amount to be paid over without delay from the Colonial Funds to the Military Chest in New South Wales.

I have, &c.,

GLENELG.

[Enclosure.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 5th June, 1838.

With reference to my Letter of the 18th of April last, and to your reply thereto of the 25th of the same month, respecting the demands on the Agent General for New South Wales on account of the Expenditure for Emigration, I am commanded by the Lords Commissioners of Her Majesty's Treasury to request you will state to Lord Glenelg that my Lords have authorized an issue of £5,000 to Mr. Barnard for the purpose in question, and that you will move his Lordship to instruct the Governor of New South Wales to repay that amount to the Military Chest on that Station.

I am, &c.,

A. Y. SPEARMAN.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 118, per ship Maitland; acknowledged by  
Sir George Gipps, 19th December, 1839.)

Sir, Downing Street, 9 June, 1838.

9 June.

I have received your Predecessor's Dispatch No. 130 of the 4th of December last, reporting the retirement of Mr. Fisher from the Office of Agent to the Estates of the late Church and School Corporation, and the appointment of Mr. McPherson to fill that Situation together with his own original appointment of Clerk of the Councils. The combination of several Offices in the hands of the same person, particularly in a case like that of Mr. McPherson where the emoluments of the original Office are sufficient for the Officer's maintenance, appears to me open to serious objection. I am unable, therefore, to sanction the continuance of the arrangement made by Sir Richard Bourke in this instance, and I have to request that you will select some other Gentleman to fill the Office vacated by Mr. Fisher.

Despatch  
acknowledged.

Disapproval of  
appointment of  
W. Macpherson  
to charge of  
clergy and  
school estates.

I have, &c.,

GLENELG.

1838.  
12 June.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 119, per ship Maitland.)

Sir,

Downing Street, 12 June, 1838.

Despatch  
acknowledged  
*re* gratuities to  
surgeons on  
emigrant ships.

I have received your Predecessor's Dispatch No. 124 of the 4th Novr. informing me that he had allowed Mr. D. Thompson a gratuity of £100 for his services as Surgeon Superintendent of the "John Barry," and the same Allowance to Dr. Roberts, leaving in each case £50 to be received by Dr. Boyter who had the selection of the Emigrants. Sir George Grey has also laid before me a letter addressed to him by Mr. Thompson, a copy of which I transmit for your information, together with a copy of Mr. Elliot's Report on that letter. With reference to Mr. Thompson's statement that he declined the appointment under the arrangement, at first proposed to him, Sir George Grey informs me that he has no precise recollection of the conversation to which Mr. Thompson refers; but he remembers that Mr. Thompson stated his unwillingness to undertake the duty for a less remuneration than that which he would receive as Superintendent of a Convict Ship, an appointment which he had reason to expect, and that it was upon an understanding that the charge of the "John Barry" would be equally beneficial to him as that of a Convict Ship that he consented to proceed at once in charge of that ship, for which, owing to Dr. Boyter's inability to proceed in her as originally intended it was necessary to make immediate provision.

Terms of  
employment of  
D. Thompson.

Increase of  
gratuity for  
D. Thompson.

Under these circumstances, I think that Dr. Thompson is entitled to an allowance equal to that enjoyed by other Surgeons in Emigrant Ships, namely, £150 in all, which I understand to be about the average gratuity in the Convict Service; but I likewise agree in Mr. Elliot's remark that there appears no reason why it should exceed that amount; and, as Mr. Thompson is reported in Sir R. Bourke's Dispatch of the 27th of Novr., 1837, to have already received £100 as his share of the original gratuity, I have now to sanction the further issue to him of £50 to complete his remuneration.

I have, &c.,

GLENELG.

[Enclosure No. 1.]

SURGEON THOMPSON TO SIR GEORGE GREY.

Sir,

Sydney, New South Wales, 24th October, 1837.

Report *re*  
voyage of ship  
*John Barry*.

I have the honor to acquaint you, for the information of Lord Glenelg, that, at the period of the arrival of the ship "John Barry" here in July last, I was prevented by indisposition from forwarding a Report of occurrences on the voyage from Scotland.

As a full report having been sent by the Government here, I shall confine myself to notice only the most important circumstances.

The voyage was fortunately not of unusual length, as, from the very encumbered state of the between-decks and the indolence and great want of attention of the Emigrants to cleanliness, considerable sickness prevailed, especially among young children.

Twenty two deaths occurred among them, and three adults died. These took place previous to the arrival of the ship here, at which time several adults were labouring under Fever.

This disease was clearly attributable to the impossibility of keeping the Ship in a clean and wholesome condition, owing to the quantity of Luggage, which the agent Dr. Boyter had unfortunately permitted to be brought on board by the Emigrants.

It was judged necessary by the Authorities here to place the Emigrants in quarantine, in consequence of which they were removed on there and accommodated in Tents, until houses could be erected for them.

They were consequently much exposed to vicissitudes of the weather, it being the depth of winter. The disease now assumed a virulent and highly contagious character. Above forty were attacked and sent to Hospital, and I think nine deaths occurred there from the disease.

The Emigrants have been some time released and are all employed at their various Trades.

I regret to state that many unworthy characters were admitted (no doubt inadvertently), and several who knew nothing of the Trades they professed when they obtained a passage, but who made themselves conspicuous by their turbulent and unruly conduct. All were more or less inattentive to preserve the ship in that cleanly state so essential to the preservation of health, notwithstanding my urgent and unceasing endeavours to make them sensible of its necessity.

I shall only briefly observe that my duty was of the most anxious and harassing nature, it is possible to conceive; how it has been performed, it is for others to judge; but I may here state that the number of deaths on the voyage is not greater than occurred on board the Adam Lodge under Dr. A. Osborne, and under circumstances much more favorable for the preservation of health.

I avail myself of this opportunity of referring to the circumstances relating to my acceptance of the appointment to the "John Barry."

I trust it will be in your recollection that I at first declined the appointment, under the arrangement that Dr. Boyter should receive part of the gratuity, as in that case the remuneration would not equal that allowed in Convict Ships; that you proposed I should receive the Hundred Pounds allowed for passage home, even in the case that I should prefer remaining in the Colony; and that I accepted the charge on that understanding.

His Excellency Sir R. Bourke informs me, he has not received notice of this arrangement. I beg therefore respectfully to solicit that a communication on this subject may be addressed to him to enable me to receive the remuneration you intended for the very arduous duty I have performed.

I have, &c.,

DAVID THOMPSON,

Surgeon, R.N., late Superintendent of the John Barry.

1838.  
12 June.

Report *re*  
voyage of ship  
*John Barry.*

Terms of  
employment of  
D. Thompson.

[Enclosure No. 2.]

MR. T. F. ELLIOT TO UNDER SECRETARY STEPHEN.

Sir, Middle Scotland Yard, 29th May, 1838.

Transmission of  
report from  
D. Boyter.

In reference to your letter of the 25th Ultimo, enclosing a communication from Mr. David Thomson, late Surgeon Superintendent of the Emigrant Ship "John Barry," and desiring that I would call for a Report upon it from Dr. Boyter, who selected the Passengers for that vessel, I have now the honour to forward such a report from Dr. Boyter accordingly.

The two main points of a general nature, that seem to require notice in Dr. Thompson's Statement, are the accumulation of luggage between Decks, and the deception he says to have been practiced by a part of the emigrants, many of them being unworthy characters, and several ignorant of the Trades they had professed.

Stowage of  
baggage  
between decks.

With respect to encumbering the space between Decks with baggage, which I think a serious evil, I have had occasion before to mention the positive Regulation I have laid down against allowing any except the most moderate and indispensable quantity of luggage in that situation; and the smaller number of people admitted into the Ships, since I have had the honor of being in charge of the business, will render the observance of this direction the more easy.

Quality of  
emigrants  
per ship  
*John Barry.*

In regard to the quality of the Emigrants in this Ship, which sailed from Scotland before I entered on my present duties, I have no direct knowledge. You will observe that Dr. Boyter positively declares that two thirds of them were personally known to him, and that every means were taken by him to prevent imposition by the others; and he states that, both in the Public Prints of the Colony and in his private letters, they are spoken of as a valuable acquisition to the Colony. It certainly is fair to Dr. Boyter to remark that the Governor's dispatch to Lord Glenelg No. 93 of the 19th of September, 1837, contains the following passage upon the Emigrants by the "John Barry":—"The greater number of them were released under the advice of the Board of Health on the 8th Instant, and, having come to Sydney, have readily found employment at high wages in their several trades and callings. They appear not to have suffered during the Quarantine, and promise to be a useful body of workmen."

Terms of  
employment of  
D. Thomson.

The more immediate practical question raised by Dr. Thomson's letter relates to his remuneration. He was to receive full pay from the commencement to the end of his service, together with £80 for his passage out and £100 for the passage home; but, with respect to the usual gratuity of £150, it was laid down that, as the duties had been divided between him and Dr. Boyter, the gratuity should also be divided between them in such proportions as the Governor might settle. These terms are recorded in Sir George Grey's letter\* to Dr. Thomson, dated 7th of February, 1837, of which a Copy was sent to the Governor for his information. But Dr. Thomson states that he was unwilling to accept the appointment if he were to receive less than the ordinary amount of gratuity, and that his objection was met by Sir George Grey's proposing that he should have the allowance of £100 for passage home, even though he might prefer to remain in the Colony; and Dr. Thomson requests that this agreement, of which it appears that the Governor has not yet been notified, may be duly communicated to the Authorities in the

\* Note 94.

Colony, so as to enable him to receive the advantage intended for him. The apportionment of the original gratuity between Dr. Thomson and Dr. Boyter has not been reported.

1838.  
12 June.

I have been unable to find any written record of the precise arrangement which Dr. Thomson describes; but whatever may be confirmed by Sir George Grey to have been agreed upon, will doubtless be exactly fulfilled. The only remark I have to offer is that, if consistent with the terms of that agreement, it would seem quite equitable that the extra payments to Dr. Thomson should be limited to the ordinary amount of £150 in all, including whatever portion of the original gratuity may have been assigned to him already by the Governor.

Proposed  
payment to  
D. Thompson.

I am, &c.,

T. FREDK. ELLIOT.

[Sub-enclosure.]

EXTRACT of a Letter from Dr. Boyter to T. F. Elliot, Esq.,  
dated 14th May, 1838.

“ WITH reference to Dr. Thompson’s letter, I beg in the first place to call your attention to an Official Report made by me as to the Quantity of Tonnage required for the reception of the People’s Luggage. Dr. Thompson had charge of the Ship at Deptford, and ought to have examined into all the necessary arrangements for the comfort and accommodation of the Emigrants and their Luggage, but as to that no attention had been paid, the Ship being loaded to the very hatches with provisions and stores. The Emigrants were all mechanics, each requiring an additional chest for the tools; and I do not allow that a greater number of Chests were embarked than the people were justly entitled to; and, even had this been the case, the Dr. himself was the first to shew a bad example by encumbering the Hospital with household furniture; the case is also very much exaggerated, as there happened to be several spare berths, which were filled with Luggage, and greatly lessened the encumbrance or evil complained of; it must, however, be quite apparent that Dr. Thompson was deficient in common energy in not sending the luggage below in the space of the water and provisions consumed every day, which must have amounted at least to nearly two tons daily. Letters were received by Government from Dr. Thompson when the Ship touched at St. Jago, giving a very satisfactory account of the health of the people, and no complaint of any thing being wanting. During the time the Ship was at Dundee, I neither received advice nor assistance from Dr. Thompson in one way or other, and the people were forty eight hours on board before they were taken charge of by Dr. Thompson; if therefore blame can be laid on any one, he himself ought to have the largest share, being quite evident to myself and others that he rather made his duty *too* easy. As to some of the people being unworthy and ignorant of the business they took in hand, I consider this mere assertion, as two thirds of them were known to me personally and every means taken on my part to detect imposition from strangers. The Governor reports favorably of them, the public prints of Sydney have declared them a credit to their country, and the private letters I have received reckon them a most valuable acquisition to the Colony. As to the pecuniary arrangements made with Dr. Thompson, I know nothing; at the same time I consider him fully entitled to the remuneration granted to other Surgeons.”

Stowage of  
baggage  
on ship  
John Barry.

Quality of  
emigrants  
per ship  
John Barry.

1838.  
12 June.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 85, per ship Spartan; acknowledged by  
lord Glenelg. 7th November, 1838.)

My Lord,

Government House, 12th June, 1838.

Refusal of  
salaries to  
clergy after  
schism in  
Presbyterian  
church.

By a Despatch from the late Acting Governor of this Colony, dated the 17th Feby. last No. 24, Your Lordship was informed of certain proceedings on the part of the Revd. Dr. Lang and of other Presbyterian Clergymen recently arrived in New South Wales, by which, in the opinion of the Acting Governor and the Executive Council, these reverend gentlemen had separated themselves from the Church of Scotland, and, in consequence of which, the acting Governor with the advice of the Council refused to make to them any pecuniary allowances from the public funds.

Increase in  
schism.

The schism, thus created in the Presbyterian Church, has I am sorry to say been increased ever since; and, though I have used my utmost endeavors to mediate between the parties and bring them to a reconciliation, I regret to say that my efforts have been fruitless. The Presbytery of New South Wales has always been recognized by the local Government as the governing body of the Presbyterian Church in the Colony, all communications respecting the temporal affairs of that Church being required to pass through it; and, in the same way, the Presbytery was recognised as the head of that Church, in a local Statute passed in the last year (8th Willm. 4th, No. 7) "to regulate the temporal affairs of Presbyterian Churches and Chapels, connected with the Church of Scotland." But Dr. Lang and the Reverend gentlemen, who act with him, have refused to join or to obey the Presbytery, assigning as their reasons for so doing that it has become notoriously corrupt, lax in its discipline, and departed from the standard of the Church of Scotland; in forming themselves into a Synod, they have assumed authority over it and over the whole Presbyterian Church in the Colony; and thus we have two bodies, each claiming a right to regulate the affairs of the Presbyterian Church, and each joined by about an equal number of the laity, as well in Sydney as in other parts of the Territory.

Recognition  
of presbytery  
as governing  
body of church.

Refusal of  
Revd. J. D. Lang  
and others  
to recognise  
presbytery.

Irregularity  
in formation  
of synod  
by Revd.  
J. D. Lang.

Dr. Lang, I believe, admits that the formation of the Synod was irregular inasmuch as, though the General Assembly of the Church of Scotland has, by an Act passed in May, 1833, recognized the right of its Ministers to form in the Colonies Presbyteries and Synods, it requires that this shall be done by Ministers having *fixed* congregations, which of course none of the newly arrived Ministers had or could have; but he has attempted to justify himself and them by the urgent necessity of the case,

and by the example which, as he says, was set by the Church of Scotland itself under similar circumstances in former days. His arguments will be found in a letter addressed to myself, which is marked A 7, and is to be found at Page 33 in the accompanying Appendix.

Finding my long continued endeavours to bring these dissensions to an amicable issue to be of no avail, I informed all the parties that I should submit the whole case to Your Lordship; but, before I did this, I thought it right to take the opinion of the Executive Council a second time upon it. The Minute of Council made on this occasion, of which a Copy forms No. 1 of the accompanying Appendix, will, in conjunction with what I have here stated, suffice I think to put your Lordship in possession of the merits of the case\*; but I nevertheless transmit in the Appendix Copies of all the documents, laid before the Council, in the order in which they have been entered by the Clerk on the proceedings of that Body.

Your Lordship will observe that the chief difficulty in dealing with this schism arises from the circumstance of both parties claiming to represent the Church of Scotland. If Dr. Lang and his adherents acknowledged themselves to be seceders from that Church, they might be recognised and paid as such, under the Local Church Act of 1836 (7th Willm. 4, No. 3); but, as they refuse to do this, questions, which concern the doctrine and discipline of that Church, are to be decided as well as those which relate to the payment of salaries to its Ministers.

I have further to report that Dr. Lang has requested my permission to proceed once more to England, and, although I am aware that your Lordship does not approve of such frequent absence from the Colony of any Clergyman receiving a salary from Government, I have not thought it right to refuse his request, as I cannot but feel that his presence in the Colony, during the long period which must elapse before your Lordship's decision on his case can be received, will tend to augment rather than to diminish our difficulties.

I have, &c.,

GEO. GIPPS.

[Enclosures.]

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

SIR GEORGE GIPPS TO LORD GLENELG.  
(Despatch No. 86, per ship Spartan.)

My Lord, Government House, 12th June, 1838.

With reference to my Despatch of this day's date, No. 85, on the subject of the dissensions which have broken out in the

1838.  
12 June.

Reference of  
schism to  
executive  
council.

Difficulty  
created by  
schism.

Leave of  
absence  
granted  
to Revd.  
J. D. Lang

1838.  
12 June.

Transmission  
of letter  
from Revd.  
J. McGarvie.

Presbyterian Church of this Colony, I have the honor to transmit herewith a letter, which has been addressed to your Lordship by the Revd. J. McGarvie, Moderator of the Presbytery of New South Wales.

I have, &c.,  
GEO. GIPPS.

[Enclosure.]

REVD. J. MCGARVIE TO LORD GLENELG.

Sydney, New S. Wales.

May it Please Your Lordship,

9th June, 1838.

Acknowledgment of  
promise of  
assistance to  
Presbyterian  
church.

I had the honor, as Moderator of the Presbytery of New South Wales, to receive from His Excellency Sir George Gipps Your Lordship's Reply, dated 13th December, 1837, to the Presbytery's address of 27th July, 1837, and, on their behalf, I beg to express our high sense of the gracious sentiments of that reply, and of the terms in which they are conveyed. Your Lordship's wise and liberal measures have given satisfaction to the members of our Communion; and it will be the duty and the interest of the Ministers and Elders connected therewith to pursue those measures, which shall, to the best of their ability, promise the moral and religious well-being of those whom divine Providence has placed under their charge. Your Lordship's liberal and just concessions will be highly instrumental in the establishment of our national Church, and they lead us to anticipate such attentions to our future respectful representations, as may be consistent with Your Lordship's Sense of public duty.

Secession of  
Revd. J. D. Lang  
and others from  
presbytery.

It is with much concern we have at the same time to state that your Lordship's gracious intentions in granting *outfit* to the Ministers from the North of Ireland, who left Scotland in July last, have not been realised. Without any well grounded cause, eight days after arrival and without communication with the Established and recognised Ecclesiastical authorities, they, along with the Reverend Doctor Lang, Seceded from our Communion. We rely with confidence on Your Lordship's sense of Justice that such Schismatical courses, causing the worst feelings in a heretofore united community, will not meet with encouragement; and that no interpretation, put upon our actions or our motives by the said Parties, who have constituted themselves a Synod, without Churches, Congregations, Elders, Presbyteries, or appointments, and whether made to your Lordship in personal conference or by communication in writing, will be accepted as expressing our sentiments. We are apprehensive such statements may be made to your Lordship, as will be prejudicial to our interests. His Excellency the Governor and Council having resolved to abide by your Lordship's instructions on the subject; and the Reverend Doctor Lang being on the Eve of departure from the Colony, being the fifth time he has visited England since his arrival in 1823, during which period he has been five years and six months absent from the Colony and from his Church, his Brethren being called on to discharge his clerical duty in addition to their own.

Request for  
caution in  
acceptance of  
statements.

For these reasons, we humbly take the liberty to assure your Lordship that we feel we can be answerable only for those Statements



that may be made by our Moderator in our name, and on our behalf; and every information relating to the condition of our Churches and people, we shall feel it our bounden duty to furnish to your Lordship, when required.

1835.  
12 June.

On behalf of the Presbytery,

I have, &c.,  
JOHN MCGARVIE, Moderator.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 120. per ship Maitland.)

Sir,

Downing Street, 13 June, 1838.

13 June.

I have received Sir Richd. Bourke's Despatch No. 113 of the 16th Novr. last, enclosing a Memorial from Colonel Morisset, formerly Commandant at Norfolk Island, praying for the Confirmation of a Grant of Land formerly reserved for him, but resumed by the Local Government in the year 1830 under the instructions of the Secretary of State in consequence of his being returned on the Garrison Staff as holding a Military Appointment. The regulation excluding Military Officers from Grants of Land appears to have been imposed in order that such Officers might not be tempted to neglect their proper duties by the attraction of Agricultural pursuits. The reason applied to the Commandant of Norfolk Island quite as distinctly as to any other Officer; besides which, it may be added that, while at the distant settlement of Norfolk Island, he could not under any circumstances be considered as eligible to receive a Grant of Land in New South Wales and perform the duties of a Settler. He, therefore, was not an admissible Candidate until the year 1834, that is, three years after the system of free Grants had been discontinued.

Memorial of  
J. T. Morisset  
acknowledged.

Criticism of  
application.

You will, therefore, acquaint Colonel Morisset that I regret my inability to comply with the prayer of his Memorial.

Refusal of  
land grant.

I have, &c.,  
GLENELG.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 121. per ship Maitland.)

Sir,

Downing Street, 13 June, 1838.

I have received Colonel Snodgrass' Dispatch No. 114 of the 17th November last, enclosing an application from Mr. Felton Mathew for a Grant of Land, as a Marriage portion to the Lady to whom he was married in the Year 1832. He grounds his claim on a Regulation under which Land was formerly granted as Portions to some Ladies on their Marriage, and states that "it is evident Mrs. Mathew left England in the expectation of

Memorial of  
F. Mathew  
acknowledged.

Claim for  
land grant  
as marriage  
portion.

1838.  
13 June.

Claim for  
land grant  
as marriage  
portion.

receiving the same Grant which had been bestowed on others in similar Cases.”

Mrs. Mathew, however, whatever may have been the expectation with which she left this Country, has clearly mistaken the case. The rule to which she refers was established on the recommendation contained in Sir Ralph Darling's Dispatch of the 4th Sept., 1828. The Grants were confined to the Cases of Daughters of Settlers, “men of respectability, whose conduct gave them a claim to the support of Government,” and the further ground of the recommendation was that there were several large families of Daughters in the Colony, who, from their circumstances, were not in a condition to form matrimonial connections. To this extent, the arrangement was sanctioned by H.M. Govt. but never was intended to include the cases of Ladies who were, like Mrs. Mathew, Strangers to the Colony.

Refusal of  
land grant.

Under these circumstances, it is not in my power to admit the claim preferred by Mr. Felton Mathew. I have, &c.,

GLENELG.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 122, per ship Maitland.)

Sir, Downing Street, 13 June, 1838.

Memorial of  
T. Jeffrey  
acknowledged.

I have received Sir Richd. Bourke's Dispatch No. 117 of the 20th of November last, with the Memorial therein enclosed from Mr. T. Jeffrey, Landing Waiter at Sydney, praying for a Grant of Land. Mr. Jeffrey represents that it was under the impression that he should receive a Grant that he was led to seek employment in New South Wales; and that it was not until his arrival that he discovered that he was precluded by his appointment from becoming a Grantee. It is to be regretted that Mr. Jeffrey formed so erroneous an impression, and that he did not more accurately inform himself on the subject; but I cannot admit, on that account, his claim to a Grant in violation of the General Regulations.

Refusal of  
land grant.

You will, therefore, acquaint Mr. Jeffrey that I regret my inability to comply with the prayer of his Memorial.

I have, &c.,

GLENELG.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 123, per ship Maitland.)

14 June.

Sir, Downing Street, 14 June, 1838.

Despatch  
acknowledged.

I have received Colonel Snodgrass' Despatch No. 8 of the 8th of January last, enclosing certain opinions given by the Law Officers of your Government on the question of the validity

of Grants of Land, issued by the Governor in the name of King William the Fourth during the interval between the decease of His late Majesty and the receipt of Intelligence of that event in the Colony; And I have received the Queen's Commands to acquaint you that Her Majesty is graciously pleased to approve of a Declaratory Act to be passed by the Local Legislature Confirmatory of such Titles.

I have, &c.,  
GLENELG.

1838.  
14 June.  
Act of council  
to be passed  
re validity of  
land grants.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 124, per ship Maitland.)

Sir, Downing Street, 14 June, 1838.

I have received Colonel Snodgrass' Dispatch No. 12 of the 12th of January last, relative to the claims of certain Proprietors of Stock at Port Philip, which were brought under the notice of Her Majesty's Government in two Petitions received from Mr. Mackillop; and I have to acquaint you that I fully concur in the decision of Sir R. Bourke conveyed to the Parties interested by the Colonial Secretary's Letter of the 2nd January, 1837.

I have, &c.,  
GLENELG.

Despatch  
acknowledged.

Approval of  
decision of  
Sir R. Bourke.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 125, per ship Maitland.)

Sir, Downing Street, 14 June, 1838.

I have received Colonel Snodgrass' Dispatch No. 11 of the 11th January last, enclosing a Memorial from Mr. Reuben Uther praying for a Grant of Land which was refused to him during the Government of Lt. General Darling.

You will have the goodness to acquaint the Memorialist that it is impossible for me to reverse the decision in this case formed by the local Government so long ago as the Year 1827, the justice of which decision has never since been questioned, and the grounds of which are known to me only from the very vague and General allusions to them contained in the accompanying Memorial and its Enclosures.

I have, &c.,  
GLENELG.

Memorial of  
R. Uther  
acknowledged.

Confirmation  
of former  
decision re  
land grant.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 126, per ship Maitland.)

Sir, Downing Street, 16 June, 1838.

I have received Sir Richd. Bourke's Dispatch No. 102 of the 22d October last, transmitting the Duplicate of a Letter addressed to me by the Colonial Treasurer of New South Wales, and dated the 18th of Octr., in which that Officer prefers a claim

16 June.  
Despatch  
acknowledged.

1838.  
16 June.

to an increase of Salary on the ground of his being required to perform the duties of Collector of Internal Revenue in addition to those of Treasurer.

Refusal to  
increase  
salary of  
C. D. Riddell.

I beg you will acquaint Mr. Riddell that, having attentively considered the statement contained in his letter together with the remarks offered by Sir Richard Bourke thereon, I regret that it is not in my power to recommend to the Lords of the Treasury an Increase of his Salary.

I have, &c.,  
GLENELG.

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LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 128, per ship Maitland.)

19 June.

Sir,

Downing Street, 19 June, 1838.

Despatch  
acknowledged.

I have received Sir Richd. Bourke's Dispatch No. 111 of the 7th of November last.

Proposed  
allowance  
for visiting  
magistrate  
at female  
factory.

I have recommended to the Lords Commissioners of the Treasury to sanction the extra Allowance of £100 per Annum granted to the Police Magistrate at Parramatta for performing the duties of visiting Magistrate at the Female Factory; but I am not yet able to announce to you their decision. Adverting to the favorable testimony borne by the late Governor to Mr. and Mrs. Bell, whose Appointments in the Factory will have been superseded by the selection of Officers made in this Country, I am desirous of recommending them to you for suitable employment in any Situation in which you may be able to avail yourself of their Services, and for which you consider them qualified.

I have, &c.,  
GLENELG.

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LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 129, per ship Maitland.)

20 June

Sir,

Downing Street, 20 June, 1838.

Report  
received re  
emigrant ship  
*Bussorah*  
*Merchant*.

A report having been received from the Lt. Governor of Van Diemen's Land of the Arrival in that Colony of the Emigrant Ship "*Bussorah Merchant*," from which it appeared that an unusual number of Deaths had occurred during the Voyage, occasioned chiefly by the prevalence of Small Pox and Measles, I referred Sir J. Franklin's Dispatch to the Agent General for Emigration, and I now transmit a copy of his Report for your information. It is to be hoped that the measures, which he has adopted, will tend to mitigate such Calamities, altho' I fear it will be impossible by any precaution to avert them altogether.

I have, &c.,  
GLENELG.

[Enclosure.]

MR. T. F. ELLIOT TO UNDER SECRETARY STEPHEN.

1838.  
20 June.

Sir, 2 Middle Scotland Yard, 7th June, 1838.

I have the honor to acknowledge the receipt of your letter, dated the 30th Ult., accompanied by Sir John Franklin's report of the Arrival of the "Bussorah Merchant" in Van Diemen's Land.

I am sorry to see that this Ship has been visited by two such scourges as the Small-pox and Measles, and that they have proved fatal to so many children under 5 years of age, although it is some consolation to perceive that, notwithstanding the prevalence of those two formidable Epidemics, only three Children have died above the age I have just mentioned, and not more than four Adults. This remarkable feature seems to confirm the view I have so often lately had occasion to express against the admission of large numbers of Children of the youngest Class.

Outbreak of small-pox and measles on ship *Bussorah Merchant*.

I find that, in 1837, the proportion of Children under Seven Years of age to the whole number of Emigrants sent out was  $33\frac{1}{3}$  to 100; and, up to the present time in 1838, owing perhaps to the earnest exhortations which I had addressed to the selecting Officers, the proportion has been reduced to 29 to 100. I shall henceforward have an additional check on the subject, by means of some Returns which I am bringing into use, that will enable me to see from week to week, during the process of selection, how many people are taken in each of the principal classes of age into which they are divided. And, if it proves necessary, I shall be prepared, when the existing form of Instructions to surgeons comes under revision, to introduce a clause making it an imperative rule that, whenever the number of Children under seven becomes equal to 25, or perhaps even to 20, in the hundred passengers, the selecting Officer shall on no pretence whatever accept any families of a description which would increase that proportion. Without some such definite law, it may perhaps be doubted whether any more general recommendation will be sufficiently effective.

Proportion of children amongst emigrants.

One point, to which attention may be excited by the nature of the present intelligence, is the extent of the hospital accommodation on board of the Emigrant vessels. It is obvious that no possible arrangements could provide for the separation of the Sick on board of Ship, when such maladies as the small-pox and measles rage as they have done in the *Bussorah Merchant*. It may be satisfactory, however, to Lord Glenelg to know that the Hospitals in Vessels sent by Government are roomy, and placed in the very best part of the Ship, under the stern windows, being the situation of the most expensive cabins that could be hired in private Vessels, on board of which, moreover, the great demand for space precludes the allotment of any separate hospitals at all to sick Emigrants.

Proposed reduction of proportion.

Hospital accommodation on emigrant ships.

Another point, which it may be right to notice on the present occasion, is the subject of vaccination. It is a standing order that no Surgeon shall sail without a provision of Vaccine matter, and, in the case of Vessels going from England and Ireland, I am in the habit of sending them the supply myself. The custom, I have understood, in the Convict service is to make use of this supply at the first convenient opportunity after going to sea, on such subjects as are found to require the operation. But, adverting to the Reports received from the *Bussorah Merchant*, and considering the much greater number of Children in Emigrant Ships, as well as the circumstance of their not being under any regular system or

Problem of vaccination of emigrants.

1838.  
20 June.  
Problem of  
vaccination  
of emigrants.

surveillance before embarkation, as is the case with Convicts. I have conferred with the Physician General of the Navy on the practicability of introducing a more stringent rule into our service, and I am now about to issue an instruction by which the surgeon will be required to see by personal inspection, at the moment of selecting his people, whether they have been vaccinated or not, and, if not, either to perform the operation at once or else decline taking them.

To enforce this direction, the weekly Returns, to which I have above alluded for another purpose, will exhibit how many of the persons selected had been vaccinated before inspection, and how many since.

I have, &c.,

T. FREDK. ELLIOT.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 130, per ship Maitland.)

Sir, Downing Street, 20 June, 1838.

Refusal to  
interfere  
in case of  
G. M. C. Bowen.

I have received Sir Richard Bourke's Dispatch No. 101 of the 21st October last, enclosing a Memorial from Mr. Bowen relative to certain differences which had arisen between him and the Ecclesiastical Authorities in New South Wales; and I have to request that you will acquaint Mr. Bowen that I must decline all interference whatever on a subject so entirely foreign to the proper duties and beyond the competency of Her Majesty's Executive Government.

I have, &c.,

GLENELG.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 131, per ship Maitland; acknowledged by Sir George Gipps, 22nd June, 1839.)

Sir, Downing Street, 20 June, 1838.

Transmission  
of letter from  
H. N. JEVERS.

I transmit to you a copy of a letter from Mr. Henry Norton JEVERS making enquiry respecting the fate of Elinor Dwyer, who emigrated to New South Wales in the year 1835 in the ship "James Pattison."

I have to request that you will cause enquiry to be made as to the fate of this person, and that you will transmit to me any information which you may be able to furnish on the subject.

I have, &c.,

GLENELG.

[Enclosure.]

MR. H. N. JEVERS TO LORD GLENELG.

Jeverstown, Sixmilebridge,  
Ireland, 15th June, 1838.

Inquiry  
re fate of  
E. Dwyer.

I do myself the honor to address you and beg leave to solicit your Lordship's attention to the following matter. On the 3d of November, 1835, Elinor Dwyer, daughter of Michael Dwyer, a respectable Tenant on this Estate, obtained her free passage and

sailed from Cork in the "James Pattison" for New South Wales, where she arrived safe after a favorable voyage of three months and six days, and, by a Letter now before me, the only one written by her to her Father and dated New South Wales, 15th March, 1836, she was then in the service of Mrs. Roberts, wife of Mr. Thomas Roberts, Elizabeth Street, Sydney, at twelve pounds a year wages. Catherine Diggins, another Girl from this neighbourhood, who went out in the same Vessel, lately wrote from Madras to her friends here, saying she, Diggins, had married a soldier of the 4th Regiment in New South Wales, and had gone to India with the husband, and that Elinor Dwyer had died in Hospital in Sydney without saying when. Now there are some circumstances, unnecessary to detail, that leave an impression on Michael Dwyer's mind that this account given by Diggins is the effect of malice, and I shall feel exceedingly indebted to your Lordship if you will please to direct the fact of Elinor Dwyer's life or death to be ascertained, or to put me in the proper train to find it out.

1838.  
20 June.

Inquiry  
re fate of  
E. Dwyer.

I have, &c.,

HENRY NORTON JEVERS.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 132, per ship Maitland.)

Sir, Downing Street, 20 June, 1838.

With reference to my Dispatch of the 29th of May last No. 113, I transmit to you, herewith, for your information and guidance a copy of a further Communication, which has been addressed to this Department by direction of the Lords Commissioners of the Treasury respecting the Salary to be assigned to the Sub-Collector at Port Philip.

Transmission  
of letter from  
treasury.

I have, &c.,

GLENELG.

[Enclosure.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 16th June, 1838.

The Lords Commissioners of Her Majesty's Treasury having received a further report from the Commers. of Customs in respect to the Salary to be assigned to the Sub-Collector at Port Phillip in New South Wales, I am commanded by their Lordships to transmit to you the enclosed Extract of the Report in question in order that it may be submitted for the information of Lord Glenelg with further reference to the communication made to you on the 21st Ult. relating to the establishment at Port Phillip; and I am at the same time to request that you will state to his Lordship that My Lords have approved of the arrangement therein proposed in regard to Mr. Webb's emoluments, and that you will move Lord Glenelg to convey such directions to the Governor of New South Wales, as may be requisite for carrying the same into effect.

Salary for  
sub-collector  
of customs at  
Port Phillip.

I am, &c.,

A. Y. SPEARMAN.

1838.  
20 June.

[Sub-enclosure.]

EXTRACT from a Report, dated 29th May, 1838.

In obedience to Your Lordship's commands,

We report.

Salary for  
sub-collector  
of customs at  
Port Phillip.

That, having again had this subject under our consideration. We beg leave to submit our opinion that the Sub-Collector at Port Phillip should be paid at the rate of £300 per annum as proposed in our Report of the 12th of April last, No. 548, in consideration of the duties which will devolve upon him as the Principal Officer of this revenue at that Station, and that he should be granted an extra allowance at the rate of £50 per annum as a remuneration for his services as Sub-Treasurer at Port Phillip, until such time as we shall have been enabled to ascertain the nature and extent of the duties, which will devolve upon him in that capacity; and, should Your Lordships be pleased to approve of the foregoing proposition, we will direct the Collector and Controller at Sydney to make a special Report to that effect at the expiration of two years, when we will again bring the subject under the consideration of your Lordships. We beg leave to add that, with your Lordship's sanction, we propose issuing instructions to the Sub-Collector at Port Phillip to pay the most implicit obedience to such directions as he may from time to time receive from the Colonial Government for his guidance in his capacity of Sub-Treasurer at that place.

R. B. DEANE. E. STEWART.  
W. RICHMOND. S. LUSHINGTON.

Custom House, 29th May, 1838.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 89, per ship Spartan; acknowledged by  
lord Glenelg. 5th November, 1838.)

My Lord, Government House, 20th June, 1838.

Refusal of  
gratuity to  
A. Murray  
on reduction.

In compliance with the request expressed by the Executive Council of this Colony in the Minute, which I have now the honor to enclose, I beg to draw your Lordship's attention to the case of Mr. Andrew Murray, who was refused a gratuity of two years' pay on the abolition in the year 1835 of an office which he had held in the Convict Establishment called "Carters' Barracks" at Sydney.

Appointments  
offered to  
A. Murray.

As Mr. Murray's employment at Carters' Barracks was one which required him to be in charge of prisoners, I cannot consider that he was harshly dealt by in being offered his choice of two situations of a similar nature, one at Norfolk Island at an increased Salary, and the other on the very spot (Carters' Barracks) where he had been before employed; and, though this latter employment was only of a temporary nature, there is I think good reason to suppose that, if he had accepted it, his claim to an equivalent situation would have been recognised by Sir Richard Bourke in the event of his being again displaced.



I therefore hope I may be permitted to repeat that I forward this application to your Lordship simply on account of the Minute of the Executive Council, made during the temporary administration of Colonel Snodgrass, and not in consequence of any opinion that I myself entertain of Mr. Murray's having been harshly treated.

I have, &c.,

GEO. GIPPS.

[Enclosure.]

SUMMARY Extract No. 2 from Minute of Council, No. 38/11, dated 10th February, 1838.

Mr. Andrew Murray's Application for a re-consideration of Sir Richard Bourke's decision, refusing him the Gratuity usually allowed on the reduction of an Establishment, on the ground of his having declined acceptance of an offered Appointment at Norfolk Island.

1838.  
20 June.  
Reasons for  
transmission  
of minute.

Minute of  
executive  
council re  
refusal of  
gratuity to  
A. Murray  
on reduction.

HIS EXCELLENCY the Acting Governor laid before the Council a Memorial from Mr. Andrew Murray, late Superintendent of Carter's Barracks and Gaoler of the Debtors' Prison, representing that he had emigrated to this Colony in the year 1817, and had been in the Service of the Government for the period of fourteen years from December, 1821, to the end of the year 1835; that, in November, 1827, he had been appointed Superintendent of the Carters' Barracks with the pay of seven shillings per diem, which, in January, 1831, was increased to One hundred and fifty pounds per annum, at which rate it continued, until the final breaking up of the Establishment at the end of the year 1835; some time previous to which, Sir Richard Bourke had been pleased to offer to him the appointment of Superintendent of Agriculture at the Penal Settlement of Norfolk Island, with a Salary of Two hundred a year, which Appointment he had declined for reasons undermentioned; and subsequently, permission was offered to him to continue in charge of the Debtors' prison, until the removal of its Inmates to the New Gaol in course of erection for them, with the charge also of the House of Correction, with a salary of One hundred and fifty pounds per annum for the united duties, which Appointment he had likewise declined; the situation at Norfolk Island he had refused as being inconvenient and unsuitable, under the circumstances of his family, consisting of daughters, whose education could not be carried on there, and he must leave them in Sydney at an expence more than equal to the difference of Salary; and the latter appointment he had refused, both because of his being required to reside within the Walls of the Prison, in continual hearing of the profane and otherwise improper language in common use among the Prisoners, and to quit the much more eligible quarters in its vicinity, which he had for so many years occupied, and because of the permanence of the Appointment being only temporary.

Under these circumstances, he had requested the Governor's permission to retire from the Service with the Allowance of the Gratuity of two years' salary, usually Granted upon the reduction of an Establishment to Officers of ten years' service and upwards, such as himself, which request was refused by Sir Richard Bourke on the ground of his having declined accepting the situation at Norfolk Island offered to him, and also the other Appointment above mentioned.

1838.  
20 June.

Minute of  
executive  
council re  
refusal of  
gratuity to  
A. Murray  
on reduction.

Mr. Murray solicits a reconsideration of Sir Richard Bourke's decision, and that the Gratuity above stated may yet be granted to him. His Memorial is accompanied by several letters in support of it, and a List of precedents in cases of Gratuities which have been allowed.

The Council are of opinion that Mr. Murray must be considered as having made his election, subject to the general Regulations of the Service, of the course which he deemed it best to pursue for the advantage and comfort of himself and his family; and that Sir Richard Bourke, having offered to Mr. Murray a higher salaried Colonial Appointment than the one then held by him, which he declined, would not have been authorised according to the strict letter of the Regulations in granting to him the usual gratuity of two years' salary, as a compensation for the loss of Office.

The Council do not think themselves at liberty to recommend the reversal of the decision of Sir Richard Bourke, by stating it to be their opinion that Appointments in the Penal Settlements are not within the meaning and intent of the Regulation fixing the terms of compensation for loss of office. At the same time, they cannot but regret that no opportunity should have occurred of proposing an employment of a different description to an Individual, whose family circumstances were such as Mr. Murray represents his to have been; and they can not but consider it as a fair subject for doubt whether in establishing that Regulation which applies to Cases like the present, the British Government could have intended that Individuals deprived of Office, not only without imputation of blame, but (as in the present instance) with the highest testimonials of character and ability, should be reduced to the hard alternative of transferring themselves and their families to a Station altogether unsuited for them, or of forfeiting all compensation for their past services.

The Council therefore recommended that it be referred to the Secretary of State to determine whether the acceptance of Situations in the Penal Settlements is to be considered obligatory upon Officers of the Civil Service whose Appointments within the Colony itself are abolished.

Whatever may be His Lordship's decision upon this question in general, they beg to recommend Mr. Murray to favourable consideration, to which they deem him entitled on account of his Services in the various Public Situations he has been placed in.

WM. MACPHERSON,  
Clerk of Councils.

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LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 133, per ship Maitland; acknowledged by Sir George Gipps, 3rd May, 1839.)

21 June.

Proposal for  
government  
steam vessel.

Sir,

Downing Street, 21 June, 1838.

With reference to my Dispatch No. 107 of the 15th of May last relative to the employment of a Steam Vessel in lieu of the present Colonial Vessels in New South Wales, I transmit to you herewith, for your information and guidance, a copy of a letter from the Secretary to the Board of Treasury, stating that

it appears from the Report of the Comptroller of Steam Machinery that the first expence of building and fitting out a Steam Vessel for the purpose in question had been under-rated in the Estimate forwarded in Sir Richard Bourke's Dispatch of the 15th of June, 1837.

1838.  
21 June.

Increase in estimate for first cost of steam vessel.

I have, &c.,

GLENELG.

[Enclosure.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 7th June, 1838.

In transmitting Copies of a Letter from the Secretary of the Admiralty, dated 23d Ult., and of its enclosures, respecting the construction of a Vessel of 200 Horse Power to be employed as a Steamer by the Government of New South Wales, I have it in command from the Lords Commissioners of Her Majesty's Treasury to request you will state to Lord Glenelg, with further reference to my Letter of the 14th Ult., that it appears from the report of the Comptroller of Steam Machinery that the first expence of building and fitting out a Steam Vessel for the purpose in question had been under-rated in the Estimate, forwarded in the despatch of Sir R. Bourke of the 15th of June last, and on which his proposition had been founded.

I am, &c.,

A. Y. SPEARMAN.

[Sub-enclosure No. 1.]

SIR JOHN BARROW TO MR. F. BARING, M.P.

Sir, Admiralty, 23d May, 1838.

Having laid before My Lords Commissioners of the Admiralty Mr. Spearman's letter of the 18th Inst., together with its enclosure, upon the subject of the employment of a Government Steam Vessel for the service of the Colony of New South Wales, and requesting to be informed of their Lordships' opinion for the information of The Lords of the Treasury, as to the size of the vessel to be provided, and as to where it would be best that she should be built, I am commanded to transmit to you herewith for their Lordships' information, a Copy of the Report from the Comptroller of Steam Machinery to whom the subject has been referred.

I am, &c.,

J. BARROW.

[Sub-enclosure No. 2.]

REPORT.

A PROPER Vessel, to substitute for the wretched ones now employed by the Government in New South Wales, would in my opinion be a well-built Steamer of 200 horses power, and not drawing more than 9 feet 6 inches, or 10 ft. water. A smaller power than this would not perform the service efficiently, considering the heavy seas which occur off the Coast of New Holland, and the expediency of occasionally sending her to Norfolk Island and Hobart Town, or to the New Colony in South Australia.

Size and power of steam vessel proposed.

She should of course be so constructed as to carry as much coals as possible, and her accommodations so arranged as to give the greatest possible facility for the conveyance of Troops.

1838.  
21 June.

Considering the difficulty alluded to by Mr. Nicholson of obtaining a sufficient supply of *well-seasoned Timber*, I should certainly recommend that a Vessel be built in England, and sailed out so as to be able to carry her duplicate gear and other Stores.

Estimate of  
cost of vessel.

Mr. Edge states the rate per Ton for a well-built Steam Vessel, complete for sea with fastenings of copper, sheathing the bottom, etc., to be from £22 10s. to £24, and the expence of a pair of engines of 160 horses power would be about £9,000 fixed on board; for a pair of 200 horses power about £11,000.

C. W. EDWD. PARRY.

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LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 134. per ship Maitland; acknowledged by Sir George Gipps, 23rd February, 1839.)

Sir, Downing Street, 21 June, 1838.

Advance to  
colonial agent  
for emigration  
service.

With reference to my Dispatch No. 117 of the 8th Inst., I have the honor to transmit to you the Copy of a letter from the Secretary to the Board of Treasury, stating that their Lordships have issued to Mr. Barnard the Sum of Ten Thousand Pounds for Emigration Service on account of your Government.

You will cause the said amount to be paid over without delay from the Colonial Funds to the Military Chest in New South Wales.

I have, &c.,  
GLENELG.

[Enclosure.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 15th June, 1838.

With further reference to the subject of my communication to you of the 5th Instant, relating to an advance of £5,000 to Mr. Barnard, the Agent General for New South Wales, for the purposes of Emigration to that Colony, I am commanded by the Lords Commissioners of Her Majesty's Treasury to request you will state to Lord Glenelg that their Lordships have authorized another issue of £10,000 to be made to the Agent General for New South Wales on account of Emigration Expenditure; and I am to desire that you will move Lord Glenelg to convey the requisite directions to the Governor of that Colony in regard to the repayment of the above Sum to the Military Chest on the Station.

I am, &c.,  
GLENELG.

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SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 91. per ship Spartan; acknowledged by lord Glenelg, 26th October, 1838.)

My Lord, Government House, 21st June, 1838.

Transmission  
of letter from  
I. S. Nind.

With reference to my Despatch No. 77 of the 16th May, 1838, on the subject of a claim to a grant of land, which has been preferred by Mr. Isaac Scott Nind, I have the honor to forward a letter which I have subsequently received from that

gentleman; but, as in it Mr. Nind admits that he has "*no claim*," but only hopes that indulgence will be extended to him by a liberal Government, I do not feel it necessary to add anything to what I have already stated as my opinion of his case.

I have, &c.,

GEO. GIPPS.

[Enclosure.]

MR. I. S. NIND TO SIR GEORGE GIPPS.

Paterson, 29th May, 1838.

May it please Your Excellency,

I had the honor to receive Your Excellency's communication of the 21st Inst.

It is certainly true that, on a former occasion, I did apply to His Majesty's Secretary of State for a Grant of Land, and that he was pleased to refuse it on the ground of Lapse of Time. But, as my Second application was founded on different circumstances, I had hoped to meet a different result.

My first plea was that I had lost my Grant in consequence of entering the Government Service, and being detained at King George's Sound, whereas my Second claim rests on the Verbal and understood promise of His Excellency General Darling, and also that I had had the necessary Capital, Both of which important circumstances were before omitted.

Your Excellency will perhaps understand the Case better by a recapitulation of the facts.

I left England in 1828, intending to devote my attention to Agriculture.

To enable me to do so, my Friends agreed to furnish me with 1,000£, viz., 200£ paid down, and an additional 800£ for which I was to draw upon them as I required it.

That, on my arrival in the Colony, I was informed that, by entering the Government Service, I should Secure a more Eligible Grant. That, when I accepted an appointment as Colonial Assistant Surgeon, I mentioned this circumstance as my reason for not taking my Grant at that time, when His Excellency Genl. Darling was pleased to say That my Interests should be attended to.

Being perfectly satisfied with this, I proceeded to King George's Sound.

When I had been there about One year, finding the Situation exceedingly disagreeable, I tendered my resignation\* thro' the Commandant.

Twelve Months having elapsed, and not receiving an answer, and being extremely anxious to commence Agricultural pursuits, and there being a report That new regulations were expected as to obtaining Grants, I again applied for my Discharge.

To this, Several Months afterwards I received a verbal answer from the Commandant, That it was not at that time convenient to relieve me.

In consequence I remained till the latter part of 1829, when ill health compelled me to leave.

On arriving in Sydney, I received letters from England of pressing importance, and, as I found that taking my Grant would occasion great delay, I proceeded immediately to England.

1838.  
21 June.

Application by  
I. S. Nind for  
land grant.

\* Note 95.

1838.  
21 June.

Application by  
I. S. Nind for  
land grant.

On my return to the Colony, I made my Application to His Excellency Genl. Sir Rd. Bourke, who informed me that, from the delay, it was not in his power to give me a Grant, but recommending an application to the Secretary of State.

I made application accordingly, and was refused on the same plea, Lapse of Time.

At this time however it was understood in the Colony That no more Grants would be given under any circumstances.

Finding Subsequently however that the promises made to Emigrants of 1826 and 1827 were to be fulfilled by additional Grants, and conceiving therefore that one great obstacle to my success was removed, I made my Second application on the grounds

First, of General Darling's promise;

Secondly, on my Capital of 1,000£ and also of about 400£ of pay, which had accumulated in the Treasury. My proof of the first sum however would be deficient from the Death of my Agent and a relative.

I am sorry that Your Excellency should have adopted the Opinion that my Second application was merely a repetition of my first, As, from the Tenor of the Rt. Honble. Secretary of State's Letter, I had hopes that my Case would be enquired into, and, Altho' I admit I have no claim, I had conceived hopes that, under the peculiar circumstances of the case, Indulgence would have been extended to me by a Liberal Government.

I have enclosed a Copy of this Letter should Your Excellency be pleased to forward one to the Honble. Secretary of State, and regretting exceedingly the trouble I have occasioned you,

I am, &c.,

ISAAC SCOTT NIND.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 135, per ship Earl Grey.)

22 June.

Despatch  
acknowledged.

Sir,

Downing Street, 22nd June, 1838.

I have received your Predecessor's despatch, No. 112 of the 15th of November last, with the correspondence therein enclosed, which had passed between the Colonial Secretary and Mr. Riddell relative to the appointment of Clerks to the Office of the Colonial Treasurer.

It is quite impossible that I should undertake at this distance from the Colony to form any opinion as to the comparative qualifications of Candidates for promotion amongst the various persons serving in the Public Offices in New South Wales. I can advance no further than the statement of the general rules by which the Local Authorities should be governed.

First. It is beyond dispute that it rests with the Governor, and not with the Head of a Department, to lay down the general rules according to which promotion shall be regulated amongst the Members of that Department.

Secondly. In the next place, as often as vacancies occur, the appointment of new Officers rests not with the Head of the Department, but with the Governor.

General rules  
for promotion  
of officials.

Thirdly. It is the duty, as I am convinced it will be the inclination, of the Governor, to pay great deference to the opinion of the Head of any Department, either as to the promotion of its actual Members, or as to the choice of New Members as vacancies occur. In the case of the Treasurer more perhaps than of any other Officer, this is necessary, because he incurs a responsibility of a very peculiar nature, which he might not be able properly to sustain, unless supported by capable and trust-worthy subordinates. Nevertheless, even in this case, the discretion of the Governor cannot be fettered by any positive injunction to comply with the wishes of the Treasurer in opposition to his own judgment. If the Governor should appoint an Officer in the Treasury in disregard of the protest of the Treasurer, and, if any loss of the Public Money should subsequently happen which could be fairly traced to that cause, the responsibility would be transferred from the Treasurer to the Governor.

1838.  
22 June.

General rules  
for promotion  
of officials.

With these general remarks, I would dismiss the questions brought before me by Mr. Riddell.

If you should adopt your Predecessor's opinion as to the arrangement of Mr. Riddell's Office, that concurrent opinion must be considered as decisive of the question. If you should see cause to dissent from Sir Richard Bourke's view of the question, your deference for the judgment of that Officer will not of course prevent the free exercise of your own.

Decision  
left to  
Sir G. Gipps.

With regard to the liability of Mr. Riddell and his sureties, I would refer you to my despatch, No. 74 of the 10th of February, 1838.

Liability of  
C. D. Riddell  
and sureties.

I have, &c.,

GLENELG.

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SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 92, per ship Spartan.)

My Lord,

Government House, 22nd June, 1838.

In reply to your Lordship's Despatch (marked Circular) of the 5th Decr., 1837, requiring information respecting a person of the name of Sophia Eyre or Swan, who had addressed a letter to your Lordship asking permission to have the person, whom she called her husband (a Convict of the name of Robert Swan) assigned to her, I have the honor to report that Miss Eyre is a person, who came some years ago as an Emigrant to this Colony in the ship "David Scott" and resided in several respectable families as Governess, but, becoming as there is good reason to believe deranged, was seduced by the Convict named Robert Swan, then in the assigned service of Mr. Close, a Member of Council near Maitland.

Report re  
S. Eyre.

1838.  
22 June.

The circumstances of the case were investigated by the Police Magistrate of Maitland in the month of June, 1837, and the prisoner Swan was sent to Port Macquarie to break off the connection. No marriage has ever taken place. I have, &c.,  
GEO. GIPPS.

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LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 137, per ship Portsea.)

26 June.

Address to H.M.  
Queen Victoria  
acknowledged.

Sir,

Downing Street, 26 June, 1838.

I have received your Dispatch No. 32 of the 3rd of March last enclosing an Address to Her Majesty from the Inhabitants of New South Wales on Her Accession to the Throne; I have had great pleasure in laying this address before the Queen, who has been pleased to receive it very graciously. I have, &c.,  
GLENELG.

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LORD GLENELG TO SIR GEORGE GIPPS.  
(A circular despatch per ship Earl Grey.)

Regulation *re*  
salutes from  
H.M. ships  
and forts.

Sir,

Downing Street, 26th June, 1838.

I have the honor to transmit to you, for your information and guidance, the Copy of an Order passed by Her Majesty in Council on the 1st February last, for the regulation of Salutes from Her Majesty's Ships and Forts. You will observe that this Order forms an Appendix to Chapter 4 in page 25 of the Book of Rules and Regulations, which was forwarded to you in the early part of last year.

I have, &c.,  
GLENELG.

[Enclosure.]

[A copy of this order\* is not available.]

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LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 138, per ship Earl Grey.)

27 June.

Allowance for  
outfit and  
passage for  
Revd. P.  
Geoghegan.

Sir,

Downing Street, 27th June, 1838.

The Revd. P. Geoghegan having been recommended to me by the Revd. Dr. Ullathorne, and having produced satisfactory testimonials, I have sanctioned his receiving the usual allowance of £150 as a Roman Catholic Clergyman, on account of his outfit and passage.

I have, &c.,  
GLENELG.

\* Note 14.



LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 139, per ship Portsea.)

1838.  
27 June.

Sir, Downing Street, 27 June, 1838.

I have received your Dispatch No. 33 of the 3rd of March last, enclosing an Address of Condolence to the Queen Dowager on the death of His late Majesty, signed by various Classes of Inhabitants in New South Wales; and I have had much pleasure in forwarding this Address to Her Majesty. I have, &c.,

GLENELG.

Address to  
Queen dowager  
acknowledged.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 140, per ship Earl Grey.)

Sir, Downing Street, 29 June, 1838. 29 June.

I have received your Dispatch No. 38 of the 13th of March, 1838, on the subject of the Female Factory at Parramatta, and I fully approve of your having lost no time in directing your attention to this Institution. The measures, which you had in view, appear to me judicious; but, as it is not improbable that the enquiries of the Committee\* of the House of Commons on the question of Transportation may lead to the discontinuance at an early period of the system of transportation to New South Wales, It will, therefore, be right to keep this in view in any arrangements which you may adopt of a permanent nature with regard to the Factory.

Approval of  
report *re*  
female  
factory.

Possible  
cessation of  
transportation.

I much regret the misunderstanding between Mrs. Leach and Mr. Clapham, but I shall await your further Report on this subject before I convey to you any further Instructions respecting it.

I have, &c.,  
GLENELG.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 141, per ship Earl Grey.)

Sir, Downing Street, 30th June, 1838. 30 June.

I have received your Predecessor's dispatch, No. 119 of the 22nd of November last, reporting his opinion in regard to the number of Convicts, who may profitably be employed on the Public Works in the discontinuance of the system of assignment to Private Service.

Despatch  
acknowledged.

As I shall be enabled to address you more fully on this subject after the select Committee\* of the House of Commons on Transportation shall have made their Report, which may be shortly expected, I limit myself at present to an approval of the Public Notice† which Sir Richd. Bourke issued on the 18th Novr., 1837,

Notice *re*  
abolition of  
assignment  
of convicts.

\* Note 20.

† Note 55.

1838.  
30 June.

Notice *re*  
abolition of  
assignment  
of convicts.

warning the Colonists of the intention of Her Majesty's Government to discontinue at the earliest practicable period the Assignment of Convicts to Private Service, and pointing out the necessity of their looking to Emigration as the source from which to obtain the requisite supply of labour.

I have, &c.,  
GLENELG.

SIR GEORGE GIPPS TO LORD GLENELG.  
(Despatch No. 95, per ship Superb.)

2 July.

My Lord,

Government House, 2nd July, 1838.

Confinement  
of R. Nixon  
as criminal  
lunatic.

I have the honor to transmit herewith the Minutes of Evidence, taken on the 28th May last by the Chairman of the Quarter Sessions at Bathurst, on the trial of Ralph Nixon charged with an assault on Edward Williams, and who was acquitted on the grounds of insanity.

Ralph Nixon has been conveyed to the Lunatic Asylum of the Colony, where I propose he should remain, or be transferred to such other public or private asylum, as the Governor of this Colony may from time to time direct during the continuance of his malady, subject however to the Queen's pleasure, agreeably to the 39th and 40th Geo. 3rd, Chap. 94, Sec. 1.

I have, &c.,  
GEO. GIPPS.

[Enclosures.]

*[These minutes, signed by W. M. Manning, have been omitted.]*

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 96, per ship Superb; acknowledged by  
lord Glenelg, 24th January, 1839.)

3 July.

My Lord,

Government House, 3rd July, 1838.

Report *re*  
money  
obtained  
from colonial  
treasury by  
forgery.

I think it right to bring under your Lordship's notice a case of Forgery, which has occurred in this Colony, as by it a sum of £159 has been lost to the local Treasury.

A Warrant, a Copy of which is enclosed duly signed by the late Governor, was sent to the Colonial Treasurer's office in the course of last November for the payment of £159 to a person of the name of John Chapman, for work performed in clearing the streets in the Town of Berrima, a place about 80 miles to the South West of Sydney; and the sum of £159 was paid on the 3rd Novr., 1837, to a person calling himself John Hunter, upon an order purporting to be signed by Chapman, and witnessed by one James Hume, but this order, a Copy of which is enclosed, afterwards turned out to be a Forgery.

I regret to say that all attempts to discover the parties implicated in this fraud have hitherto failed. There was no reason to suspect that Chapman was in any way concerned in it, nor has any want of due diligence been proved against him, either before or after the discovery of the fraud; the Attorney General, therefore, advised that he was entitled to receive the money which he had earned, and a second payment of the same Voucher was accordingly made on the 5th May last by my order.

1838.  
3 July.

Inability to discover guilty persons.

Second payment made by treasury.

The circumstance however, which is peculiar in this case, is that John Chapman is an illiterate man, unable to write, and that the order purporting to be in his name was signed by a *mark*.

The Colonial Treasurer has been called on to explain, why he paid money to the order of a Marksman, with so little apparent caution; and, in justice to that officer, I think it right to submit to your Lordship his explanation in his own words; a copy therefore of his letter is enclosed, as also of one which has been addressed to me by the Auditor General in consequence of the suspicion, which was cast by the Treasurer on certain Clerks in his (the Auditor General's) office. Your Lordship will perceive that, of the persons called Convict Clerks in the Auditor General's office, two only are actually serving under a sentence of transportation, the other having entered the office after he became free.

Statements by C. D. Riddell and W. Lithgow.

I have, &c.,

GEO. GIPPS.

[Enclosures.]

[Copies of these papers are not available.]

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 142, per ship Earl Grey.)

Sir, Downing Street, 4th July, 1838.

4 July.

I have the honor to acquaint you that I have sanctioned the allowance of £150 for the outfit and Passage of the Revd. W. Ross, who has been selected by the Committee of the General Assembly of the Church of Scotland on Colonial Churches to proceed as Presbyterian Minister to New South Wales.

Allowance for outfit and passage for Revd. W. Ross.

I have, &c.,

GLENELG.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 97, per ship Superb.)

My Lord, Government House, 4th July, 1838.

With reference to my Despatch to your Lordship No. 84 of the 7th June last on the subject of an application from Messrs. Swanston and others for permission to work Coal Mines at

1838.  
4 July.

Transmission of  
correspondence  
with A.A.  
company.

Western Port, in which Despatch I informed Your Lordship that I had caused a letter to be addressed to the Commissioner of the Australian Agricultural Company, respecting the nature of the Agreement which was made in London in 1830 for the working of Coals by the Company, I have now the honor to enclose a Copy of the letter which was so written, as well as of the answer which has been received to it.

I have, &c.,

GEO. GIPPS.

[Enclosure No. 1.]

COLONIAL SECRETARY THOMSON TO COMMISSIONER OF  
A.A. COMPANY.

Sir, Colonial Secretary's Office, Sydney, 9th June, 1838.

Submission of  
application to  
mine for coal  
at Western port.

I do myself the honor by the direction of the Governor to transmit to you herewith a copy of 'an application from Mr. C. Swanston and other Gentlemen for permission to work a Coal Mine at Western Port, and to inform you that, in consequence of the perusal of it, His Excellency's attention has been directed to the terms of the agreement subsisting between the Government and the Australian Agricultural Company on the subject of working Coals.

Permission  
to be obtained  
from secretary  
of state.

It appears to His Excellency that, according to the 10th Paragraph of a letter which was addressed to Sir E. Parry on the 25th June, 1830, by order of General Darling, the local Government cannot grant permission for the opening of Coal mines without the previous sanction of the Secretary of State; but that, as it appears to His Excellency to be not reasonable but highly desirable that Coal, if it exist in the neighbourhood of Bass's Straits, should be made available for public use, it is his intention to make application to the Secretary of State for an authority to work it, or cause it to be worked, and that His Excellency thinks it right to inform you of his intention in order that the Company may have an opportunity of making proposals either to the Local or the Home Government in the event of their wishing to undertake the business themselves.

I have, &c.,

E. DEAS THOMSON.

[Enclosure No. 2.]

MR. J. E. EBSWORTH TO COLONIAL SECRETARY.

Sir, Port Stephens, 15th June, 1838.

Letter  
acknowledged.

I have the honor to acknowledge the receipt of your letter dated 9th June, transmitting, by direction of His Excellency the Governor, a Copy of an application from Mr. C. Swanston and other Gentlemen for permission to work a Coal Mine at Western Port.

Inability  
to modify  
agreement  
with A.A.  
company.

The arrangements, upon which the Australian Agricultural Company undertook the working of the Coal Mine at Newcastle in this Colony, having been altogether made between the Home Government and the Company, I am not authorised, without reference to the Court of Directors, to propose any alterations in the terms and Conditions, which were finally agreed upon with the Secretary of State.

A Copy of your Communication above referred to shall be immediately forwarded to the Court of Directors, with a view to their being prepared to enter into such negotiations with the Home Government, as may appear to them expedient in consideration of the proposition made from Van Diemen's Land.

1838.  
4 July.

I have, &c.,  
J. EDWARD EBSWORTH,  
Commissioner for the A.A. Company.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 143, per ship Earl Grey.)

Sir, Downing Street, 5th July, 1838. 5 July.

I have received Colonel Snodgrass's dispatch, No. 10 of the 10th of January last, enclosing a Memorial from the Revd. John McGarvie, Minister of one of the Scotch Churches in Sydney, praying for a grant of Land.

Memorial of Revd. J. McGarvie acknowledged.

Mr. McGarvie grounds his claim principally on the precedents of the Revd. Dr. Lang, who received a Grant in the year 1828, and of those chaplains of the Church of England, who, having been appointed with an understanding that they should receive Grants under an arrangement promulgated by Sir George Murray in the year 1829, received compensation for such Grants. It is almost needless to observe that neither of these cases are at all analogous to that of Mr. McGarvie, who now comes forward many years after the system of making Grants has been abolished, and without any previous pledge or assurance.

Criticism of claim to land grant.

You will have the goodness to acquaint him that I regret that it is not in my power to comply with his application.

Refusal of land grant.

I have, &c.,  
GLENELG.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 144, per ship Lady Nugent.)

Sir, Downing Street, 5 July, 1838.

I have the honor to inclose the Copy of a letter from the Agent General for Emigration on the subject of a Bill drawn by Dr. Brock on account of Medicines, Provisions, etc., supplied to the Emigrant Ship "Orontes" at the Cape of Good Hope.

Transmission of letter from T. F. Elliot.

I concur in the remarks, which Mr. Elliot has made on the charges incurred by Dr. Brock. The charge for Stationery is disallowed. You will, therefore, call upon Dr. Brock to refund the expenditure on that account, and to adjust any irregularities which may be found on examining his Accounts.

Disallowance of charge for stationery.

I have, &c.,  
GLENELG.

1838.  
5 July.

[Enclosure.]

MR. T. F. ELLIOT TO UNDER SECRETARY STEPHEN.

Sir,

2 Middle Scotland Yard, 25th June, 1838.

Report by  
T. F. Elliot  
re account  
for medicines  
and provisions  
purchased by  
H. G. Brock.

I have had the honor to receive your letter of the 14th Instant, requiring me to report whether Mr. Barnard should be authorized to pay Dr. Brock's Bill for £115 13s. on account of medicines and Provisions supplied to the "Orontes" at the Cape of Good Hope.

As the Surgeon is authorized by his instructions to call at the Cape for water and refreshments, and to draw on Mr. Barnard for the same, and, as the nature of the case requires that he should be left a discretion in regard to its amount, I would recommend that this Bill should be paid.

At the same time I must add that it is much higher in amount than any one that has yet been drawn for a similar purpose. From £20 to £40 has been the ordinary amount of any previous draft from the same place, whereas more than £115 is drawn on the present occasion. I think it necessary, therefore, to offer a few remarks on some of the Charges, of which I enclose an account that I find Dr. Brock has transmitted of them to Mr. Barnard.

The first seven items amounting to 18s. 8d. for Pens, Ink and Paper for the use of Dr. Brock appears to me very objectionable. It is not for such articles as these, but for the benefit of the Passengers, that a discretion of drawing on the Colonial Agent from intermediate Ports is confided to the Surgeons superintendent of Emigrant Ships, and I am of opinion that the charges above-mentioned should be disallowed.

The Sum of £14 6s. 8d. is entered as expended for Medicines. The passage of the Orontes to the Cape appears to have been a very long one, and it is not surprising that some additions should have been requisite under this head; but, as the original charge for the whole supply of Medicines from Deptford does not exceed £22, the necessity of expending two thirds of that sum in replenishing the Chest ought to be such as must be apparent from the Medical journal. The attention of the Physician General of the Navy will therefore be requested to this point as soon as the Journal is received, and in the meanwhile I merely mention the circumstance as one to be looked to when the proper time arrives. The Bill for Medicines, which is named in the account as annexed, has not accompanied the copy furnished to Mr. Barnard. It seems necessary, therefore, that this should be mentioned to the Governor, in order that it may be ascertained whether the voucher was produced in the Colony instead.

The most important charge in this account is that for 30 live Sheep and their Provender. The usual supplies of fresh meat and vegetables, for immediate use in Port and during the first days afterwards, are charged for independently, to the amount of £30 18s. 11d., which seems to be perfectly unobjectionable. But the purchase of a stock of Live Sheep besides does seem to me of much more questionable expediency. I should apprehend it would materially enhance the difficulty of an efficient check upon the provision account. And, although Dr. Brock alleges that it will on the whole be an advantage in a pecuniary point of view to the Colony, yet, if every Surgeon were to depart from established usage, and make large outlays upon his own judgment of what may be

beneficial. we should lose all control over the expenditure and all power of estimating its amount beforehand.

1838.  
5 July.

These remarks I have thought it my duty to make in consequence of the large amount of Dr. Brock's bill. Except upon the charges for stationery and the doubtless accidental omission of the Receipt for Medicines purchased at the Cape, I have had nothing conclusive to say. Much must depend in regard to the rest upon the clearness and precision of the Accounts rendered in the Colony, and upon the discretion which Dr. Brock may have been found there to have exercised. I apprehend, therefore, that, should Lord Glenelg concur in the views expressed in the present communication, it will only be necessary to send a copy of it to the Governor with instructions to call upon Dr. Brock to refund the disallowed charges for Stationery, and that the remainder may be left for such course as may be thought best in the Colony, where each successive Surgeon's accounts have to be examined and the nature of his proceedings to be reviewed.

Report by  
T. F. Elliot  
*re* account  
for medicines  
and provisions  
purchased by  
H. G. Brock.

I have, &c.,  
T. FREDK. ELLIOT.

[Sub-enclosure.]

Dr. H. G. Brock,

Capetown, March, 1838.

Account for  
purchases by  
H. G. Brock.

Dr. to Thos. Tennant and Co.,  
For the following supplies to the Government Emigration ship "Orontes" during her stay at this Port.

	£	s.	d.
2 Quires Foolscap @ 1s. 3d. ....	0	2	6
6 Quires Common Do @ 9d. ....	0	4	6
5 " Superior Post @ 1s. 2d. ....	0	5	10
1 Ps. Red Tape @ 4d. ....	0	0	4
1 Bottle Red Ink @ 6d. ....	0	0	6
1 " Black Ink @ — ....	0	0	6
50 Quills @ — ....	0	4	6
3 Dozen of London Porter @ 12s. ....	1	16	0
4 " " Port Wine @ 36s. ....	7	4	0
20 lbs. of Pearl Barley @ 7½d. ....	0	12	6
20 " " Pearl Sago @ 7½d. ....	0	12	6
Medicines as per acct. herewith	14	6	8
Cash paid Fruits for the Sick	2	0	0
3 Bags of fine White rice @ 25s. ....	3	15	0
20 yards of Calico @ 8d. ....	0	13	4
Repairing Government Harness Casks	0	5	0
7 Days' supply of Meat ea. 179½ lb. are	£	s.	d.
1,256½ lb. @ 3d. ....	15	14	1½
7 Days' supply of Vegetables ea. 89 lbs. are			
623 lbs. @ 1½d. ....	3	17	10½
538½ Extra Meat @ 3d. ....	6	14	7
732 lb. Extra Vegetables @ 1½d. ....	4	11	6
	30	18	1
30 live Sheep @ 12s. ....	18	0	0
1,550 lb. pressed Hay @ 12s. ....	9	6	0
7 Tins 14 lb. of Preserved Meat @ 2s. 9d. ....	1	18	6
10 " ea. 2 lb. Soup and Bouillie @ 5s. 6d. ....	2	15	0
Waggon and Coach Hire	2	5	0
900 loaves of Bread @ 4¾d. ....	17	6	3
21 bags " " @ 6d. ....	0	10	6
	£115	13	0

WE the undersigned Merchants resident at the Cape of Good Hope do hereby declare that the prices quoted to the above Articles are fair and reasonable.

Cape Town, 17th March, 1838.

THOS. ANSDELL,  
E. P. AMYOT.

RECEIVED in payment of the above account Dr. Brock's Draft at 30 days' sight on Edward Barnard, Esq., Colonial Agent, Parliament Street, London, for the sum of One hundred and Fifteen Pounds, Thirteen shillings, sterling.

Cape Town, 17 March, 1838.

THOS. TENNANT and Co.

1838.  
6 July.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 145, per ship Earl Grey.)

Sir, Downing Street, 6th July, 1838.

I have the honor to acquaint you that I have received Colonel Snodgrass's Dispatch, No. 23 of the 9th of Feby. last, but that the Memorial from Mr. Henry Howey, which that dispatch purported to transmit, has not reached this Department.

I have, &c.,  
GLENELG.

Omission to  
transmit  
memorial  
of H. Howey.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 146, per ship Portsea.)

Sir, Downing Street, 6 July, 1838.

I have received your dispatch No. 32 of the 3d March last, transmitting an address of Congratulation to Her Majesty on Her accession to the Throne signed by various classes of the Inhabitants of New South Wales.

I have had the honor to laying this address before the Queen, who was pleased to receive it very graciously. I have, &c.,

GLENELG.

Address to  
H.M. Queen  
Victoria  
acknowledged.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 147, per ship Portsea; acknowledged by  
Sir George Gipps, 29th March, 1839.)

Sir, Downing Street, 6 July, 1838.

I have the honor to transmit to you a copy of a despatch from the Lieutenant Governor of Van Diemen's Land enclosing various reports and opinions from the principal Officers of the Government on the subject of Convict Discipline. I also enclose a copy of a dispatch, which I have addressed in reply to Sir John Franklin, and you will take the necessary measures for giving effect to the recommendations of that Officer, which you will perceive have been adopted by Her Majesty's Government.

I have, &c.,  
GLENELG.

[Enclosure No. 1.]

*[This despatch, dated 7th October, 1837, with its enclosures from Sir John Franklin was printed in the parliamentary papers of the house of commons, under the title "Communications respecting Convict Discipline in Van Diemen's Land."]*

[Enclosure No. 2.]

LORD GLENELG TO SIR JOHN FRANKLIN.

Sir, Downing Street, 6 July, 1838.

I have received your dispatch No. 104 of the 7 Oct., 1837, enclosing certain reports and opinions, which you had recd. on the subject of Convict Discipline in the Colony under yr. Govt.

Despatch  
acknowledged.



I communicated a copy of that Dispatch and of its Enclosures to the Secy. of State for the Home Dept. It is not my purpose at present to enter into the various questions raised in these Reports, but there are some suggestions contained in your Dispatch which appear to call for immediate adoption. These are:—

1838.  
6 July.

Reforms introduced in convict discipline.

1st. That all Convicts, before being assigned, should be coerced in gangs under the immediate control of the local Govt., these Gangs to be kept separate from what are now considered the "punishment Gangs" consisting of Criminals twice convicted.

2d. The discontinuance of the system of assigning Convicts "to be employed for the purposes of luxury, or as domestic Servants." The condition of domestic Servants, you observe, is better than that of ordinary field Labourers, and it is that diversity which renders the Assignment an unequal punishment. One effect of this measure would be to discontinue to a great degree the residence of assigned Convicts in Towns, and a relief wd. be afforded to the Emigrants from some discouragement which attaches to their present condition in the Colony.

3d. An obligation for Convicts in Assignment to wear some distinguishing badge; and 4th a modification of the present system of Tickets of Leave.

After the fullest consideration, H.M. Govt. have come to the determination that whatever changes may hereafter be considered advisable with regard to Transportation, the alterations which you have proposed should be immediately carried into effect. I have addressed a similar instruction to the Governor of New South Wales.

I have, &c.,  
GLENELG.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 99, per ship Superb.)

My Lord,

Government House, 6 July, 1838.

In reply to your Lordship's despatch of the 27th Jany. last, No. 68, directing repayment to be made out of the Colonial Chest of £12,267 which had been advanced to E. Barnard, Esq., by the order of the Lords Commissioners of the Treasury, I have the honor to report that this sum of Twelve thousand, two hundred and sixty seven pounds was paid into the Military Chest of this Colony on the 28th June last.

Repayment to military chest of advance to colonial agent.

I have, &c.,  
GEO. GIPPS.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 148, per ship Earl Grey.)

Sir,

Downing Street, 7th July, 1838.

7 July.

I have received your Dispatch, No. 39 of the 14 of March last, submitting your claim to Half Salary from the date of Sir R. Bourke's departure from the Colony until your arrival.

Despatch acknowledged.

The information on this subject, which you received at this Office before you quitted England, was in strict conformity with

1838.  
7 July.

Regulations  
re salary of  
acting  
governor.

the universal practice in such cases, and I am of opinion that the Local Act of 1832, on the authority of which the acting Governor claims to draw full Salary, cannot be construed in such a manner as to confer on an Officer of the Crown a remuneration exceeding that which it has been Her Majesty's Pleasure to assign for the maintenance of his Office. The established conditions of the Service distinctly ascertain that an Officer in the temporary administration of the Government is not entitled to more than half the Salary, which would have been due to the Governor himself in respect of the same term of Service; I feel it at the same time due to Colonel Snodgrass to admit that the terms of the Act, together with the precedent to which reference has been made, might not unreasonably have led him to entertain a different opinion; but I am bound, on the grounds which I have stated, to disallow his claim to more than a moiety of the Salary of the Governor during the period of his temporary Administration.

I have, &c.,

GLENELG.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 100, per ship Superb.)

My Lord,

Government House, 7th July, 1838.

Dismissal of  
J. Clapham  
as steward at  
female factory.

In my Despatch of the 3rd May last, No. 70, I had the honor to report to your Lordship that I had been under the necessity of removing Mr. John Clapham from his situation of House Steward of the Female Factory at Parramatta, in consequence of his continued disagreement with Mrs. Leach (the Matron) and his refusal to acknowledge her as the head of the Establishment.

Transmission  
of letters from  
J. Clapham.

I have now at the request of Mr. Clapham to forward a letter, which he has addressed to your Lordship, representing the hardship of his case, and also two enclosures, which are copies of letters from Mr. Clapham to myself on matters relating to the Factory. One of these last named letters dated the 5th March was before me when my Despatch of the 13th March, No. 38, was written to Your Lordship, and, though not specially alluded to in it, is I hope sufficiently disposed of by that and my succeeding Despatch of the 3rd May. The other letter, dated the 11th May, was written a few days after Mr. Clapham was discharged from the Factory, and appears to consist principally of Extracts made from a private Journal kept by him during the time he was in the establishment. As the representations in this letter chiefly affected the Visiting Magistrate, Mr. P. L. Campbell, I deemed it right to call upon him for a reply to it, and I have now the honor to enclose a copy of the answer which he has furnished.

Reply by  
P. L. Campbell  
to statements.

These documents doubtless expose proceedings in the Factory that would be highly reprehensible in any well organised prison; but I must for my own part candidly say that, after all I had heard, and what I have since my arrival seen of the Factory, there was nothing brought to light by them, which in the least astonished me. It was on the acknowledged fact that the state of discipline in the Factory was very different from what it ought to be, that I obtained permission, before I left England, to make alterations in the building; and I freely state to your Lordship that I entertain no hope whatever of any material amendment in it, until I shall have the means of placing a large portion of the women in separate confinement.

1838.  
7 July.Condition of  
female factory.

As far as Mr. Clapham himself is concerned, and the way in which I have dealt with him, a great deal must depend upon whether he was right or wrong in assuming an authority over Mrs. Leach, for this it was which led to their first misunderstanding and rendered it impossible for me to keep them both. I stated, in my Despatch of the 13th March, that I thought it never was your Lordship's intention to confer such authority on him, and, from my recollection of the conversations I had with Mrs. Fry on the subject, I believe she as little supposed that Mrs. Leach was placed under his control. If such however were really the intentions of your Lordship, Mr. Clapham must certainly be excused for a good deal of what he has done, but not even in that case can he be justified for the cruel and I believe unfounded accusations that he has brought against her.

Cause of  
dispute  
between  
J. Clapham  
and matron.

Mrs. Leach is still in charge of the Factory, but she is so deficient in self command that I have no hope of being able to retain her; indeed I have already intimated to her that she must resign, and the best thing I can then do will be, I think, to restore Mr. and Mrs. Bell to their former places.

Proposed  
resignation  
of matron.

I have, &c.,  
GEO. GIPPS.

[Enclosures.]

[Copies of these papers are not available.]

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 101, per ship Superb; acknowledged by  
lord Glenelg, 2nd January, 1839.)

My Lord,

Government House, 8th July, 1838.

8 July.

With reference to my Despatch of the 20th June last No. 88, with which I forwarded to your Lordship, for the allowance of Her Majesty, a Copy of certain rules and Regulations made by the Judges of the Supreme Court, in virtue of the

1838.  
8 July.

Transmission  
of letters *re*  
intestate  
estates.

Statute 9th Geo. 4th, Chap. 83, Sec. 16, I have now the honor to transmit to your Lordship two letters, which ought to have accompanied that Despatch, but which I received from the Judges only yesterday. One of these letters is addressed by the Judges to myself, the other by the Registrar of the Supreme Court to the Judges, and both are on the subject of the retention in the hands of the Registrar of monies belonging to the estates of persons dying intestate in the Colony.

Act of council  
for deposit  
of funds of  
intestate  
estates in  
savings bank.

In connection also with this subject, I beg leave to enclose to your Lordship a copy of a local Act, which has passed the Legislative Council in the present Session, which, if it be allowed by Her Majesty, will set at rest the question as to the proper disposal of these monies by placing them in the Savings Bank.

I have only further to explain to your Lordship that, before I signed this local Act, I satisfied myself that the interests of the poorer Class of Depositors in the Savings Bank would not suffer by the proposed investment in it of these monies, and also that the Trustees of the Bank did not object to the measure.

I have, &c.,  
GEO. GIPPS.

[Enclosure No. 1.]

THE JUDGES TO SIR GEORGE GIPPS.

Sir, Supreme Court House, Sydney, 29 May, 1838.

Submission  
of rules and  
regulations  
of court for  
allowance.

We have the honor of enclosing a Copy of certain rules and regulations made by us in pursuance of the Authority given to the Judges of the Supreme Court by the Statute, 9 Geo. 4, C. 83, S. —, For regulating the admission of Attornies, for regulating the proceedings of the Court in Ecclesiastical cases, and in cases within the Equity Jurisdiction of the Court, and for the due care and accounting for and investment in the Savings Bank of New South Wales of Intestates' Estates, collected by the Registrar under order of the Court, and request that your Excellency will be pleased to transmit the same by the earliest opportunity for the allowance of her Majesty.

Principles  
adopted in  
framing rules.

In framing these rules, we have been guided by a just concern for the respectability of the profession of the law, for economy, method and expedition in the dispatch of business, and for the interests of the absent next of Kin and other claimants of persons dying possessed of property in this Colony intestate, and in order to place the duties of the Registrar of the Supreme Court upon a more defined, secure and satisfactory footing. Before finally publishing the rule last mentioned, we felt it due to the Registrar to transmit to him for his information a Copy thereof, together with a Copy of a proposed act of Council, which we have submitted to your Excellency in order to carry into effect the intention of the rules.

Protest by  
J. E. Manning.

The Registrar, feeling aggrieved by this proceeding, has addressed to us the enclosed letter, which, as it has not in any respect altered

our views upon the subject, we have the honor to request your Excellency will be pleased also to transmit together with the rules and this letter to the Right Honorable the Secretary of State in order to give his recommendation to Her Majesty.

1838.  
8 July.

We are, &c.,

JAMES DOWLING, C.J.

W. W. BURTON.

JOHN WALPOLE WILLIS, J.

[Enclosure No. 2.]

MR. J. E. MANNING TO THE JUDGES.

Gentlemen,

Supreme Court, 5th May, 1838.

The Drafts of proposed Rules as to Intestate Estates in Charge of the Registrar and of "an Act for Investment, etc., in the Savings Bank" have been put into my hands by Mr. Gurner, with a view, I presume, to my making any observations that may seem proper to me on the Subject.

Proposed rules received *re* intestate estates.

At the first glance, I confess, it appeared to me that your Honors had suggested a Course of dealing with the properties in question for the benefit of absent next of kin, to which I could oppose no reasonable objection save its utter inconsistency with that understanding on which I received the Office of Registrar of the Supreme Court and Curator of Intestate Estates, in exchange for one of much higher Salary and still higher Grade in another Colony, of which I had before received the offer. I should say, however, that when my friend Serjt. Wilde first mentioned to me the death of Coll. Mills and advised me to apply for the appointment, he said that he had good reason to believe it was worth more than £2,000 a year. I am sorry to say that any expectations on this head have been Sadly disappointed, as my Official income has never exceeded half that sum. The Serjeant understood, however, this income to be chiefly derived from indirect and unfixed Emoluments (fees of Court, etc.), and, strange as it may seem, I was not undeceived for some weeks after I had asked for and obtained the appointment. It was from Mr. Stephen in Downing Street that I was apprised of the fact that a Salary of £800 had been substituted for fees of Office; but, I learnt, also, that a considerable source of emolument would belong to me in the Custody of Intestate Estates with a per Centage upon the amounts received. I remember its being observed by Mr. Stephen, that this fund would, no doubt, become more and more important through the mortality of parties, who had once belonged to the Prison population and might be generally supposed to be unmarried, and consequently indifferent about the disposal of their Estate by Will. No security of any kind for the faithful performance of my trust was stipulated for or hinted at, till I had been about two years in the Colony.

Expectations of J. E. Manning on appointment.

Conditions of appointment.

The late Chief Justice Forbes informed me, some years ago, that he had told my predecessor Coll. Mills, and would repeat to me, that he thought the Court might fairly direct me to invest on Security at 8 per cent. any funds I might from time to time have in hand above £500.

Not long after this Conversation, I was called upon by General Darling (under instructions from home) to give Security for £2,000 to Cover Balances in my hands in my Official Character, I

Security required from J. E. Manning.

1838.  
8 July.

Security  
given for  
J. E. Manning.

remonstrated on what appeared to me to be the hardship of such a demand upon a Gentleman who had expatriated himself and family, under the King's Commission, without any stipulation of this nature, and declined giving any such security *here*, as I would never ask any individual in this Land of Strangers to do that *for me*, which I should have no after power of refusing to do *for him*. I added, however, that, if the British Treasury persisted in its demand, it would be satisfied by my friends at home. My Father and Brother thereupon entered into the required Bonds, and which are now in force, for £2,000. That this Security had for its sole object the Covering Balances of Intestate property, your Honors will not doubt, as I never had been the Depository of more than £200 of public Money at any one time in any other way, and, therefore, their requiring so heavy a Security under such circumstances cannot, as it seems to me, be otherwise construed than as a full recognition of my right by His late Majesty's Government. I feel assured that one or two of your Honours were not in possession of this most important feature in my case, and that it has escaped the recollection of the present Chief Justice Dowling. The correctness of my statement can however be easily ascertained from the records of the Colonial Secretary's Office in this Town.

Balances in  
hands of  
J. E. Manning.

Since the period of my giving these heavy securities, the Current Balances in my hands have naturally increased. I think, however, they have never exceeded £1,300. At this time, they fall short even of £1,000. In the latter years of Chief Justice Forbes, they have ranged from £500 to £1,000, but, as he was cognizant of my having been forced to give security in £2,000, he never thought proper to remind me of the ancient limit of £500.

Objections  
to proposed  
rules.

As I am bound to presume that the measure now proposed is the spontaneous suggestion of your Honors, not called for by the British or Colonial Government (and certainly not by any well grounded idea of an improper exercise of the trust reposed in me), as I cannot either suppose for a moment that any personal reflection is meant to be conveyed to me by it, I shall confine myself (as far as the question bears on my personal Interest and feelings) to a respectful remonstrance against a measure by which a source of legitimate Income is, as I conceive, unreasonably threatened to be taken from me, on the faith of deriving which I emigrated hither nearly Ten years ago. Independently, however, of all personal considerations, Mature reflection on the scope of these "Rules" has satisfied my own mind, that they are extremely inexpedient. They must have an obvious tendency (in my fixed opinion) to injure those very Interests, which they are intended to advance; and I shall not abstain, through a false delicacy, from the declaration of my firm belief that, if the Registrar is to be precluded from the enjoyment of this partial Interest in the result of Super-erogatory exertions in bringing Estates under the Court, there may be just cause for believing their numbers and value will be diminished one half. In support of this Assertion, I need only allude to the case of *Bradbury*, which has occupied the Court at various times during the last eighteen months. The claim to administration was contested by an only daughter of the deceased, and by a Woman with whom he intermarried shortly before his death. The claims of each were prima facie well grounded. The drunken and dissolute husband of the daughter offered, first, £1,000, and afterwards:

£1,500, to the widow to withdraw her claim, and the Court, at the instance of the widow's counsel, would, I believe, have granted administration to her (whom I know to be ten times more depraved and unworthy even than the other party), if I had not put myself into the Breach by entreating of your Honors to suspend your decision until I should have procured evidence of the suspected existence of an English Wife of the Intestate. That evidence arrived, and the personal Estate of deceased, with the right to Dower in a real property of £800 a year, was thus rescued at an expence to myself of £45. I need not remind your Honors that I could have no possible means of reimbursing myself any portion of this expence (nor for a great many similar outlays), had not my efforts been crowned with Success. I shall only add to this relation one very natural enquiry, "Should I have been justified to my own family in running such risks, if I had not a strong hope of ultimate indemnity, with a corresponding reward for my voluntary exertions?"

1838.  
8 July.

Objections  
to proposed  
rules.

The duty of Registrar, under the Orders of Court "to collect and hold," bears rather a passive character. No obligation is imperative on him to *enquire* after concealed deaths and Intestacies (and thus defeat the machinations of the cunning and dishonest) or of discovering secreted Assets, at the expence of any outlay from his private funds: and, I fear, the practical result of your Honors' measure would be, to make the duty and trust in question nearly a dead letter in the generality of hands. The trifling addition of a little *Interest* from the Savings Bank to the funds actually collected and invested, will be an inadequate Compensation for the non-receipt of a large amount of principal.

I have, &c.,

J. E. MANNING, Regr. Supreme Court.

[Enclosure No. 3.]

[*This was a copy of the act of council of 1 Vict., entitled, "A Bill For the Investment of Monies belonging to Intestate Estates by the Supreme Court in the Sydney Savings Bank."*]

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 149, per ship Earl Grey.)

Sir,

Downing Street, 9th July, 1838.

9 July.

With reference to my Dispatch, No. 139 of the 27th Ult., I have the honor to transmit to you the answer of the Queen Dowager to the Address from the Inhabitants of New South Wales.

Address to  
Queen dowager  
acknowledged.

I have, &c.,

GLENELG.

[Enclosure.]

LORD HOWE TO SIR GEORGE GREY.

Sir,

Marlborough House, 2d July, 1838.

I have not lost a moment in submitting to the Queen Dowager the address of the Members of Council, Magistrates and Inhabitants of the Colony of New South Wales assembled in public meeting.

1838.  
9 July.

Address to  
Queen dowager  
acknowledged.

It is my pleasing duty to convey the heart-felt expressions of gratitude, with which Her Majesty acknowledges this proof of affectionate interest in the bereavement with which it has pleased the Almighty to afflict Her, and the kind wishes for Her future happiness and tranquillity of mind.

The Queen Dowager is most sensible of the justice done to the Memory of one of the best of Kings, and most amicable and honest of Men, and assures the Inhabitants of New South Wales that she will never cease to remember with gratitude this touching proof of their Affection and Sympathy.

I have, &c.,  
HOWE.

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SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 102, per ship Superb; acknowledged by  
lord Glenelg, 21st December, 1838.)

My Lord, Government House, 9th July, 1838.

I have the honor to transmit herewith a copy of a letter, which has been addressed to me by the Chief Justice of this Colony on the subject of his Precedency, and I beg to explain to your Lordship the circumstances which have given rise to it.

During the Government of my Predecessor, the Lord Bishop of Australia sat in the Legislative Council below the officer commanding the Troops in the Colony; but, on his Lordship's taking his seat in Council, which he did for the first time this year on the 26th June last, he claimed to be placed next to the Chief Justice, and above the Officer commanding the Troops, the order in which they are severally mentioned in the Instructions under the Sign Manual, which accompanied my Commission being,

1. The Chief Justice, 2. The Lord Bishop of Australia, 3. The Officer in command of the Troops.

In giving my opinion that his Lordship was entitled to this place in Council, I took occasion to remark that out of Council the Precedency to be observed must be that, which is established at page 26 of the Book of Regulations bearing date the 30th March, 1837, which places the officer in command of the Troops first, the Bishop second, and the Chief Justice third.

In the letter which I transmit, the Chief Justice, as your Lordship will observe, claims precedency on all occasions next to the Governor, by virtue of the Charter of Justice, dated the 13th Octr., 1823; but, even if it be granted that the Charter cannot be overruled by the Book of Regulations, the question will still remain whether the Charter gives the Chief Justice precedence over the Bishop, inasmuch as the Charter admits persons to take precedence of him, who would in England take precedence of the Chief Justice of the Queen's Bench, which Bishops I believe always do.

Transmission  
of letter from  
J. Dowling.

Precedency of  
chief justice.



Under these circumstances, I beg to request the instructions of your Lordship, and in so doing to refer also to my Despatch of the 5th March last, No. 34, in which a question of a similar nature respecting the precedence of the Puisne Judges was submitted to your Lordship.

1838.  
9 July.  
Instructions requested.

I have, &c.,  
GEO. GIPPS.

[Enclosure.]

[A copy of this letter is not available.]

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 103, per ship Superb; acknowledged by lord Glenelg, 14th December, 1838.)

My Lord, Government House, 10th July, 1838.

10 July.

I have the honor to forward to your Lordship a Copy of a letter addressed to me by the Judges on the 9th June last, in which I am requested by their Honors to represent to your Lordship the meritorious services of Mr. John Gurner, Chief Clerk to the Supreme Court, and to recommend him for a higher office in the Court, whenever a vacancy may occur.

Recommendation of J. Gurner for promotion.

In complying with the request of their Honors, I have only to state that there is no office at present vacant in the Colony, to which Mr. Gurner could be promoted.

Your Lordship will perceive that this letter from the Judges accompanied the Rules of Court, which I had the honor to forward to your Lordship with my Despatch No. 88 of the 20th June last.

I have, &c.,  
GEO. GIPPS.

[Enclosure.]

[A copy of this letter is not available.]

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 151, per ship Earl Grey.)

Sir, Downing Street, 11th July, 1838.

11 July.

I have received Colonel Snodgrass's Dispatch, No. 17 of the 3rd February last, enclosing a Memorial from Mr. W. Burnett praying for a Grant of Land.

Memorial of W. Burnett acknowledged.

It appears from Mr. Burnett's own statement that he arrived in New South Wales in the year 1829, in the employment of the Australian Agricultural Company and under an agreement which prevented him and his Sons from acquiring Land. He now

1838.  
11 July.

applies for a Grant, and grounds his claim on the circumstance that Mr. Dawson, late Agent of the Company, has recently been ordered a Grant.

Refusal of  
claim to  
land grant.

There is this important distinction between the present case and that of Mr. Dawson, that that gentleman made his application before the change in the Land Regulations; but I cannot now entertain a claim, brought forward so long after the system of Grants has been abolished, and founded on no previous pledge or promise on the part of the Government.

You will, therefore, have the goodness to acquaint Mr. Burnett that I feel it impossible to comply with his application,

I have, &c.,  
GLENELG.

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LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 152, per ship Earl Grey; acknowledged by Sir George Gipps, 17th January, 1839.)

12 July.

Transmission  
of petition  
from  
M. Cooper.

Sir,

Downing Street, 12th July, 1838.

I transmit to you the copy of a Petition from Mary Cooper, the wife of Wm. Cooper, a Private in the 1st Division of Mounted Police in Bathurst, New South Wales, who appears to have been left with her Children in this Country in a state of want and distress.

I have to request that you will cause enquiry to be made into the facts of the case, and call on the husband to state whether he has the means of providing for his Family. You will be so good as to communicate to Wm. Cooper a copy of his wife's application, suggesting the propriety of his taking the necessary measures for her relief.

I have, &c.,  
GLENELG.

[Enclosure.]

Petition of  
M. Cooper  
soliciting  
passage to  
colony.

THE Petition of Mary Cooper, 5, Clark's Buildings, Broad St.,  
Bloomsbury,

To the Right Honorable Lord Palmerston, Secretary of the Foreign  
Department.

Most Humbly sheweth,

That your Petitioner's Husband is a Private in the First Division of Mounted Police in Bathurst, New South Wales, and has been there eleven years. That your Petitioner is aged 30 years, and her children are one 14 years of age and her girl 12 years of age.

That your Petitioner is poor, and unable to pay any part of her passage to go to her husband; and her husband is anxiously desirous that she should go, having been separated since he went out as guard to Convicts, being then in the 57th Regt., which embarkation took place in the Cove of Cork about 11 years ago.

That your Petitioner humbly implores your Lordship's Pardon for submitting one of her husband's letters, and her marriage certificate, together with a Letter sent from her husband, enquiring after her and her children.

1838.  
12 July.

Petition of  
M. Cooper  
soliciting  
passage to  
colony.

Prayer.—Your Petitioner most humbly implores your Lordship to grant her an order for herself and her two children to join her husband in the first ship that goes out there; for which your Petitioner will ever retain a grateful remembrance, and, for your Lordship's happiness, Your Petitioner will ever pray.

Enclosed are two letters respectfully submitted to your Lordship. One to Your Lordship's Petitioner with the cover torn; The other to her cousin enquiring after her, which, with her marriage certificate and your Lordship's answer, she humbly implores may be returned.

[*Unsigned.*]

LORD GLENELG TO SIR GEORGE GIPPS.

(A circular despatch per ship Alfred; acknowledged by Sir George Gipps, 27th January, 1840.)

Sir, Downing Street, 12th July, 1838.

I have to desire that you will, with as little delay as possible, transmit to me for the information of the Secretary at War a Return of all the allowances for Civil Services, granted to Military Medical Officers in the Colony under your Government, prepared according to the annexed Form.

Return  
required  
of civil  
allowances  
to army  
medical  
officers.

I have, &c.,

GLENELG.

[Enclosure.]

STATEMENT of Allowances granted to Military Medical Officers in the Colonies for extra duties during One Year ended ———.

Form for  
return.

Station  
Rank and Name of the Officer  
Rate of Allowance  
Nature of the duties performed  
Remarks, shewing whether likely to be temporary Employment or otherwise.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 153, per ship Lady Nugent.)

Sir, Downing Street, 13 July, 1838.

13 July.

With reference to my Dispatch No. 144 of the 5th Instant, I transmit for your information and guidance the Copy of a letter from the Agent General for Emigration, respecting the supply of fresh Provisions to Emigrant Ships during the Voyage by direction of the Surgeon Superintendent.

Transmission  
of letter from  
T. F. Elliot.

I have, &c.,

GLENELG.

1838.  
13 July.

[Enclosure.]

MR. T. F. ELLIOT TO UNDER SECRETARY STEPHEN.

Sir,

London, 6 July, 1838.

Bills drawn  
by surgeon  
of ship  
*Duncan*.

I have the honor to inform you that I have had advice of two Bills drawn on Mr. Barnard by Dr. Dobie of the "Duncan" from Rio Janeiro amounting to £80 9s. 0 $\frac{3}{4}$ d. for fresh Provisions and £20 0s. 10 $\frac{1}{4}$ d. for Medicines and that I have also duly recd. the Vouchers for the same; and I have to recommend that Mr. Barnard be authorized to pay these Bills.

The Charge for Medicines is again very high in this ship, as it was in the "Orontes," on which I recently reported, but the Duncan is stated to have had an extraordinary unfavorable passage to Rio.

When the Journals of the whole voyage shall arrive, the Physician Genl. of the Navy will doubtless have the goodness to notice whether the additions procured at Rio were of reasonable extent.

Enclosed is a copy of the Acct. for fresh provisions. In respect to the charge which it includes for live stock, I wd. beg leave to refer to my remarks on the same subject in my letter\* of the 25th Ult. upon the Orontes, and to state that, as the advantages may at some times be very great from this sort of supply, I am unwilling to propose its prohibition, but that it appears to me that the Surgeon shd. always be specially called on in the Colony for a distinct Explanation of his grounds for taking it, and that the Accounts of its Expenditure on board shd. be very strictly checked; and with this view I wd. suggest the Communication of the present letter to the Governor in addition to the one of the 25 ulto., which I had the honor to address to you in reference to the Orontes.

I have, &c.

T. FREDK. ELLIOT.

Proposed  
checks on  
purchases.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 106, per ship Superb; acknowledged by marquess of Normanby, 5th April, 1839.)

My Lord,

Government House, 13th July, 1838.

Despatch  
acknowledged.

\*I have the honor to acknowledge the receipt of your Lordship's Despatch of the 9th March last, No. 86, enclosing a copy of a letter from the Secretary of the Treasury to Mr. Stephen, dated the 3rd of the same month, by which I am informed that the Lords of Her Majesty's Treasury will not withhold their sanction to the expenditure of £1,637 6s. 1 $\frac{1}{2}$ d. on Barracks for the Mounted Police being defrayed from Colonial Funds, "although it would have been more regular that the Governor of New South Wales should have forwarded a special report with every necessary explanation respecting these Estimates; and my Lords suggest that Lord Glenelg should make a communication to that effect to Sir George Gipps, and should apprise both that officer and the Lieutt. Governor of Van Diemen's Land that all estimates, relating to the construction or repairs of buildings or

Authority for  
expenditure  
on barracks  
for mounted  
police.

other services defrayed from Colonial Funds, or relating to the construction or repair of buildings occupied by the Convict Department or Establishments and defrayed from the funds appropriated for Convict services, should be forwarded for the consideration and direction of Her Majesty's Government by the officers in charge of the Governments of those Colonies."

1838.  
13 July.

Necessity for submission of estimates.

I hope I may be allowed respectfully to express a doubt whether, in issuing an order of this nature, the full effect of it has been taken into consideration by the Lords Commissioners of Her Majesty's Treasury.

In cases where money for any works or repairs in the Colonies is to be provided by the Home Government, the propriety of sending home Plans and Estimates, before the work is commenced, cannot be disputed, though it is well known that delays and difficulties of a most serious nature do often result from the necessity of so doing; and also that Officers (especially those of the Ordnance Department) are constantly obliged to take on themselves the very heavy responsibility of acting without orders, or against orders, to avoid the still heavier responsibility of allowing the interests of the Public to suffer; and it is also well known that, in consequence of the transmission of these Plans and Estimates, a much larger establishment of Officers, Clerks, etc., is necessary in the Ordnance Department than would otherwise be required.

Effect of instructions.

In this Colony, it never has yet been the custom to send home Plans and Estimates for Colonial Works or Repairs, nor, as far as my recollection goes, is it the case in any Colony\* in which I have ever been; and, if the practice is now to be established, it will, I very much apprehend, completely paralyse us or rather perhaps, I should say, it will place me in a situation, in which I shall only have the choice of seeing the improvement of the Colony lamentably retarded or of violating my instructions every day.

Objections to submission of plans and estimates for colonial works.

There are at present in progress in the Colony in the Department of the Colonial Architect:

Buildings in course of erection.

1 Government House, 11 Churches, 4 Gaols, 1 Lunatic Asylum, 1 Watchhouse, 3 Courthouses, 1 National School, 1 Signal House, 1 Police Office,

and numerous places of separate confinement; also in a few weeks, there will be another Gaol, 3 or 4 more Court houses, 2 Watchhouses, a Police Station, and another Church commenced, independent of the Custom house, Police Office and other buildings at Port Phillip, and they are all under the superintendence of one Architect, Mr. Lewis, of whose talents and assiduity I cannot speak too highly; but he has in his office only one Clerk

Supervision of buildings by M. W. Lewis.

1838.  
13 July.

Staff required  
to fulfil  
instructions.

of Works, one Writing Clerk and one Draftsman, whereas, for the preparation of plans and estimates alone, such as would be required by the Ordnance Department, I am confident that five times this number would not suffice, and this with respect to new buildings only. But if the same plans and estimates were to be required in cases of repair, it is impossible to say what delays and mischief would arise from it.

Public works  
under  
department  
of colonial  
engineer.

In the Department of the Colonial Engineer, I might make a similar enumeration of roads, bridges, breakwaters, etc., all conducted under the superintendence of one officer, assisted by sub-alterns of the Line and a single Clerk of Works.

Approval by  
council of  
expenditure.

The previous sanction of the Local Legislature is properly obtained for New buildings and a Vote of Credit for Repairs, the accounts for them as well as all other accounts are sent to England for Audit; and I confidently though respectfully appeal to your Lordship, whether, in cases where the expenditure of Colonial funds only is concerned, this be not sufficient.

Reasons for  
transmission  
of estimates  
for barracks.

Your Lordships will observe that the Estimate for the repairs of Barracks belonging to the Mounted Police, which has given rise to this Treasury Order, was sent home before the charge of these Repairs had been thrown upon the Colony, and that otherwise the estimate in question would never have been sent to England.

I have, &c.,  
GEO. GIPPS.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 154, per ship Earl Grey.)

14 July.

Appointment  
of school  
master and  
mistress.

Sir, Downing Street, 14th July, 1838.

Allowance  
for outfit,  
passage and  
expenses.

With reference to my Dispatch No. 50 of the 19th of December last, acquainting you that I had taken measures for obtaining the services of two well qualified persons, with their Wives, to act as School masters and School mistresses in New South Wales, on the recommendation contained in Sir R. Bourke's Dispatch No. 47 of the 17th of June, 1837, I have now the honor to acquaint you that Mr. Hume and his Wife have been selected for this service on the recommendation of the British and Foreign School Society, and will shortly proceed to the Colony. The Colonial Agent has been authorized to issue to them the sum of £150 on Account of their outfit and passage; and I have further sanctioned the issue to them of the sum of £50 to cover their expences for a period of Six Months, during which they have been residing in London for the purpose of perfecting themselves at the Model School of the Society. I have sanctioned the latter allowance on a representation from the Secretary

of the Society that it was urgently required to meet those expenses, which had been incurred in preparations for the efficient discharge of their future duties by Mr. and Mrs. Hume, and I fully anticipate the Concurrence of the Council in its propriety, especially as I am assured that the time spent at the Model School has been most diligently and usefully improved.

1838.  
14 July.

Another person with his Wife have recently been recommended by that Society, and will probably proceed to the Colony after having gone through the same course of further instruction.

Further appointments proposed.

I have, &c.,  
GLENELG.

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SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 107. per ship Superb; acknowledged by marquess of Normanby, 19th April, 1839.)

My Lord, Government House, 14th July, 1838.

I have had the honor to receive your Lordship's Despatch of the 24th Feby. last, No. 80, with its enclosure from the Treasury of the 22nd January, preceding, by which I am called on to explain the nature of the services for which the sum of £2,268 4s. was with the sanction of Sir Richard Bourke included in the Estimates for 1838-9, sent to the Board of Ordnance for Convict services in New South Wales by the Commanding Royal Engineer.

Despatch acknowledged.

In reply, I have the honor to state to Your Lordship that of this money the sum of £673 4s. was intended for the supply of two new sets of Portable houses, or as they are called "Prisoners' Boxes," which have long been used by the different Ironed Gangs in the Colony, each box containing from 18 to 24 Convicts, according to the season of the year or the necessity of the case; and that the sum of £1,595 was for the supply of ten houses of a somewhat similar nature, but mounted upon wheels, being intended for the lodgment of men employed in making roads, and adapted to move forward with the progress of the work, whilst the former less expensive kind of wooden house or box remains fixed perhaps for many months or years within an enclosure that is called a Stockade.

Expenditure on portable houses for use of ironed gangs and road parties.

I have only further to observe that these Portable houses are in my opinion indispensably necessary, that the estimate for them was expressly ordered by Sir Richard Bourke, and that the charge is one that, according to the present division of expense between the Mother Country and the Colony, justly falls upon the former, being one for the lodgment of Convicts not assigned to private service. It is quite true that they might be lodged in buildings

Necessity for expenditure.

1838.  
14 July.

somewhat less expensive than the kind of travelling houses on wheels, though not perhaps in any less expensive than the mere portable boxes, and that the difference of expense ought to be borne by the Colony; but this difference would be I think too trifling to be worthy of serious consideration, when the very numerous and heavy charges, which have been already thrown on the Colony, are borne in mind.

Construction  
of portable  
houses  
authorised.

I beg further to inform your Lordship that, in consequence of the great want of these portable houses, those intended for fixed Stockades have been already made under an express authority granted by my Predecessor to the Commanding Engineer on the 17th Oct., 1837. The houses on wheels are not yet constructed, but the same officer has represented to me so strongly the want of them, that I have been induced on my own responsibility to authorize the supply of them, as it is now evident that the regular authority from the Lords of the Treasury cannot be received for many months.

Necessity  
for portable  
houses.

The necessity of breaking up the former road parties, in consequence of the insecurity of the mode in which the prisoners were lodged, was reported to Your Lordship by Sir Richard Bourke in his Despatch of the 29th Decr., 1836, No. 139; and, unless the superior accommodation afforded by these portable houses and houses on wheels be authorized, it will be necessary to withdraw the Convicts altogether from the employment where their services are most needed.

I have, &c.,  
GEO. GIPPS.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 163, per ship Portsea.)

15 July.

Sir,

Downing Street, 15 July, 1838.

Renewal of  
appointments  
on accession  
of H.M. Queen  
Victoria.

I have the honor of transmitting to you herewith by the Queen's Commands re-appointments to the several Offices, which, in consequence of the late Demise of the Crown, will shortly become vacant in the Colony under your Government, and which Her Majesty has been pleased to direct should be renewed, and I have to request that you will take measures for carrying Her Majesty's Commands into effect.

In case of such appointments as are not provided for by the accompanying Instruments, and which have hitherto been made by direction of the Crown, you will take care to renew such Appointments provisionally until Her Majesty's Pleasure shall be signified.

I have, &c.,  
GLENELG.

[Enclosures.]

[Copies of these documents\* are not available.]

\* Note 14.



## SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 108, per ship *Superb*; acknowledged by  
 Lord Glenelg, 4th January, 1839.)

1838.  
 15 July.

My Lord, Government House, 15th July, 1838.

I have the honor to report to Your Lordship that an outrageous attack was made in the month of April last on a British Schooner called the "Sir David Ogilby" by the Natives of one of the Feegee Islands, and that the Vessel, which had sailed from Sydney on a voyage to Manilla on the previous 28th March, put back in consequence to this Port and arrived here on the 6th Ult.

Report *re*  
 attack by  
 Fijians on  
 schooner *Sir*  
*David Ogilby*.

The Depositions, of which I forward Copies, will show to your Lordship that, whilst this vessel was at anchor near the Island of Baratta, one of the Feegee group, a traffic having been established for the exchange of such articles as are usually prized by these savages for Tortoise shell and Trepang (or *Beche la mer*), the Captain imprudently allowed a large number of them to come on board, and that an attempt was made by them to take the Vessel. Whether the Natives, tempted by a display of articles on the deck, acted only on the impulse of the moment, or whether the attack was a premeditated one, seems to be doubtful; but, seizing an opportunity when the greater part of the Crew was aloft, one of the Chiefs rushed on the Captain, whose name was Henry Hutchins, and despatched him with a single blow of a club. In the conflict which instantly followed, another man named William Brooks was killed, the Mate and several others disabled, and it was only from the fortunate circumstance of there being some muskets and ammunition in the Main Top that the remainder of the Crew were enabled by keeping up a fire on the deck ultimately to regain possession of the vessel. Many of the Islanders, and among them the Chief who led the attack, are said to have lost their lives; and, however great may have been the first imprudence of the Crew in allowing such a number of savages to come on board the schooner, their subsequent conduct in the defence of their own lives and the recovery of the vessel appears to have been highly gallant.

Having regained possession of their vessel, they carried her to a neighbouring Island, called Lebouker, where there fortunately happened to be an American Brig, the "Mermaid" of Boston, by the Master of which every assistance that humanity could dictate was rendered to the sufferers, and by whom a competent person (Mr. London) was put into the schooner to navigate her back to Sydney, the Mate (Mr. White) being so ill of his wounds, as to be obliged to be left behind under the care of the missionaries at Lebouker.

Assistance  
 given by  
 master of brig  
*Mermaid*.

1838.  
15 July.

Sailing of  
H.M. ship  
*Conway* for  
Fiji islands.

There was no Man of War at Sydney, when the "Sir David Ogilby" arrived; but, as soon as the "Conway" returned into the harbour, I invited Captn. Bethune to pay a visit to the Island where this atrocious proceeding occurred, and I have to inform your Lordship that the "Conway" accordingly sailed for the Feegee Islands on the 5th instt., taking with her three of the wounded men of the "Sir David Ogilby," who were selected for their superior intelligence. To these men, I have promised a remuneration at the average rate of seamen's wages in this Port, and which I propose to pay out of the Queen's Chest, as the purpose, for which they are taken, is one that concerns the trading interests of the British Empire and the honor of the British Flag, rather than the particular interests of this Colony.

Necessity  
for return  
of Fijians.

Your Lordship will observe, by my Despatch of this day, No. 109, that an additional reason for inviting Captn. Bethune to visit the Feegees existed in the necessity of disposing of a number of the Natives of these Islands, who had accidentally been brought to Sydney.

I enclose for your Lordship's information:

Papers  
transmitted.

1. Copies of the Depositions of some of the survivors of the Crew of the "Sir David Ogilby," taken by a Police Magistrate of Sydney;

2. Copy of the opinion of the Law officers of the Crown, as to the proper course of proceeding;

3. Copy of a letter written by my order to Captn. Bethune of H.M.S. "Conway";

4. Copy of his answer.

I have, &c.,  
GEO. GIPPS.

[Enclosure No. 1.]

COPIES OF DEPOSITIONS.

Depositions  
*re* attack by  
Fijians on  
schooner  
*Sir David  
Ogilby.*

SYDNEY, To Wit. { JOHN MARSHALL, Seaman, belonging to the Schooner  
Sir David Ogilby now lying in the Harbour of Port  
Jackson, maketh oath and saith, on Tuesday the 2nd  
day of May last, about 11 A.M. the "Sir David Ogilby" was at  
Barratta, one of the Feege Islands; we were about getting the  
Ship under weigh for a cruise; we hove the Chain short, and had  
loosened Sails. I was aloft in the top assisting in loosing the Sails,  
the other man, who was with me, having gone down by direction  
of the Captain; there was a great number of Natives on the Deck of  
the Vessel, several of whom were assisting the Seamen to hoist  
the foretop sail; the Captain (Henry Hutchins) was on the quarter  
deck giving his orders, I cried out to him, and asked him how the  
Clew lines were, and receiving no reply, I looked round towards the  
place where I had seen the Captain standing, and I saw him lying  
dead on the deck. I saw Mr. White (the Mate) lying apparently  
senseless on the deck near the Captain, and one of the Chiefs of  
Barratta standing over him with a large Club, with which I saw  
him strike Mr. White; there were three Muskets loaded in the

Arm Chest in the top; I took up one of them, and poised it at the Chief just as he was about to give Mr. White another blow. I fired and the Chief immediately dropped alongside the Mate. I then saw another of the Chiefs running with a Club in his hand towards the fore-hatchway, and I cried out to Samuel Hicks and John Hunter, who were down the Hold and told them to get out of the way. I suppose Hicks did not hear me, as the Chief struck him a tremendous blow with his Club on the Head, which knocked him down; the same Chief then ran forward and went down the fore-castle; there was an Otaheite Man named Mountain on board (one of the Crew); he came up to me in the top, and I immediately gave him arms and ammunition; Peterson one of the Crew afterwards came up, and I gave him Arms also; we then kept a constant fire upon the Natives till we cleared the Decks; John Jones commonly called "Revar Jack" was up on the forestay; he called to me and begged me for God's sake to lash him to the rigging as he could not hold on much longer; I went to his assistance and saw that his foot was cut across the ankle in a dreadful manner, and bleeding profusely; it appeared to have been a Cut from a Cutlass. I assisted Jones and got him on the foreyard. At this time John Hunter, who was below, cried out that "the Decks were cleared." and told us to come down; we went down; I looked down into the Cabin the skylight being off, and saw John Hunter with a knife and a Chissel in his hands and he was fighting with Junnalongy, the Principal Chief. I saw Hunter push the Chissel into the Chief's breast; they were at this time struggling together on the Deck; the Chief was armed with his Club; some of the Men then fired into the Cabin and I heard no more struggling afterwards, and was informed that the Chief was dead; the Native Women then informed us that there was a Native man below forward; Jones went forward with a Cutlass and went below. I afterwards saw a Native Man there dead, with several Cutlass wounds on his body; we hoisted him up and hove him overboard; the Vessel was underweigh at this time, and we afterwards got the Chief out of the Cabin and hove him overboard also; we fired at the Natives who had jumped overboard, and killed several of them in the Water. I saw the Ship's boat adrift and several of the Natives in her; they must have cast her adrift.

JOHN MARSHALL.

Sworn at the Police Office, Sydney, this 8th June, 1838, Before.

—CHAS. WINDEYER, J.P., 2nd Police Magistrate.

JOHN MARSHALL, being sworn, further saith, the Tonnage of the "Sir David Ogilby" was about 125 Tons; we had twelve men on board at the time the affray took place, including the Captain and Mate. I think we had been three days at the Islands; we had Traded for Pigs and Yams; there were no White Men on the Island; there were some White Men on the same Island, a long distance off, and a Missionary was living there about between 30 and 40 Miles off; there had been no quarrelling, nor row with the Natives; while we remained there, we traded very amicably with them; they knew we were about to go away; the Natives were admitted on the Decks to Trade; there was no restriction as to the Number that was admitted on Deck. I think there were as many as fifty on the Decks at the time of the Affray, but after it commenced there came up many more from the Canoes; they handed

1838.  
15 July.

Depositions  
re attack by  
Fijians on  
schooner  
Sir David  
Ogilby.

1838.  
15 July.

Depositions  
re attack by  
Fijians on  
schooner  
*Sir David  
Ogilby.*

their Weapons up, as they came, to their Countrymen; there were six or seven women belonging to the Chiefs on board; they all ran down below as soon as the row commenced; we took those Women away with us; they had all come on Deck after the Decks were cleared of the Natives; we left some of the Women at Lebouker about fifteen Miles off; we buried the Captain there. One of our men said that he saw the Natives kill William Brooks in the Water, and he also says they took Brooks into their Canoe afterwards; we took two of the Women and landed them at Revar. I heard no row before I saw the Captain dead. I saw the Captain's Body; he was wounded on the back of the head; the wound appeared to have been inflicted by a Club; there were three Chiefs on board; they were all killed; the Captain could speak the language well and had been accustomed to trade with the Natives for Years; several of the Crew whom we shipped at the Islands could also speak the language well; there were two of these men Otaheite Men and three White Men; we had six Women with us whom we brought from Revar. I am quite sure there was no quarrel about the Women previous to the Affray; there was another old Chief Ashore, but he was not present at the Affray; the principal Chief that we killed was about six feet four inches high. I could identify several of the Natives who were engaged in the Affray.

JOHN MARSHALL.

Sworn this 8th June, 1838, at the Police Office, Sydney, Before.

—CHAS. WINDEYER, J.P., 2nd Police Magistrate.

EDWARD STEPHENSON, aged twenty three Years, a Native of Liverpool, England, being sworn, deposes and saith, I was a Seaman of the *Sir David Ogilby* and was present at the Affray which took place at Barratta. I was standing on the Deck when we were preparing to sail; the first thing I observed was the Captain being knocked down by the Principal Chief of the Town; the Captain was standing on the Quarter Deck near the Hen Coops; and the said Chief with two other Chiefs had been just previously sitting on the Taffrail. I saw the Chief jump from the Taffrail and as he jumped he struck the Captain with a Club. I had not previously observed the Club, and I think it must have been handed up from some of the Canoes astern; the Chief who struck the Captain went down in the Cabin. I ran forward and several of the Natives followed me; they tumbled over me and I tumbled over them into the fore-castle. I then armed myself with my Cutlass and Musket and handed up arms to some of the Crew who were ready to receive them, when I looked up through the Skuttle. I saw "*Revar Jack*" on the forestay and heard him call to a man above to hand him a rope; he said he was so faint from loss of blood that he could not hold on much longer; he wanted the rope to lash himself to the Rigging. I saw one of the Natives standing on the bowsprit with the Captain's Cutlass in his hand; he had hold of the stay with both hands and he was shaking the stay, trying to shake "*Revar Jack*" off; this was one of the Chiefs who was subsequently killed. I levelled my Musket at the said Chief. I shot him and he fell overboard. I loaded again and shot a Common Native, who was standing on the bullwarks; he fell overboard also; two of the Crew afterwards came down; they pushed through some Yams from the Main hold which obstructed the Passage to the fore-castle where I was; one of them was Samuel Hicks, he asked me to hand him a

Musket. I got one and handed it to him and then joined him and the others in the hold. I got into the hold with Hicks and the other Man (Scotch Jack). Hicks was going on Deck and just as he was going up a Chief struck him from the Deck on the head with the Headrail, and knocked him down near my feet; he was very much wounded and was senseless. Scotch Jack, who was in the hold with us, then attempted to put his hand on the Combings of the Hatchway but the same Chief struck him a blow on the Wrist, which sprained his Wrist; when he came to, Scotch Jack took a Musket and shot the Chief near the eye, and it came out by his nose; he fell, and afterwards crawled away; he was subsequently killed in the fore-castle. I saw his body afterwards run through with several sword wounds. Afterwards some of the Men sung out "the Decks are cleared." Hicks who had come to, Scotch Jack and myself then went upon deck with our Muskets. I ran aft and looked over the stern. I saw twelve or thirteen Natives swimming about; one of them got so far out that I was enabled to take aim at him. I fired and shot him through the small of the back, and he immediately sunk. Scotch Jack then went into the Cabin, and I heard him sing out for assistance. I looked down and saw the Chief, who had killed the Captain, struggling with Scotch Jack. I fired down the Companion to frighten the Chief, thinking that he might let go his hold of Scotch Jack. Scotch Jack told me to mind I did not shoot him (Jack). I loaded again and fired down into some part of the Chief's body. I loaded again and by the time a second ball had been fired into the Chief, when I was ready, Scotch Jack was shoving the Chief more to the side of the Cabin, so that I got a good aim at him and fired as near his heart as I could; when I fired, the Chief fell into the arms of Scotch Jack; we continued firing at those who were in the Water and in the Canoes till they got beyond the reach of our Guns. I should judge that it was about twenty Minutes from the time I saw the Captain knocked down to the time the men cried out "the Decks are cleared"; there had been no dispute or quarrel to my knowledge during the trading; the Captain had made the Chief (who killed him) a present of some Trinkets to protect the trading ashore; the Captain had been that Morning talking to the Chief (who subsequently killed him) in a very friendly way. The Captain was killed, the Mate was left desperately wounded, so much so that the Captain of the American Vessel, which was at Aribor, said he did not think he could recover; one of our men named Brooks was also killed; we heard afterwards at Revar that there were eleven of the Natives killed and a great number of them wounded in the fight; we left four out of the Men we shipped at Revar at the same place again. Brooks was the fifth man out of the five; after we got the Vessel under weigh, we recommended Mr. Hicks to take charge of her as he understood Navigation; Scotch Jack said that he knew the Reefs and would help in getting the Ship to Lebouker, but would take no charge of her; we buried the Captain at Lebouker; we then went to Revar and put ourselves under the care of the Crew of the American Ship "Mermaid"; there was only one man of the Crew who entirely escaped being wounded; all the others were wounded more or less. There are plenty of fire Arms on the Island, but I did not observe any in the Canoes; if the Crew of the "Sir David Ogilby" had seen any firearms in the

1838.  
15 July.

Depositions  
re attack by  
Fijians on  
schooner  
*Sir David  
Ogilby.*

1838.  
15 July.

Depositions  
re attack by  
Fijians on  
schooner  
*Sir David  
Ogilby.*

Canoes, they would have been more on their guard; immediately the Captain was knocked down, there was a noise and the Natives put themselves into hostile motion. I do not know whether it was a War Shout or not. I have no doubt but the Attack had been planned before the Chief came off in the Morning.

EDWARD STEVENS.

Sworn at the Police Office, Sydney, this 8th June, 1838, Before.

—CHAS. WINDEYER, J.P., 2nd Police Magistrate.

JOHN PETERSON, a Native of Denmark, Elsinore, being sworn, deposeseth and saith, I was a Seaman on board the "Sir David Ogilby" at the time of the Affray with the Natives at Barratta. I was standing with my hand on the fore brace aft by the Main Rigging with my back towards the Captain, when I heard a noise of many Voices crying out "Hurrus," "Hurrus." I looked round and saw a Native take a hand spike and knock down a Seaman named Bill Brooks; the Native was saying something at the same time he struck him. I ran forward as quick as I could and saw the Cook lying by the fore-rigging, and, as I ran forward, there were several Natives in the way armed with Clubs, and I saw them catching the Clubs which were thrown to them from the Canoes. I tried to get up the fore rigging and the Natives were coming towards me with uplifted Clubs and Sticks. I did not know how to act, and, as I had heard that a Native could not strike a Man if you looked at him steadfastly in the face, I jumped in among them. I received several slight blows, and they all appeared to be waiting, one till the other struck. I jumped on the bowsprit, and, as I did so, I got a blow on the head. I received three blows while there. I then got under the bowsprit and hung on by the Jib down hawls, or out hawls; while I so held on, the Natives in the Canoes had long poles with which they struck my hands to make me let go; there were several Natives on bowsprit and I was hanging by the forestay by both hands when one of the Natives, who was armed with the Cook's Axe, came and held by one hand on the forestay while he struck a blow with the Axe at me with the other. I evaded the blow by letting go one of my hands; the Native, who struck at me, let the Axe slip from him into the water. I then got upon the Bowsprit and attempted to get up the stay, but just as I did so, I received a spear into my thigh. Revar Jack, who was near me, pulled the Spear out, and poised it at a Native who was coming towards us with a Sabre. I got up the stay and out of his reach, but Revar Jack was not so quick and, as he was getting up, the Native struck him and cut his foot severely with the Sabre; the Native then took hold of the stay and shook it endeavouring to shake Revar Jack and myself off. I got further up the stay and got to the top. I got upon the topsail Yard, and then a man started out of the top to lash Revar Jack upon the stay. I cried out for a Musket, but I found it was not loaded; but I afterwards got ammunition and fired away at the Natives below; they jumped overboard as fast as they were shot, and were leaving the Deck very fast; soon after some of the other men cried out for more Cartridges (from the Deck) and I threw the box which I had in my hand on the Deck; the Men on Deck then commenced firing away at the Natives, who were in swarms in the water about the Ship, but who appeared frightened to go away fearing they'd be Shot. When I got on deck, I went down forward, and, when I got down, I saw a Native

sitting down there rubbing his face; he was wounded in the Nose; I went up again, and I picked a Musket up which laid on the deck; I heard a struggle in the Captain's Cabin as I came aft. I saw a Native peeping round a Canoe to see what was going on; he was hanging on by the Canoe; I levelled my Gun at him and he did not perceive me doing so. I shot him through the head and he sank immediately. I heard Scotch Jack singing out in the Cabin. I looked down and saw Scotch Jack holding the Chief round the Neck to prevent his getting a blow at him with his Club. I fired through the skylight and fired a ball into the Chief. I fired a second ball into him, and, just as I loaded again, he turned round and appeared as if he wanted to get away from Jack, and come up the Companion, so I went to the Companion and met him by a Shot in the side; after this one of the men fired through the Skylight and the Chief fell; about two hours afterwards I went down to the Cabin and I then saw the said Chief leaning on his Arm and rubbing his face. I told Scotch Jack that the Chief was not yet dead and Jack went down with a Club and smashed his head. I was myself at this time lame from a Nail which had run about two Inches into my foot; during the time we were trading there was no quarrel, not the slightest; they appeared to be on the most friendly terms with us. Afterwards I told Scotch Jack that there was still a Native below alive; we went down and found that he was concealed under my Bunk and my Chest and a drum put before him to hide him from view. Jack spoke to him and asked him to come out, but he would not do so, so Jack pushed the sword through him seven or 8 times and killed him; we pulled him on Deck and hove him overboard afterwards; by the help of the Women we worked the Ship to Lebouker; we there landed three of the Women; we hoisted our Colour as a Signal of Distress and some of the white men came off, and, when we informed them what was the matter, they came on board and gave us all assistance in their power. A Chief, who was at Lebouker, wanted us to give him the Chief to eat; they had heard at Lebouker what had occurred before our arrival. We landed the three Queens at Lebouker and the other women we delivered up to the Captain of the Mermaid at Revar; among the five men we shipped at Revar two of them were Natives of Otahete, one of them named Mountain behaved very well; the Natives of the Feejee Islands are very large Men; the Chief we killed in the Cabin was six feet odd and stout in proportion.

JOHN PETERSON.

Sworn at the Police Office, Sydney, this 8th June, 1838, Before.

—CHAS. WINDEYER, J.P., 2nd Police Magistrate.

THOMAS MCCALLUM, a Native of Ireland, County Moneghan, aged about forty five years, being sworn, deposes and saith, I was Cook on board the Sir David Ogilby at the time of the Affray at Barratta. I went to the Captain and asked him what o'Clock it was; the Captain told me it was twenty Minutes past eleven o'Clock. Mr. Hicks was standing by the side of the Captain. I went to assist in getting the ship underweigh, and, while I had hold of a rope, I received a violent blow on the back of the head which knocked me down, and rendered me senseless; when I came to my senses, I found myself at the larboard side of the Deck. I requested to be removed into the Cabin, and, when I got in there, I saw a large Native Chief lying dead there; there was not the

1838.  
15 July.

Depositions  
re attack by  
Fijians on  
schooner  
Sir David  
Ogilby.

1838.  
15 July.

Depositions  
re attack by  
Fijians on  
schooner  
*Sir David  
Ogilby.*

slightest quarrel of any kind between ourselves and the Natives during the time we were at Barratta. I think the motives of the Natives for attacking us were to possess themselves of a rich booty which they considered we had aboard. I have been a Voyage there before and can speak a little of the language. I know some of the Natives by name and could identify them.

THOMAS McCULLUM.

Sworn this 5th June, 1838, Before.—CHAS. WINDEYER, J.P., 2nd Police Magistrate.

SAMUEL HICKS, being sworn, deposeth and saith, I belonged to the Schooner *Sir David Ogilby*. I am 34 Years of Age. I was born at Hampshire. I acted as second Officer on board, and was on board the Ship at the time of the Affray at Barratta. I was employed in the Main hold and the Captain called to me to go on Deck. I came up, and we were hoisting the foretopsail when one of the Men cried out "Oh! my God, the Captain is killed!" I looked round and saw the Captain lying on the Deck; there were at this time 80 or 90 of the Natives on the Deck at this time; one of the Seamen laid hold of me and pushed me before him and we both tumbled into the forehold; we flew to our arms directly. I endeavoured first of all to make my way to the Cabin, and, finding there were some Natives there, I desisted and I then made my way into the fore-castle, and Edward Stephenson who was there, after having ascertained who I was, gave me arms. I returned to the hold followed by Stephenson, and I was looking out for a chance to get upon Deck with my Arms when I received a tremendous blow on the head which knocked me down senseless; when I came to myself, I jumped upon deck and encouraged the Men and assisted in getting the Anchor up; the blood was running from my head very plentifully, and I at last dropped from loss of blood, and laid on the Deck near the Captain. I gave the men directions as I laid there; they got the Vessel underweigh. We proceeded to Lebouker first, and afterwards went to Revar; we were all wounded but one man. We went to Barratta on Monday Afternoon and were going to leave on Wednesday when the Affray took place; the Captain and the Natives were on the most friendly terms; he used to go ashore with them, and return again, and had been in the habit of trading with them for Years; he at one time lived ashore with them some time ago; there was not the least quarrel of any kind before the Attack commenced; the Captain and Crew were perfectly sober; there had been no spirits given to the Natives; the Captain was a Man that did not drink Grog; there were four or five Women on board; there was no row about them; the Natives are not jealous of their Women, they sell them like Slaves; when the row began, the Women all ran below; they thought we should kill them as fast as we came near them, but we did not touch one of them; they knew nothing about it; as soon as the row was over, we made the Women come up, as we were all weak, and the women assisted in pulling and hauling. Hunter (commonly called "Scotch Jack") was in the hold with us; we intended to have blown the Vessel up rather than be eaten.

SAMUEL HICKS.

Sworn at the Police Office, Sydney, this 9th June, 1838, Before.  
—CHAS. WINDEYER, J.P.



MR. ROBERT LONDON, being sworn, deposeth and saith, I am 39 Years of Age and a Native of Nova Scotia, a British Subject; I was on board the American Ship "Mermaid" at Revar, one of the Feegee Islands. I was trading Master on Board the "Mermaid"; the Captain was ashore, and I think, about the 29th of April, I saw a Vessel about six Miles off; she fired a Gun, with Colours half mast high. I manned a boat and went off to her; the Crew were nearly all wounded; there was only three men who could work; the Vessel appeared in a very disordered state; some of the Men were intoxicated. There was some Gin, about 60 Gallons aboard, which by the advice of Captain Eagleston I subsequently threw overboard. I subsequently, by direction of Mr. Cross the Missionary and Captain Eagleston, took charge of the Vessel and brought her to Sydney; it was about thirty five Miles from Revar where the Affray took place. I heard afterwards from the Chief of Revar that thirteen of the Natives had been killed; that Chief did not seem to attach any blame to the Crew of the "Sir David Ogilby." About three Years ago the Crew of a French Vessel was murdered by the Natives of the same Island, but at a Distance of eight Miles from Barratta, the name of the Main Island is Verate.

1838.  
15 July.

Depositions  
re attack by  
Fijians on  
schooner  
Sir David  
Ogilby.

ROBERT H. LONDON.

Sworn this 9 June, 1838, Before.—CHAS. WINDEYER, J.P., 2nd Police Magistrate.

LAWRENCE CHRISTIAN COULSTON, a Native of Denmark, aged thirty six Years, being sworn, deposeth and saith, I joined the Sir David Ogilby on the 3rd May at a place called Lebouker. I was engaged to assist in working the Vessel to Sydney. I lived eighteen Months at Lebouker; there were fifteen white men living there; the Natives will allow persons to plant and assist them; even I was paid off at Lebouker from an American Ship; there is no Consul of any Nation there; the Native name of the Island is Oovallow; there are three Chiefs on the Island. I did not hear any account from the Natives about the Massacre of the Crew of the Sir David Ogilby. An Englishman, who lives in a little Island called "Bevar," came and told us of it in the Night; he came about fifteen Miles to tell us of it; I saw the Sir David Ogilby off Lebouker with Colour half Mast high. I went off in a Canoe to her; all the White Men, who were there, used to go on board any Ship that came in, except one man named Hunter, alias Scotch Jack, who seemed very shy of going aboard any man of war; the Natives are some of them Cannibals but the head Chief of Lebouker was at one time very ill, and he sent for the White Men; the White Men told him that, if he would desist from eating human flesh, they would do the best they could for him; he promised, and they had some Medicine with which they cured him and since that time he has knocked off eating human flesh; the Articles of trading the Natives most wish for are Muskets, Powder, and Knives; there is no liquor of any kind on the Island.

L. C. COULSTEN.

Sworn at the Police Office, Sydney, 9th June, 1838, Before.—  
CHAS. WINDEYER, J.P., 2nd Police Magistrate.

HENRY MILLER, being sworn, deposeth and saith, I am a Native of Hamburg and am a Seaman on board the "Sir David Ogilby." I joined her at Revar; it was about a month ago; I assisted in working her up to Sydney. I had heard that the Captain was murdered

1838.  
15 July.

Depositions  
re attack by  
Fijians on  
schooner  
*Sir David  
Ogilby.*

at Barratta. I heard this from some of the Natives. I had been about four Months at Revar. I was left there by Capt'n. Dillon of the *Jesse*. I know nothing about the murder of Captain Hutchins; when I went on board at Revar, all the Men were able to work but the Mate (Hicks); they were all hurt. I saw Mr. White and I thought he would recover; his head was wounded all over; one of the Natives undertook to cure him and said he would cure him; the Cook was not able to work at all.

his  
HENRY X MILLER,  
mark

Sworn at the Police Office, Sydney, this 9th June, 1838, Before.  
—CHAS. WINDEYER, J.P., 2nd Police Magistrate.

[Enclosure No. 2.]

MR. F. FISHER TO COLONIAL SECRETARY.

Sir, Crown Solicitor's Office, Sydney, 20 June, 1838.

With reference to your Letter of the 15th Inst., No. 38/282, transmitting to me the accompanying Depositions of the persons who arrived in the *Sir David Ogilby* in the case of the Individuals named in the Margin\* who were murdered by the Natives of the Fegee Islands, and to request that I would obtain the opinion of the Attorney General as to the extent to which punishment might be inflicted on the Perpetrators of this outrage in the event of its being possible to send a Ship of War to the Islands, and, having referred the whole of the proceedings to the Attorney General. I have now the honor to submit for His Excellency the Governor's information the following opinion of the Attorney General thereon.

*Opinion.*

It is under the Authority of the Statute, 9 Geo. 4. C. 83. Section 4, That the Supreme Court of New South Wales has jurisdiction over Offences committed "upon the sea or where the Admiral hath Jurisdiction, and over Offences committed in New Zealand, Othaheite, or any other Island, Country or Place, situated in the Indian or Pacific Oceans and not subject to any European State." But this Jurisdiction only extends over the persons of the *Masters or Crews* of British Ships or Vessels, or *British* subjects sailing in or belonging to, or that shall have sailed in or belonged to, and have quitted any British Vessel to live in any of the said Islands, Countries or Places. The Natives of those Islands are not subject to this Jurisdiction for any Offences committed by them in any of the places before mentioned. The Law only aims at Offences committed by British Subjects. I do not see therefore any reason for detaining those persons, who have been examined before the Magistrates. There is no reason to suppose that any European or white Man was implicated in this sanguinary and savage attack made on the Crew of the *Sir David Ogilby*, and there is no Law to warrant the apprehension and Trial of those Savages. They must be treated as a separate nation and according to the Law of Nations. I am not informed as to whether there are any Tribunals of Justice or form of Trial Established at the Fegee Islands; but, if there are, it might have a salutary effect in preventing such aggressions in future to act upon the law of reprisal and demand the punishment according to their own Laws of the perpetrators

\* *Marginal note.*—Henry Hutchinson, Master; William Brook, Seaman.

Legal opinion  
re jurisdiction  
over natives  
of Fiji.

of this dreadful outrage on the crew of a British Vessel; but, if they are mere Savages without any Established Government, it is difficult to suggest what course is best calculated for the security of the Ships that Trade with them.

1838.  
15 July.

The circumstances of this Case, as related by the persons examined, shew the necessity of greater caution being observed by the Masters of Vessels in allowing so many of the Natives to get on board at the same time, and also to approach in such numbers. If only a few of them at a time were allowed on board, such a casualty could not have happened.

Necessity for  
caution in  
intercourse  
with natives.

I have also the honor to return all the original papers.

I have, &c.,

FRANCIS FISHER, Crown Solicitor.

[Enclosure No. 3.]

COLONIAL SECRETARY THOMSON TO CAPTAIN BETHUNE.

(No. 38/202.)

Sir, Colonial Secretary's Office, Sydney, 2 July. 1838.

I do myself the honor to inform you that, on the arrival of the Schooner "Sir David Ogilby" in Sydney on the 6th Ultimo, bringing intelligence of an attack made on that Vessel by the Natives of the Feejee Islands, in which the Master and one of the Seamen were killed, the First Police Magistrate was requested to take measures for ascertaining the particulars of this outrage, and I am directed by His Excellency the Governor to transmit to you a Copy of the Depositions in this Case taken before the Second Police Magistrate, and also a Copy of a letter from the Crown Solicitor, containing the opinion of the Attorney General as to the extent to which punishment might be inflicted on the offending Parties, in the event of a Ship-of-War proceeding to the Islands. In forwarding to you these Documents in order to afford you a right understanding of the affair, His Excellency has directed me to inform you that, although the Chief Actors in it seem to have lost their lives by their temerity, and that, from the want of any established Laws or Tribunals amongst these Savages, it may be impossible to bring any of the other Natives concerned in the aggression to justice, it yet seems to the Governor that the appearance of a Man of War at the Islands as quickly as possible after the perpetration of such an atrocity would tend to impress the Savages with a salutary dread of the power of Great Britain, and that, in order to prove to them that this appearance is not accidental, it is of importance that some of the survivors of the Crew of the "Sir David Ogilby" should be taken on board the "Conway" especially such as bear marks of Wounds received in the affray. Four of these men have expressed their readiness to go, and I am directed to inform you that, if it is not in your power to remunerate them for the loss of their time and Wages by bearing them on the Books of your Ship, His Excellency will authorise them being paid at the rate of their usual earnings by the Commissary-General.

Submission  
of papers to  
C. D. Bethune.

Advantage  
of visit of  
man-of-war  
to islands.

Survivors  
from schooner  
*Sir David  
Ogilby* to sail  
in H.M. ship  
*Conway*.

The Master Attendant has accordingly been requested to communicate with you respecting the shipment of these Men.

I am at the same directed to transmit to you the accompanying copy of a letter dated 30 April from the Chevalier Dillon, Owner of the Schooner "Jess," reporting his having fallen in with two Canoes containing eight men and one child, Natives of the Feejee

Fijian natives  
rescued by  
P. Dillon.

1838.  
15 July.

Proposed  
return of  
natives to  
islands.

Islands, who had been driven off the land in Stormy Weather, and that in consequence of their destitute situation they were taken on board his Vessel and brought to Sydney, when on their arrival they were thrown on the hospitality of the Government to wait an opportunity of forwarding them to their own Country; It being thought that by treating them well they might be made the instruments of much good, and perhaps be the means of saving the lives of Shipwrecked Europeans in their own Country. As the Ship under your command is about to proceed to the Islands. His Excellency instructs me to invite you to receive them on board the Conway and to convey them to their Homes, together with two Chiefs of the Island of Tonga, who were also brought to Sydney by the "Jess."

The Master Attendant has accordingly been requested to communicate with you, in order that, should you be disposed to take them, he may arrange for their embarkation.

I have, &c.,  
E. DEAS THOMSON.

[Enclosure No. 4.]

CAPTAIN BETHUNE TO COLONIAL SECRETARY THOMSON.

H.M.S. "Conway,"

Port Jackson, N. S. Wales, 3rd July, 1838.

Sir,

Letter  
acknowledged.

I have the honor to acknowledge the receipt of your letter dated 2d Inst. enclosing copy of the Depositions relating to the Schooner Sir David Ogilby and the opinion of the Attorney General thereon, also a copy of a letter from Chevalier Dillon.

Action to be  
taken by  
C. D. Bethune.

I beg you to assure His Excellency that nothing shall be wanting on my part to produce such effect upon the Natives as may tend to render the navigation among the Figi Islands more secure.

I have, &c.,

CHAS. DRINKWATER BETHUNE,  
Captain and Senior Officer.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 109, per ship Superb; acknowledged by  
lord Glenelg, 2nd January, 1839.)

My Lord,

Government House, 15th July, 1838.

Assistance  
given to  
natives of  
Fiji and  
Friendly  
islands.

I have the honor to report to your Lordship the circumstances, under which I have considered it proper to extend the assistance and protection of this Government to Eleven Natives of the Feejee and Friendly Islands, who, after a residence of about nine weeks at Sydney, have been taken on board H.M.S. "Conway," for the purpose of being restored to their Country.

Rescue of  
Fijians by  
P. Dillon.

Nine of these persons, natives of the Feejee Islands, were picked up at Sea in an open Canoe, several hundred miles from their own islands, having been driven off the land by stress of weather, and would doubtless have perished, had the schooner ("Jess"), which brought them to Sydney, not fallen in with them. The two others were a Chief and his attendant of the

island of Tonga, one of the Friendly group, and they came to Sydney in the same vessel, though only, as far as I can learn, to gratify their own curiosity.

The schooner "Jess" is the property of Mr. Peter Dillon, who is commonly here called the Chevalier Dillon, in consequence of his having received from the King of the French an order of Knighthood for the discovery of the remains of the Navigator, La Perouse.

Mr. Dillon had been engaged for some time in trafficking with the Islands of the Pacific, and was on board his schooner when the people were picked up. He claimed on his arrival in Sydney some compensation for their maintenance during the long time they had been on board his vessel; and, though to this I did not accede, I considered it right, in consequence of the expense he had incurred by his humane preservation of these men, not to make any charge against him for the maintenance of the Tonga Chief and his attendant, who otherwise, as they were brought here by him, ought to have been maintained at his expense.

The circumstances, which are detailed in my Despatch of this day's date No. 108, having rendered it desirable that one of Her Majesty's ships of War should visit the Feegee Islands, I have to report that these eleven men were taken by Captn. Bethune on board the "Conway" on the 6th instt., and will be restored by him to their Country.

The expense, which has been incurred in their maintenance from the 23rd April to the 3rd July, amounts to £39 18s. 1d.; and, considering that the hospitable treatment of them was a matter in which the interests of British Traders in general are concerned and not the people of this Colony in particular, I have given directions (which I hope your Lordship will approve) for its being defrayed out of the Queen's Chest.

I transmit a Copy of a letter on this subject, which was addressed by Mr. Dillon to the Colonial Secretary.

I have, &c.,  
GEO. GIPPS.

[Enclosure.]

MR. P. DILLON TO COLONIAL SECRETARY THOMSON.

Sir, Australian Hotel, Sydney, the 30th April, 1838.

The Person who has the honor of addressing you is the Chevalier Dillon, owner of the British Schooner Jess, commanded by Mr. C. Wilson.

On the Jess's late Voyage from the Feegee Islands towards this Port, she fell in with at Sea two Canoes containing Eight men and one Child, natives of the above Island, who had been driven off from the land in stormy weather.

1838.  
15 July.

Visit of  
Tongan chief.  
P. Dillon,  
owner of  
schooner Jess.

Claim by  
P. Dillon for  
maintenance  
of Fijians.

Return of  
natives in  
H.M. ship  
Conway.

Cost of  
maintenance  
of natives.

Rescue of  
Fijians by  
P. Dillon.

1838.  
15 July.

Rescue of  
Fijians by  
P. Dillon.

Those poor people were in a complete state of destitution and begged to be rescued from the jaws of death by being taken on board the Jess.

To abandon them to their fate would be a want of humanity and a disgrace to the British Flag. I therefore directed the Master to receive them on board and bring them to this Port where they now are.

I further beg leave to state that I am now on the eve of my departure for Europe, and shall feel particularly obliged by this Government being so good as to take those poor people off my hands, and to forward them by the first Man of War or trading Vessel that may sail for the Friendly or Feejee Islands.

Request for  
compensation.

The expense of their food and Clothing for the last three and a half Months falls heavy on me as an individual; under those circumstances, I hope the Government will kindly consider my situation and allow me such Sum as they may think proper for the daily maintenance of each of those Individuals.

I have, &c.,  
PETER DILLON.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 155, per ship Earl Grey.)

16 July.

Despatch  
acknowledged.

Sir, Downing Street, 16th July, 1838.

I have received Colonel Snodgrass's despatch, No. 25 of the 18th of February last, enclosing an application from Mr. Hickey for a grant of Land.

Mr. Hickey, I perceive, was prevented from receiving a Grant from the circumstance of his having been employed in the Commissariat Department at the period when Grants were made. Having quitted that Service, he now prefers his application.

Refusal of  
land grant  
for E. Hickey.

You will have the goodness to inform the applicant that it is quite out of my power to comply with his application.

I have, &c.,  
GLENELG.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 156, per ship Earl Grey.)

Sir, Downing Street, 16th July, 1838.

Memorial of  
L. Duguid  
acknowledged.

I have received Colonel Snodgrass's despatch, No. 27 of the 20th February last, enclosing a Memorial and various documents with reference to the claim of Mr. Leslie Duguid to an additional Grant of 2,560 Acres of Land.

Claim of  
L. Duguid to  
land grant.

It appears that Mr. Duguid emigrated to New South Wales in the Year 1822, when he received 2,000 Acres of Land. He then returned to this Country, and, before re-embarking for the Colony in the year 1824, he received a note from Mr. Wilmot Horton,

Under Secretary of State, enclosing a Dispatch to the Governor of New South Wales, authorizing him, as Mr. Duguid was informed, to make to that Gentleman a Grant of Land proportioned to his increase of Capital.

1838.  
16 July.

Claim of  
L. Duguid to  
land grant.

The application of Mr. Duguid for a secondary Grant was refused by Sir Thomas Brisbane, because the improvements required by the then existing Regulations had not been fulfilled, and by General Darling in the year 1829, because Mr. Duguid was then in the Service of the Bank of Australia. At the latter period, his Capital amounted to £500.

I entirely concur in the justice of the remarks of the Bishop of Australia as recorded in the Minute of Council, appended to Colonel Snodgrass's dispatch, that, although Mr. Duguid received from the Secretary of State in 1824 an Order for obtaining an additional Grant, yet that Order must necessarily have been, and by the receiver must have been understood to be, dependent on his fulfilling the conditions on which Land was at that time granted. According to the Regulations subsisting from 1824 to 1831, those conditions were two, vizt., improvement of the previous Grant and personal residence. The application was refused in the first instance by Sir Thomas Brisbane on the ground of the first of those conditions not having been complied with; and the renewed application to Sir R. Darling in 1829 was negatived, because the applicant was not in a condition to comply with the latter; nor does it appear that he was ever so circumstanced as to be able to meet both the appointed conditions at the same time, until after the system of granting land was abolished.

Endorsement  
of opinion of  
bishop of  
Australia.

I have quoted the opinion of the Bishop of Australia in this case, because it appears to me to place the facts in the clearest point of view. The Land Regulations were not changed until Seven years after Mr. Duguid returned to the Colony, and that period is now doubled.

Under these circumstances, I do not consider that Mr. Duguid has any valid claim to an additional Grant. I have, &c.,

Refusal of  
land grant  
for L. Duguid.

GLENELG.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 157, per ship Earl Grey.)

Sir, Downing Street, 16th July, 1838.

I have received Colonel Snodgrass's dispatch, No. 20 of the 6th of February last, enclosing a Memorial signed by several Officers of your Government, praying for Grants of Land, which

Memorial from  
civil officers  
acknowledged.

1833.  
16 July.

Criticism of  
claims to  
land grants.

they were disqualified from receiving before the change in the Land Regulations in consequence of their holding official situations, which of course prevented the fulfilment of the conditions imposed on Grantees.

Applications for Grants have been so uniformly refused by Her Majesty's Government since the change in the Land Regulations, except in cases where direct promises had been given, that I regret that the sanction of Colonel Snodgrass's recommendation should have been given to this application. The Memorialists state that they emigrated on the faith of the Regulations of Government, by which they were respectively entitled to Grants of Land on their arrival in the Colony. They all, however, accepted official appointments with the full understanding that they would, during the tenure of their Offices, be prevented from receiving Grants. The letter, to which they refer, addressed by the Colonial Secretary to Mr. Harrison under date of the 3d of October, 1826, certainly might have been more cautiously worded; but no such communication can be supposed to bind the Government to the continuance of a particular system, and it is now brought forward nearly eight years after the system to which it has reference has been abolished.

The true and legitimate reward for meritorious public Servants is advancement in the Service to which they belong, and Her Majesty's Government will always be ready to promote, as far as may be practicable, the interests of those whose assiduity and good conduct may give them a claim to consideration.

Refusal of  
land grants.

I cannot, however, entertain their claim to be rewarded from the Land Revenue in violation of a system to the maintenance of which Her Majesty's Government are strictly pledged.

I have, &c.,  
GLENELG.

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LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 15S, per ship Earl Grey.)

Sir, Downing Street, 16th July, 1838.

Application by  
J. Raymond  
for land grant  
acknowledged.

I have received Sir R. Bourke's dispatch, No. 107 of the 3rd of November last, transmitting an application from Mr. James Raymond for Grants of Land for himself and his Sons.

Sir R. Bourke adverts to a correspondence,\* which Mr. Raymond had with this Department previously to his emigration in 1825, relating to some peculiar circumstances which might possibly distinguish his case from that of any ordinary Settler.

\* Note 49.



1838.  
16 July.

Special  
concessions to  
J. Raymond on  
emigration  
from Ireland.

On reference to the correspondence which occurred at the time, I find that, on the recommendation of the Irish Government, free passages were granted to New South Wales to Mr. Raymond, his numerous family and his servants. That indulgence was recommended by the Irish Government on account of his having been obliged to quit the district of Ireland where his property was situated, in consequence of the disturbed state of the country, and of his having by his exertions made himself obnoxious to the disaffected there. His life has been threatened, and his property destroyed. It was therefore directed by the Under Secretary of State's letter of the 14th Septr., 1825, that Mr. Raymond should be provided with a suitable appointment, and that, until means were found for employing him, he and his family should be furnished by Government with the means of subsistence.

Immediately on his arrival, he was appointed to the office of Coroner at Parramatta, and subsequently transferred to the appointment of Post Master General. It is clear, therefore, that, under the ordinary regulations Mr. Raymond was not in a condition to claim a Grant because he was wholly destitute of the means of bringing Land into cultivation, and, ever since his arrival in the Colony, he has been employed in the Government Service.

Appointment of  
J. Raymond as  
coroner and  
postmaster-  
general.

Mr. Raymond has transmitted in support of his claim a copy of the printed paper, which was usually given to Emigrants, bearing date November, 1824, and has accompanied that Document with an affidavit setting forth that it was handed to him at this Office, with an assurance that "himself and Sons would be entitled to Grants of Land on the terms therein set forth."

Criticism of  
claim to  
land grant.

The 12th Section of those terms set forth that no Grant was to be made to any person without purchase, unless the Governor was satisfied that the Grantee had both the power and the intention of expending in the cultivation of such Grant a capital equal to half the estimated value of it.

There is no record of such a promise, as that to which Mr. Raymond refers, having been made to him; and, as I have already stated, it was, when he left this Country, clearly not in his power to fulfil the conditions set forth in the printed Paper.

The length of time which has since elapsed increases the obstacle to a compliance with his request. You will, therefore, acquaint Mr. Raymond that I regret my inability to authorize a compliance with his application.

Refusal of  
land grant.

I have, &c.,

GLENELG.

1838.  
16 July.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 110, per ship Superb; acknowledged by  
lord Glenelg, 14th December, 1838.)

My Lord, Government House, 16th July, 1838.

Transmission  
of letter from  
J. P. Fawkner.

In obedience to Your Lordship's Circular order of the  
5th Decr., 1837, I have the honor to forward herewith a copy of  
the letter, which was transmitted to Your Lordship direct by  
Mr. John Pascoe Fawkner on the 20th July, 1837.

Object of  
letter.

Mr. Fawkner's sole object in forwarding this letter to your  
Lordship seems to have been to prevent any further Grant of  
land in the neighbourhood of Port Phillip being made to Mr.  
Batman, and therefore as a decisive negative was put, not only  
upon any further claim from Mr. Batman but on those of all per-  
sons connected with him or with the Port Phillip Association,  
by your Lordship's Despatch of the 10th July, 1837, No. 341,  
approving Sir Richard Bourke's Despatch No. 121, of the 12th  
Novr., 1836, I hope your Lordship will concur with me in think-  
ing it unnecessary to go further into the subject.

I have only to add that I have made known to Mr. Fawkner the  
substance of that Despatch.

I have, &c.,

GEO. GIPPS.

[A note on the original states that the "enclosure" was for-  
warded direct by J. P. Fawkner.]

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 159, per ship Earl Grey.)

17 July

Sir, Downing Street, 17th July, 1838.

Despatch  
acknowledged.

I have received your dispatch, No. 36 of the 11th of March  
last, enclosing a representation from Mr. Thomas Scott relative  
to an Exchange of Land, which he made in the year 1830, but  
on account of which he now claims compensation.

Refusal of  
application  
from T. Scott.

It is impossible for me to attempt to judge whether the ex-  
change was advantageous to Mr. Scott or the reverse; but, as  
the arrangement appears to have been made with his full con-  
currence, I cannot now direct any alteration in it.

I have, &c.,

GLENELG.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 111, per ship Superb; acknowledged by  
lord Glenelg, 10th December, 1838.)

My Lord, Government House, 17th July, 1838.

In obedience to your Lordship's Circular of the 5th Decr.,  
1837, I have called upon Mr. Jno. Murray, formerly a Serjeant  
in the 50th Regt. and now an outpensioner of Chelsea at 1s. 11½d.

per diem, for a copy of the letter, which he addressed to your Lordship on the 3rd July last, and have received in reply the accompanying Memorial, which bears date the 1st July, 1837, and is addressed to His late Most Gracious Majesty King Willm. 4th.

1838.  
17 July.  
Transmission  
of memorial  
from J. Murray.

In it, Mr. Murray requests a Grant of land in consideration of his services; but, as under the present regulations such grants are strictly forbidden, I have held out to him no hopes of a compliance with his Petition, though I have told him it will be forwarded to Your Lordship.

Tentative  
refusal of  
land grant.

I have, &c.,

GEO. GIPPS.

[Enclosure.]

[A copy of this memorial is not available.]

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 160, per ship Earl Grey.)

Sir,

Downing Street, 18th July, 1838.

18 July.

I have received Colonel Snodgrass's Dispatch, No. 16 of the 2nd of February last, enclosing a representation from the Judges of the Supreme Court on the subject of their Salaries, their claim to retiring allowances, and the order of precedence fixed for the Puisne Judges in the compilation of general Rules recently published for the information of the Public Functionaries in the various Colonies.

Despatch  
acknowledged.

On the first point, you will have the goodness to acquaint those Gentlemen that the information, which I at present possess, would not justify me in recommending to the Lords Commissioners of the Treasury to sanction an increase in the rate of Salary, which has been attached to their respective Offices, and which was not fixed without a due regard to the rank and position which they hold; nor can I entertain the application of the Judges to have retiring Pensions guaranteed to them after a certain fixed period of Service.

Refusal of  
increased  
salaries and  
retiring  
pensions  
for judges.

The terms, however, to which they have referred, of the Regulations on this subject, as well as the instances which they cite in which retiring Pensions have been given to two Judges, are, I trust, sufficient to satisfy them that, in the contingency which they contemplate of a Judge becoming incapable from age or infirmity to discharge the duties of his Office, a fair consideration would be given to his claim to a reasonable retirement.

With regard to the position assigned to the Puisne Judges in the order of precedence laid down in the publication to which they refer, it had not previously occurred to me that there was

Precedency  
given to  
puisne judges.

1838.  
18 July.

any sufficient reason for departing, in the case of New South Wales, from the general rule established on this point. That rule was founded on considerations and analogies drawn from the corresponding usages of this Country and is in force throughout most of the Colonial Possessions of Great Britain. As, however, I should be most unwilling to adopt any measure, which could lessen the respect in which they are held in the Colony, and, as they attach importance to the question of precedency, I am willing to concur in Colonel Snodgrass's recommendation that they should retain the rank which has hitherto been assigned to them.

I have, &c.,  
GLENELG.

Alteration in  
precedency for  
puisse judges.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 112, per ship Superb; acknowledged by Lord Glenelg, 3rd December, 1838, and 26th January, 1839.)

My Lord, Government House, 18th July, 1838.

Your Lordship will not, I am sure, be surprised to hear that the Evidence delivered before the Transportation Committee\* of the House of Commons in the Session of last year has produced a very considerable sensation in this Colony.

Sensation  
caused by  
evidence before  
transportation  
committee.

On the 25th May last, a Meeting was held in Sydney to take into consideration the prejudicial effects which this Evidence was likely to produce on the Colony and a Petition was then agreed to, which, though addressed to myself, had for its prayer the appointment of a Committee of the Legislative Council to enquire into the working of the system of Transportation and Assignment, with a view to counteract as far as possible the evil impressions which may have been produced in England in respect to the social and moral condition of the Colony.

Petition  
prepared to  
contradict  
evidence.

A Copy of this Petition,† which was signed by 67 Magistrates and above 500 individuals of great respectability, I have now the honor to enclose, as also a Copy of the answer which I returned to it. I have further to report to Your Lordship that, on the same day on which I received the Petition, vizt., the 26th June last, I laid it before the Legislative Council, when a debate arose upon it, which by various adjournments was continued 'till the 9th instt., on which latter day it was decided not to appoint a Committee, but to express the opinion of the Council on the subject of the Petition by a string of Resolutions; and I have the honor now further to enclose a copy of the Resolutions† which were accordingly adopted yesterday by the Council.

Debates in  
council on  
petition.

I am happy to be able to report to your Lordship that these protracted debates in the Council have been conducted with the

\* Note 20.

† Note 100.

greatest degree of propriety and good feeling, and that the prayer for the appointment of a Committee of Enquiry was negatived solely from the apprehension, felt by a Majority of the Council, that such an enquiry would tend to revive animosities in the Country, which have now happily in a great degree subsided.

1838.  
18 July.

Reasons against appointment of committee.

It may be perhaps important for me to add that, of the unofficial Members of the Council, two only were decidedly in favor of a Committee, whilst two others were as decidedly opposed to it, and that the remaining two (one being absent from the discussion) were comparatively indifferent as to which method was adopted. The official part of the Council was also divided in opinion, and I made no attempt myself to influence the decision either way.

Individual opinions of members of council.

The Resolutions were adopted in full Council and passed with very little opposition.

Your Lordship will perceive it to be the desire of the Council that they should be laid before both Houses of Parliament, and I have consequently to request that your Lordship will have the kindness to comply with their wishes in this respect.

Resolutions submitted to parliament.

I have, &c.,

GEO. GIPPS.

[Enclosures.]

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

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LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 161, per ship Earl Grey.)

Sir, Downing Street, 19th July, 1838.

19 July.

Your Predecessor having granted to Major Mitchell, the Surveyor General of New South Wales, Leave of Absence from the duties of his office for 18 Months from the 19th of March, 1837, I have now the honor to acquaint you that I have complied with an application from Major Mitchell for an extension of his Leave for one Year.

Extension of leave of absence for T. L. Mitchell.

I have, &c.,

GLENELG.

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LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 162, per ship Portsea.)

Sir, Downing Street, 20 July, 1838.

20 July.

I have received your despatch No. 37 of the 12th March last, enclosing a Memorial from the Executors of the late Mr. John Henderson, praying for a Grant of Land for his Children on the

Memorial received from executors of J. Henderson.

1838.  
20 July.

ground that he was improperly prevented from obtaining a Grant from General Darling in the year 1828. You observe on the apparent similarity between this case and that of Mr. Dawson. Altho' the two cases are in some respects similar, there are material distinctions between them.

Comparison  
of claims of  
R. Dawson and  
J. Henderson.

On referring to Mr. Dawson's Memorial, it appears that, on making his application to General Darling for a Grant, he was not absolutely refused but was informed that his application could not be complied with at that time.

He returned to this Country without abandoning his object, and, in expectation of its accomplishment, he left a considerable quantity of Sheep in the Colony, and, on his arrival here, he lost no time in renewing his application to the Secretary of State.

Under these circumstances, your Predecessor was authorized to grant him land, if there should still appear to be no conclusive reason to the contrary.

Mr. Henderson emigrated in the employment of the Australian Company in a line, which would naturally prevent his attending sufficiently to the cultivation of a Grant; and, altho' his connection with the Company was dissolved for a time, it was renewed, and he continued in their employment until his death.

He does not appear to have received any promise of land from the Government on emigrating, and he cannot be said to have emigrated on the faith of receiving land. His claim is not preferred by himself but by his representatives after his death and nearly seven years subsequent to the change in the regulations for the disposal of Crown Land. Under such circumstances, I feel that I should not be justified in sanctioning a compliance with the present application.

I have, &c.,

GLENELG.

Refusal of  
land grant.

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SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 114, per ship *Superb*; acknowledged by lord Glenelg, 4th December, 1838.)

My Lord,

Government House, 20th July, 1838.

Dissatisfaction  
at disposal of  
immigrants  
ex ship  
*Midlothian*.

I think it my duty to report to your Lordship that considerable dissatisfaction has been expressed in this Colony at the manner in which a number of Emigrants, who reached the Colony in Decr. last by the ship "*Midlothian*," were disposed of, they having been settled as a Body on the River Hunter, and thus become occupiers of land on their own account, instead of being forced to work for wages as farm laborers.

Your Lordship will find that this subject was alluded to in the Memorial, which was presented to me on the 26th June last, and of which I had the honor to forward a Copy with my Despatch No. 112 of the 18th inst.

1838.  
20 July.

The following are the circumstances of the case:—

On the arrival in New South Wales of the ship "Midlothian" with Emigrants from the Highlands and Islands of Scotland in Decr., 1837, a Petition was presented by the Emigrants, through the Revd. Mr. Macintyre who had accompanied them, and the Revd. Dr. Lang the Senior Presbyterian Chaplain, representing that they had been induced to emigrate by the hope held out to them of being enabled to settle in one neighbourhood, so as to be within reach of religious ordinances administered in their Native language, the only one understood by four fifths of their number, and praying that facilities to enable them to do so might be granted by the Government.

Report *re*  
settlement of  
immigrants  
*ex* ship  
*Midlothian*.

The papers having been laid by the Acting Governor, Colonel Snodgrass, before the Executive Council, evidence was taken, by which it appeared that Dr. Lang whilst in England had suggested to the Secretary of State the propriety of granting facilities to Highland Emigrants to enable them to settle together for the purpose stated; that, on the strength of Sir George Grey's reply, Dr. Lang had written a Circular letter, which had been made very widely known, containing an assurance that the Emigrants would not be separated after their arrival either from their Minister or from each other; and that the Revd. Mr. Macintyre, who had come out in the "Midlothian" (and who was the only Clergyman in the Colony able to speak the Gaelic language) was the first person in Scotland with whom Dr. Lang had spoken on the subject.

Under these circumstances, the Council considered that the faith of the Government was to a certain degree pledged, and therefore recommended that, if any one or more proprietors in one District would engage to employ the whole of these Emigrants, who were fit for agricultural labor, they should be allowed means of conveyance to that district at the expense of the Government, with Rations for two months in addition to the month's allowance granted to them in Sydney.

Negotiations to this effect were accordingly entered into with two or three Proprietors, and ultimately Mr. Andrew Lang, a proprietor on the Hunter's River, having offered to receive them as Tenants on terms acceptable to the emigrants themselves, twenty one families, comprising 108 souls, proceeded to that gentleman's estate on the conditions above mentioned in Feby., 1838.

1838.  
20 July.

Report *re*  
settlement of  
immigrants  
*ex* ship  
*Midlothian*.

Your Lordship will perceive from this statement that not only were these families settled in one spot, instead of being dispersed over the Colony, but that the expense of transporting them to the Hunter's River and of finding them provisions for two months, after they had been settled there, was thrown upon the Colony, and that these emigrants have consequently been favored more than others, although there is reason to fear they will prove less useful.

I have, &c.,

GEO. GIPPS.

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LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 164, per ship Portsea.)

21 July.

Sir,

Downing Street, 21 July, 1838.

Approval of  
mounted police  
and officers of  
survey for  
Port Phillip.

I have received Colonel Snodgrass's dispatch No. — of the 23d February last, and I have to convey to you the sanction of Her Majesty's Government to the appointment of a Sergeant and six Rank and file of the Mounted Police of New South Wales for the service of the Settlement at Port Philip and also an addition of one Assistant and a Clerk to the Survey Department in that Province.

I have, &c.,

GLENELG.

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SIR GEORGE GIPPS TO LORD GLENELG.  
(Despatch No. 115, per ship Superb; acknowledged by  
lord Glenelg, 21st December, 1838.)

My Lord,

Government House, 21st July, 1838.

Previous  
reports *re*  
outrages by  
aborigines.

In my Despatches of the 25th and 27th April last, Nos. 67 and 68, I informed your Lordship of various outrages, which had taken place in the remote districts of this Colony beyond what are called the boundaries of Location, and of the measures which it was then my intention to adopt.

In the Despatch of the 25th April, I stated that an enquiry was about to be instituted at Invermein into the circumstances, under which a number of the Aborigines lost their lives in a rencontre with a party of the Mounted Police under the command of Major Nunn, and, in that of the 27th, I informed your Lordship of my intention to issue a Government Notice on the subject, though in a Postscript to the same I stated that, in consequence of events which had come to my knowledge since the Notice was prepared, I had been induced to suspend the issue of it for a few weeks.

Continuance  
of outrages.

I lament now to have to state to your Lordship that, in consequence of the continuance of similar outrages, the calls for the services of the Mounted Police have been so constant that I have



not been able to spare the men, who would have been required as witnesses in the proposed investigation at Invermein, also that, under the advice of the Executive Council, I have refrained from issuing the proposed Notice on account of the degree to which the Public mind continues to be exasperated against the Blacks.

On the 18th ulto., a Memorial was transmitted to me by a number of gentlemen interested in the opening of the Country near Port Phillip, of which I enclose a Copy; but, in so doing, as well as in transmitting to your Lordship a copy of my answer to it, it is necessary that I should explain to your Lordship that some of the gentlemen, who signed this Memorial, had previously waited upon me and requested that I would either myself levy war against the Blacks, or sanction the enrolment of a Militia for that purpose and allow them to be supplied with Arms and Munitions of War from Her Majesty's stores; and that it was (as I presume) in consequence of my declining to do either, that their subsequent Memorial was, contrary to usual practice, addressed to the Governor and the Executive Council instead of the Governor alone.

I have the honor to enclose a short abstract of the principal outrages between Blacks and Whites which have been reported in the last three months. Your Lordship will observe that a large proportion of these acts of violence occurred in the neighbourhood of Port Phillip, or on the road between the settled parts of the Colony and that place; the reason of which is that large herds of Cattle and flocks of sheep have been recently driven through these extensive tracts of Country, with a very insufficient number of people to guard them, often not more than in the proportion of one man to several hundred sheep; That, under these circumstances, predatory attacks should have been made on them by the Natives, does not I must say appear to me in the least degree to be wondered at.

Your Lordship must be aware that it is quite out of the power of this Government to give to the proprietors or their Flocks the protection they desire; even if we were restrained by no sense of humanity towards the Blacks, the resources of the Government would be quite insufficient to keep Military parties always in advance of persons, who are migrating in search of pasturage, advancing often 50 miles in a single season, and in the case of Port Phillip having stretched to a distance beyond our former limits of between three and four hundred miles in the last three years.

If Proprietors, for the sake of obtaining better pasturage for their increasing flocks, will venture with them to such a distance from protection, they must be considered to run the same risk

1838.  
21 July.

Inability to hold inquiry or publish notice.

Memorial from settlers near Port Phillip.

Punitive measures proposed.

Summary of outrages by aborigines.

Inability to grant protection desired by graziers.

Extension of grazing at risk of graziers.

1838.  
21 July.

Extension of  
grazing at risk  
of graziers.

as men would do, who were to drive their sheep into a Country infested with wolves, with this difference however that, if they were really wolves, the Government would encourage the shepherds to combine and destroy them, whilst all we can now do is to raise, in the name of Justice and humanity, a voice in favor of our poor savage fellow creatures, too feeble to be heard at such a distance.

Locality of  
outrages.

Your Lordship will not fail to observe that, of the outrages enumerated in the accompanying list, some took place two or three hundred miles to the North of Sydney, others at more than 500 miles to the South, and some (at Geelong, the Western limit of Port Phillip) at a still greater distance.

Military posts  
proposed  
on road to  
Port Phillip.

In order to keep open the communication between Sydney and Port Phillip, it is my intention, with the concurrence of the officer in command of Her Majesty's Troops, to establish Military Posts on the road; and I forward a sketch on which the places of these proposed posts are marked, they being, as your Lordship will perceive, the places where the road crosses the following streams on the way, vizt., the Murray, the Ovens, the Violet Creek, and the Goulburn.

Attack on  
overlanding  
party of  
G. Faithfull.

It was between the Violet Creek and the Ovens, and at a distance of 400 miles from Sydney, that the attack\* was made on Mr. Faithfull's Convoy of sheep and Cattle on the 11th April last, in which seven of his men were killed, and all the rest dispersed. These men (who were chiefly convicts) did not defend themselves, but ran at the first appearance of their assailants, though, as there were 15 of them with fire arms in their hands, they ought to have beaten off any numbers however great of naked savages.

As soon as information reached me of this aggression, I sent a Magistrate with a party of the Mounted Police to the spot; but, after a fruitless search of 41 days, they returned without having seen a single native. I thought it right to send a Civil Magistrate with the party, and I have the honor to enclose to your Lordship a copy of the Instructions with which I furnished him.

Encounter of  
mounted police  
with  
aborigines.

The 3rd outrage enumerated in the List, which I lay before your Lordship, is one, I lament to say, committed not by the Blacks, but on them. As yet I have received no official report of the circumstances of the case, though I have in like manner, as in the one just mentioned, sent a Civil Magistrate and a Party of Mounted Police to enquire into it, and collect evidence in order to bring if possible the offenders to justice. There is too much reason to fear that in this case twenty two human beings, including several women and children, have been deliberately put

\* Note 83.

to death by a party of white men, and this occurrence happened not in the neighbourhood of the spot, where the attack on Mr. Faithfull's men was made, but a distance\* of perhaps 500 miles to the North of it.

1838.  
21 July.

I have, &c.,  
GEO. GIPPS.

[Enclosures.]

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

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 165, per ship Portsea.)

Sir, Downing Street, 23 July, 1838. 23 July.

I have received Colonel Snodgrass' dispatch No. 28 of the 22d February last, reporting the arrival of the Ship Minerva with Emigrants sent out by private Individuals on Government Bounties and communicating the circumstance that the prevalence of a contagious fever on board that Vessel had rendered it necessary to place the Vessel and passengers under Quarantine.

Despatch  
acknowledged.

I have read this report with much regret. I trust that the bounty was not paid except in respect of Passengers actually landed. It should be generally made known by the local Government that such is the condition on which alone the bounty can be obtained. It would further appear desirable to adopt some measures for imposing on persons, importing Emigrants with a view to the Bounty, such conditions as may appear from experience to be best adapted for the security of their lives and health during the voyage. Those conditions should be as nearly as possible in conformity with such as are imposed on Ship Owners removing Emigrants from this Country under the authority of the Agent General for Emigration.

Conditions for  
payment of  
bounties on  
immigrants.

I have, &c.,  
GLENELG.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 166, per ship Portsea.)

Sir, Downing Street, 24 July, 1838. 24 July.

I have the honor to transmit to you a copy of a communication which has been addressed to me by Sir R. Bourke, with a Memorial from Mr. A. T. Faunce, praying to be relieved from the consequences of Legal proceedings instituted against him for Acts performed in his character of a Police Magistrate, together with a copy of the answer, which has been returned by my direction to Sir R. Bourke's communication; and the substance of which you will make known to Mr. Faunce. I have, &c.,

Transmission of  
correspondence  
re A. T. Faunce.

GLENELG.

\* Note 82.

1838.  
24 July.

[Enclosure No. 1.]

SIR RICHARD BOURKE TO LORD GLENELG.

11 Wilton Street,  
Grosvenor Place, 14th July, 1838.

My Lord,

Application  
by A. T. Faunce  
for relief *vs*  
loss sustained  
as magistrate.

I have the honor to inform your Lordship that, upon my leaving New South Wales (I believe upon the day previous to my embarkation), the accompanying Memorial\* was presented to me at Sydney by A. T. Faunce, Esq., late a Captain in the 4th Regiment of Foot and now a Police Magistrate in the Colony, with an earnest request that I would bring his case under your Lordship's notice. It is fully detailed in the Memorial and is further explained and corroborated in a letter from the Attorney General to the Colonial Secretary attached to that Document. I would particularly beg your Lordship's attention to the Attorney General's letter, and if, upon the grounds therein stated, it shall be found possible to relieve Captain Faunce from any part of the loss to which he has been subjected by the excessive damages referred to, your Lordship's considerate interference will be exercised in behalf of a Person, whom I can with great truth recommend as a very zealous and well meaning Magistrate.

Testimony  
in favour of  
A. T. Faunce.

In the accompanying Memorial reference is made to one from the District of Brisbane Water, which through some mistake has not been forwarded. I can, however, state that I have perused it, and that it speaks in the highest terms of the conduct of Captain Faunce as Police Magistrate of the District, and is, as I have been told and believe, signed by every Landowner in the District, excepting the three gentlemen who were Plaintiffs in the action against him.

I have, &c.,

RICHD. BOURKE.

[Enclosure No. 2.]

SIR GEORGE GREY TO SIR RICHARD BOURKE.

Sir,

Downing Street, 24th July, 1838.

Letter  
acknowledged.

I am directed by Lord Glenelg to acknowledge the receipt of your Letter of the 14th Instant, enclosing a Memorial from Mr. A. T. Faunce, a Police Magistrate of New South Wales, praying to be indemnified from the costs arising out of certain Legal proceedings instituted against him for acts performed in his character of Magistrate.

Inability to  
grant relief.

Lord Glenelg extremely regrets that he finds himself unable to interfere in this matter; first, because, in the absence of any contrary opinion from the Judges, he must assume that the verdicts pronounced in this case were substantially right; and secondly, because the Defendant does not appear to have availed himself of the means open to him of anticipating the Verdicts by a tender of amends or of preventing the second and third by a special application for a change of the Jury, or of reducing the amount by applying for new Trials.

Lord Glenelg has transmitted copies of this correspondence to Governor Sir George Gipps.

I have, &c.,

GEO. GREY.

\* Note 14.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 167, per ship Alfred.)

1838.  
28 July.

Sir, Downing Street, 28 July, 1838.

Appointment of  
W. T. Arnold  
as French  
consular agent  
at Sydney.

A Communication has been received from the Foreign Department enclosing a Commission forwarded to Viscount Palmerston by Count Sebastiani, the French Ambassador at this Court, appointing Mr. William Thomas Arnold to act as French Consular Agent at Sydney.

Having taken an opportunity of consulting Sir Richard Bourke on the subject, I have been informed in reply that he has no particular knowledge of Mr. Arnold, but that, understanding that he is Partner in the House of Mr. George Porter of Sydney, he apprehends that there can be no objection to confirm the Appointment. I have, therefore, to convey to you Her Majesty's authority for enabling Mr. Arnold to enter upon the duties of his Situation, if you should see no objection to the confirmation of his appointment.

I have, &c.,  
GLENELG.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 117, per ship Kinnear; acknowledged by lord Glenelg, 25th January, 1839.)

My Lord, Government House, 28th July, 1838.

Arrival of  
J. D. Pinnock  
at Sydney.

With reference to the latter part of your Lordship's Despatch, No. 46 of the 14th Decr., 1837, I have the honor to report to your Lordship that Mr. J. D. Pinnock arrived in Port Jackson on the 1st July; but, as the vessel in which he came, the "Amelia Thompson," had to perform Quarantine, he did not reach Sydney until the 23rd July.

I have appointed Mr. Pinnock Agent for Emigration agreeably to your Lordship's intentions, and have assigned to him a salary of £500 a year, subject however to your Lordship's approval and on the understanding that the appointment may not possibly prove a permanent one.

Appointment  
as agent for  
immigration.

I have, &c.,  
GEO. GIPPS.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 168, per ship Alfred.)

Sir, Downing Street, 30 July, 1838.

30 July.

Despatch  
acknowledged.

I have received Colonel Snodgrass's dispatch No. 13 of the 13th January last, covering an application from the Bishop of Australia for Eighteen Clergymen of the Church of England in addition to nine, who had actually arrived or were expected at the date of his Lordship's letter.

1838.  
30 July.

Clergy to be  
selected.

I enclose, for your information and guidance, a Copy of the correspondence on this subject with the Society for the Propagation of the Gospel, by which you will perceive that the Society will use their best endeavours to select a certain number of additional Clergymen duly qualified for appointments in the Colony under your government.

I have, &c.,  
GLENELG.

[Enclosure No. 1.]

SIR GEORGE GREY TO REV. A. M. CAMPBELL.

Sir, Downing Street, 19th June, 1838.

Application for  
additional  
clergy.

I am directed by Lord Glenelg to transmit to you, to be laid before the Society for the propagation of the Gospel, the enclosed Copy of a Letter, which has been received at this Department through the acting Governor of New South Wales, covering an application from the Bishop of Australia for Eighteen Clergymen of the Church of England in addition to nine, who had actually arrived, or were expected at the date of his Lordship's letter.

If, from the whole number of twenty-seven Clergymen thus applied for, is deducted the number of fifteen who have already been selected by the Society, there will still remain twelve to be supplied; and I am to request that you will inform me whether there is reason to believe that the Society will be enabled to recommend that number within an early period. I am, &c.,

GEO. GREY.

Possibility of  
nomination of  
clergy.

[Enclosure No. 2.]

REV. A. M. CAMPBELL TO SIR GEORGE GREY.

Society for the Propagation of the Gospel,  
Trafalgar Square, 21st July, 1838.

Sir,

Letter  
acknowledged.

I am directed to acknowledge the receipt of your letter of the 19th of June, enquiring whether the Society would undertake to provide and recommend to Lord Glenelg for chaplaincies in New South Wales twelve clergymen of the Church of England, which number had been applied for by the Bishop of Australia in addition to the fifteen chaplains already appointed for that Colony. In reply, I am to inform you that the Society has resolved to use its best endeavours to select twelve additional Clergymen fitted for the service in question, and, after due enquiry into their characters and qualifications, to recommend them to Lord Glenelg for appointment to the Ecclesiastical establishment of New South Wales.

I am, &c.,  
A. M. CAMPELL.

Clergy to be  
selected.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 169, per ship Alfred.)

31 July.

Sir, Downing Street, 31 July, 1838.

Two police  
magistrates to  
be appointed  
in England.

As it is my intention to select two Gentlemen in this Country to fill the Office of Police Magistrate in New South Wales, I think it right to appirze you of that Circumstance, and

to request that, if any two Vacancies should occur in the List of Police Magistrates, you will report the circumstance, and that the Appointments may be only provisionally filled up.

1838.  
31 July.

I have, &c.,  
GLENELG.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 170, per ship Alfred.)

Sir, Downing Street, 31 July, 1838.

I have received your despatch No. 35 of the 9th March last, respecting an advance which you had authorised to be made to the Commander of the French Corvette "La Heroine" to enable him to defray the expenses of his Vessel during his stay at Sydney.

Despatch  
acknowledged.

I enclose for your information and guidance the copy of a Letter from the Board of Treasury, stating that the necessary steps will be taken for the recovery of the sum advanced from the French Government, and pointing out a more regular mode of proceeding in any analogous case, than that which was adopted in the present instance.

I have, &c.,  
GLENELG.

[Enclosure.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 27th July, 1838.

The Lords Commissioners of Her Majesty's Treasury having had before them the application from the Commander of the French Corvette "L' Heroine" for an advance to enable him to defray the expenses of his vessel during his stay at Sydney, transmitted with the letter from the Governor of New South Wales, reporting that he had given directions, in compliance with the request of the Capitaine Cecille to the Deputy Commissary General, in your letter of the 10th Instant, I have received their Lordships' commands to request you will state to Lord Glenelg that they see no reason to object to this advance having been made, and they will cause the requisite steps to be taken for the recovery thereof from the French Government, upon the receipt from the Commissariat Officer of the Bills or other vouchers for the advance.

Approval by  
treasury of  
advance to  
Cecille.

I am, at the same time, to request you will observe to Lord Glenelg that, as this issue from the Military Chest at New South Wales was not made on account of any Convict Service, for which alone the Civil Governor is properly authorized to direct payments by the Commissariat, it would have been more regular that the Order to the Commissary should have been given by the Officer Commanding the Troops on a communication to him from the Governor.

Instructions  
re similar  
advances  
in future.

I am therefore directed to suggest that an intimation to this effect should be conveyed to Sir George Gipps, for his guidance in the event of any analogous case occurring.

I am, &c.,  
A. Y. SPEARMAN.

1838.  
1 Aug.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 171, per ship Alfred; acknowledged by  
Sir George Gipps, 23rd February, 1839.)

Sir, Downing Street, 1 August, 1838.

Advance for  
emigration  
service.

I have the honor to acquaint you that the Lords Commissioners of the Treasury have directed a further issue of Ten thousand Pounds to be made to the Agent General for New South Wales on account of the Emigration Service of the Colony. You will therefore take measures for repaying that amount into the Military Chest of New South Wales.

I am, &c.,  
GLENELG.

SIR GEORGE GIPPS TO LORD GLENELG.  
(Despatch No. 118, per ship Marinus; acknowledged by  
marquess of Normanby, 3rd March, 1839.)

My Lord, Government House, 1st August, 1838.

Transmission  
of memorial  
from  
W. Morgan.

I have the honor to forward herewith a Memorial, which has been addressed to your Lordship by Mr. Willm. Morgan, who, as agent for Mr. Edward Walkinshaw of Liverpool, was engaged some years since in bringing Emigrants from England to New South Wales.

Request *re*  
remission of  
quit rent  
and purchase  
of land.

In consideration of services alleged to have been rendered to the Colony in this capacity, Mr. Morgan asks for a remission of Quit rents to the amount of £21 6s. 8d. per annum, with which land obtained by him gratuitously in the Colony is chargeable. Mr. Morgan also asks to be allowed to take out in land, at the minimum price of 5s. per acre, the amount of certain promissory Notes (with interest) which he holds from some of the Emigrants brought out by him, but which he alleges he cannot recover in consequence of a remission having been made of debts of a similar nature due by Emigrants to the Government under a Notice\* of the 3rd Novr., 1835, which is also quoted by Mr. Morgan in his Memorial.

Denial of claim  
to remission of  
quit rents.

On the first of these applications, I have to remark that Mr. Morgan has been repeatedly told that, as he was an Agent only and not a Principal in the transaction, he can have no claim for the remission of Quit rents under the Government Notice quoted by him of the 26th Augt., 1831, and more particularly as Bounties were paid on the importation of these very Emigrants.

Objections to  
promissory  
notes of  
immigrants  
for purchase  
of land.

On the second claim in Mr. Morgan's Memorial, or that which relates to payment by the Government of the Promissory Notes, which he (as Agent for Mr. Walkinshaw) holds from certain Emigrants, I have to observe that the speculation, upon which these obligations were incurred, was entered into by Mr. Morgan or his Principals like any other mercantile speculation at their

\* Note 101.



own risk, for their own profit, with their eyes open, and without any guarantee or stipulation whatever with or by the Government. The Notice in question has no reference whatever to private Speculations or private debts; it was published because found expedient and equitable in the progress of the plans for promoting Emigration; and even if it should have had the effect stated, which however is very questionable, as it may be very strongly doubted whether the sums in question would ever have been recovered though no such Notice had appeared, I do not perceive that the Government is in any way responsible for that effect, or bound to make good the deficiency in the receipts alleged to be caused by it.

I have, &c.,

GEO. GIPPS.

[Enclosure.]

[A copy of this memorial is not available.]

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 173, per ship Alfred.)

Sir,

Downing Street, 3d August, 1838.

3 Aug.

I have the honor to acquaint you, with reference to my despatch No. 89 of the 13th of March last, that I have authorized the Agent General for New South Wales to issue to Mrs. O'Brien and Miss Carter, who are proceeding to the Colony as Teachers, an allowance of Forty Pounds each to defray the expense of their passage.

I have, &c.,

GLENELG.

Allowance for passage of school mistresses.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 119, per ship Marinus; acknowledged by marquis of Normanby, 6th March, 1839.)

My Lord,

Government House, 3rd August, 1838.

I have had the honor to receive your Lordship's Despatch of the 26th Oct., 1837, No. 15, transmitting to me further copies of a correspondence with Mr. Robt. Dawson respecting that gentleman's claim to land in New South Wales, and remarking that no answer had been received to your Lordship's former Despatch, addressed to my Predecessor on the same subject on the 15th Sept., 1835; in reply to which, I have the honor to state that, although there is no record of a Despatch from Sir Richard Bourke expressly in answer to your Lordship's Despatch of the date above mentioned, full information with respect to Mr. Dawson's claim was transmitted by my Predecessor on the 7th June, 1837, in a Despatch No. 41 relating to a somewhat similar claim preferred by Mr. Wm. Barton, and at the same time the Minutes

Despatch acknowledged.

Details *re* claims of R. Dawson transmitted by Sir R. Bourke.

1838.  
1 Aug.

Objections to promissory notes of immigrants for purchase of land.

1838.  
3 Aug.

Details *re*  
claims of  
R. Dawson  
transmitted by  
Sir R. Bourke.

Criticism of  
claim of  
R. Dawson.

made by the Executive Council on the claims of Mr. Dawson were transmitted to your Lordship. The claims of Mr. Dawson seem to me to have been very maturely considered by the Council, and, as no new facts are now brought forward by Mr. Dawson, it would not be necessary for me to trouble your Lordship with any further remarks, were it not that much stress is laid by Mr. Dawson upon his not having got the land which he originally applied for. Mr. Dawson however could not possibly in any case have had that land, for a portion of it was included in 1,000 acres purchased by Mr. D. McLeod under an order dated in 1825, and the remainder included in 640 acres, selected under a regular authority on the 31st May, 1828, by a person who would have taken precedence of Mr. Dawson, even if his first application had been admitted; for, though that application was dated the 3rd May, the forms of office alone would have caused a delay more than sufficient to put him behind the person who got possession of the land on the 31st of the same month.

General Darling's first Minute on Mr. Dawson's claim is in fact dated the 16th June following; so that it is quite clear that Mr. Dawson could in no case have had the land he applied for, though it is certainly not to be denied that there would have been a wider extent of land open to his selection in 1828 than there was in 1836.

Decision by  
executive  
council.

The Executive Council declined to go into the question of what the amount might have been of Capital possessed by Mr. Dawson in 1828, considering that, in granting him the whole quantity of land which he asked for in 1828, they fully acted up to the intentions of your Lordship, as communicated in your Lordship's Despatch of the 15th Sept., 1835. That quantity of land, vizt., 1,280 acres, has been selected by Mr. Dawson's Agent, and is now in his possession. It may be however remarked that the schedule of Capital, given in by Mr. Dawson in the year 1836, would scarcely go to substantiate his claim to a larger grant than what he has actually obtained; for in it his sheep and cattle were rated very highly, and the Certificates of Messrs. Spark and Iely, included in the schedule of which I forward a Copy, were no proofs of Capital. The amount of Capital, required for a Maximum Grant in 1828, was £2,000, and, if Mr. Dawson's schedule had been reduced only in the way which I think it ought to have been, the amount (without any off set whatever for debts or obligations) would have fallen short of that sum.

Possession of  
capital  
claimed by  
R. Dawson.

Basis of  
present claim.

The question moreover, your Lordship will not fail to observe, is now argued as if it were admitted that any person, coming to the Colony in 1828, could upon producing proof of a certain amount of Capital demand of the Governor as of right a

proportionate grant of land, which however, as far as I can learn, never has been admitted, and never was the case. The Governor was not only at liberty, but it was his duty to see that land was not given to improper persons, and as Mr. Dawson either had been or was supposed to have been dismissed from the service of the Australian Agricultural Company, sufficient reason might perhaps be found therein for General Darling's having refused to entertain his claim.

I enclose a Copy of a letter, which was addressed by Mr. R. Dawson, Junr., to the Secretary of this Colony on the 24th June, 1836, appended to which is the schedule to which I have referred.

I have, &c.,  
GEO. GIPPS.

1838.  
3 Aug.  
Discretionary  
power of  
governor in  
granting land.

[Enclosure.]

MR. R. B. DAWSON TO COLONIAL SECRETARY.\*

Sir. Ratagan, Hunter's River, 24th June, 1836.

I had the honor to address you on the 29th March last, with an Application for twelve hundred and Eighty Acres of Land, in addition to the two Sections lately granted to my Father.

Since the date of the above mentioned Application, the arrival of Mr. E. B. Mowle, late of the firm of Messrs. Isaac Bunn and Coy., who were my Father's Agents in the Colony, has put it in my power to furnish the Government with a correct Statement of the amount of my Father's Capital at the time of his application in the year 1828.

Transmission  
of statement  
of capital of  
R. Dawson.

Enclosed is an attested Statement of the balance, which he had in the hands of Mr. Bunn in the Year 1828, amounting to Five hundred and twenty Pounds (£520), and also a return of Sheep and Horses in the charge of Mr. Macleod of Ratagan, Hunters River, their nett Value amounting to Twelve hundred and thirty four pounds (£1,234).

These with the accompanying Certificate from Messrs. Icely and A. B. Spark, both at that time Merchants in Sydney, attesting their willingness to Cash my Father's Bills on England to the amount of One thousand Pounds (£1,000) will shew that he could, with his Stock and balance on hands, have proved a Capital to the amount of two thousand seven hundred and fifty four pounds (£2,754) had he been called upon by the Government in the year 1828 to establish his Claim.

Referring to the purchases of the Australian Agricultural Company from the year 1826 to 1828 of Crossbred Sheep from the Messrs. MacArthurs, Bowman, Hawkins, Icely, Rankin, Winder and others, at from three Pounds to upwards of four Guineas per Head, I submit that the Valuation of my Father's flocks is rather under than above their full worth at that time, they being of the finest quality of Wool.

I therefore trust that His Excellency will be pleased to take my Father's case into further consideration and that, on this conclusive evidence, He will see fit to allow him the additional quantity of Land solicited.

I have, &c.,

ROBERT B. DAWSON.

\* Note 102.

1838.  
3 Aug.Statement of  
credit balance  
of R. Dawson.

## [Sub-enclosure No. 1.]

EXTRACT from the Books of the late George Bunn, Esquire, in  
Account with Robert Dawson, Esquire, late Chief Agent of the  
Australian Agricultural Company at Port Stephens.

		£	s.	d.
1827.				
August 5th	.... Amount received from Australian Agricultural Com-			
1828.	pany on Mr. Dawson's account .....	75	0	0
May 28th	.... Amount of Australian Agricultural Coy.'s Bills in			
	your favor .....	200	0	0
" "	.... Do .....	150	0	0
July	.... Cash, Allison's Order .....	15	0	0
August	.... Amount of Bills on England say Joseph Dawson ...	65	0	0
	do. on A. P. Onslow ...	15	3	0
		£520 8 0		

I HEREBY Certify that the above is a true extract from the Books of the late George Bunn, Esquire, and the Amounts at Mr. Dawson's Credit were in the hands of Mr. Bunn from the 5th August, 1827, to 8th November, 1828.

E. B. MOWLE,  
Acting Executor of the late George Bunn.

## [Sub-enclosure No. 2.]

Return of  
live stock of  
R. Dawson.

RETURNS of Sheep and Horses the Property of Robert Dawson,  
Esquire, late Chief Agent of the Australian Agricultural Com-  
pany, in the charge of Alexander McLeod, Esquire, of Ratagan,  
Hunter's River, in May, 1828, and their Value affixed according  
to the Current prices at that time.

	£	s.	d.
Ewes in Lamb by pure Saxon Rams, 219 at £3 .....	657	0	0
Do. Maiden, 60 at £3 .....	180	0	0
Wethers, 92 at £1 .....	92	0	0
Rams of the Pure Saxon breed, 6 at £10 .....	60	0	0
Mares in Foal, 3 @ £50 .....	150	0	0
Horses, 2 @ £40 .....	80	0	0
Colts, 1 @ £15 .....	15	0	0
	£1,234 0 0		

I HEREBY certify that the above is a true and correct return of the number and value of Mr. Dawson's Stock under my charge in May, 1828.

ALEXR. MACLEOD.

## [Sub-enclosure No. 3.]

Certificate  
re finances  
of R. Dawson.

## STATEMENT BY MESSRS. A. B. SPARKE AND T. ICELY.

Sydney, 13th June, 1836.

We the undersigned do hereby Certify that any bills on England, drawn in the year 1828, by Mr. Robert Dawson, late Chief Agent of the Australian Agricultural Company, would have been cashed by us had we required them, to the amount of £1,000 (One thousand Pounds) believing that such Bills would have been honored to their full extent.

A. B. SPARKE.  
THOMAS ICELY.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 174, per ship Alfred.)

6 Aug.

Sir,

Downing Street, 6 August, 1838.

Claims by  
J. R. Brenan to  
employment.

I have had under my consideration Sir Richard Bourke's  
Despatch No. 71 of the 29th July, 1837, on the subject of Mr.  
Ryan Brenan's claims to employment under the Colonial Gov-  
ernment in consequence of the expectations held out to him by  
Lord Ripon in the year 1833 at the recommendation of Mr.  
Spring Rice and Lord Anglesea.

I shall always be happy when it is in my power to fulfil the expectations and to act on assurances which may have been held out by my Predecessors; and it is unfortunate for Mr. Brennan that he has been twice disappointed of being confirmed in Appointments to which he was provisionally nominated. Once by the arrangement, which, while Mr. Spring Rice himself held the Seals of this Department, was made in order to provide for the execution of the Office of Crown Solicitor, and subsequently by an appointment which I made of a Gentleman from this Country to fill the Office of Principal Superintendent of Convicts.

1838.  
6 Aug.

Disappointments of  
J. R. Brennan.

I very much regret the disappointment, which Mr. Brennan has experienced, altho' it appears from the letters relating to his leaving this country that his principal object in going to New South Wales was to become a Settler there.

Under all circumstances however, I feel pleasure in authorising you to offer to Mr. Brennan the office of Clerk of the Crown at Port Philip, the Salary of which has been fixed at £400 a year.

Appointment offered at  
Port Phillip.

I have, &c.,

GLENELG.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 120, per ship *Marinus*; acknowledged by marquess of Normanby, 6th March, 1839.)

My Lord, Government House, 6th August, 1838.

I have the honor\* to forward herewith a Memorial, which has been addressed to your Lordship by Mr. F. Flanagan, praying for an Additional Grant of land, which has been refused to him by the Local Government in consequence of his own neglect in not making his application in proper time.

Transmission of memorial from  
F. Flanagan.

Mr. Flanagan, being a Settler under the orders of 1827 and having complied with the conditions required by them, would have been entitled to an Additional Grant, if his application had been sent in before the 31st Decr., 1837; but his application was made only on the 6th June, 1838, nearly a year after the Notice requiring claims for additional Grants to be sent in by the 31st Decr., 1837, was published in the Colony.

Reasons for refusal of  
land grant.

Your Lordship will perceive that Mr. Flanagan attempts to account for his delay by stating that he resides at a great distance from the seat of Government, and that he is frequently months at a time without receiving news from Sydney; but Mr. Flanagan nevertheless acknowledges that he did get intimation of the Government Notice on the Eve of Christmas day, and therefore his not writing to the Government for nearly six months afterwards must surely I think be charged on him as negligence.

Reasons of  
F. Flanagan  
for delay in  
application.

1838.  
6 Aug.  
Reasons for  
refusal of  
land grant.

It being your Lordship's instructions that, in all cases of additional grants, the Regulations are to be construed strictly, I have not thought it within my power to set them aside in this case, especially as the falling off in our Land Revenue must be in great measure attributed to the fact of a very large quantity of land having been given away in additional grants during the course of the last year.

The only case, which can be quoted as a precedent in favor of Mr. Flanagan, is one in which a Mr. McIntyre was allowed an additional Grant by the late acting Governor; in his case however, the delay was only of six days instead of six months; and I must further observe that, if Mr. Flanagan's Petition be granted, it is impossible to say how many more claimants may be let in by it.

Notice issued  
re claims to  
land grants.

I enclose a Copy of the Government Notice, issued in this Colony on the 27th June, 1837, by which it was required that all claims should be sent in by the 31st Decr. in the same year. The right of the Local Government to issue such an order may possibly be doubted, though, unless some period had been fixed for the receipt of applications, the greatest inconvenience might have ensued.

Distance of  
residence of  
F. Flanagan.

The best argument to be adduced in favor of Mr. Flanagan is that he resides 200 miles from Sydney, and at a distance of 50 miles from the nearest Post, and it is for your Lordship to say whether under these circumstances his claim should be admitted.

I have, &c.,  
GEO. GIPPS.

[Enclosure.]

Memorial of  
F. Flanagan  
soliciting  
land grant.

THE Humble Memorial of Francis Flannagan, of Pargago Flat, in the County of St. Vincent, and Colony of New South Wales, Farmer and Grazier,

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

Sheweth,

1. That, in the month of May, 1827, your Memorialist emigrated from Great Britain to the Colony aforesaid for the purpose of permanently settling therein as an Agriculturist, on the faith of the Regulations then in force for the granting of Crown Lands.

2. That your Memorialist arrived in the said Colony in the month of November in the same year, bringing with him a bona fide capital, entitling him under the said Regulations to a Maximum Primary Grant of four sections, or two thousand five hundred and sixty (2,560) Acres.

3. That, by two letters from the Honorable the Colonial Secretary, each dated the 24 July, 1829, your Memorialist was authorised to take possession of two portions of land, of twelve hundred and eighty (1,280) acres each, both situate at Pagago Flat aforesaid, and adjoining each other.

4. That one of the said portions was given to your Memorialist as an immediate Grant, and the other as a Reserve, with a written promise under the hand of the Colonial Secretary in the following words, namely:—

1838.  
6 Aug.

Memorial of  
F. Flanagan  
soliciting  
land grant.

“This Reserve will be confirmed as a Grant, provided it shall appear, at the end of twelve months, that you are settled on the land.”

5. That your Memorialist having strictly complied with the conditions of the said promise, the two said several portions became thereby consolidated into the Primary Maximum Grant to which his capital entitled him at the outset, but which was thus divided because, as your Memorialist understood, His Excellency had some doubt as to his intention to settle upon the land.

6. That the said Primary Grant is the only land your Memorialist has ever received from the Government.

7. That your Memorialist has continued to reside upon the said land from the date of his obtaining possession thereof to the present time.

8. That, at the end of seven years from the date of possession, your Memorialist had made permanent improvements on his said Grant to a large extent, consisting of upwards of four hundred (400) Acres cleared, and under cultivation; about twelve miles of fence; eight miles of bush road; three bridges; dwelling house, stores, stables, barn, dairy, stock-yards, and divers other premises; in which improvements he sunk a capital exceeding three thousand pounds (£3,000) sterling, being considerably more than five times the value of the land, estimated by the Government Notice of 27th June, 1837, at three shillings and four pence an acre.

9. That, at the end of the said seven years, your Memorialist was possessed of a bona fide capital, exceeding seven thousand pounds (£7,000), consisting of—

Horned Cattle, upwards of 800 head, valued at £5 p. head .....	£4,000
Horses, 12 (superior breed), valued at £40 p. head ...	480
Pigs, 200, value at £1 p. head .....	200
Implements of Husbandry .....	200
Cash .....	600
Real Estate .....	2,000
	<hr/>
	£7,480

Any requisite portion of which capital was applicable to the improvement of an additional Grant. His Capital is at the present time considerably greater than it was then, and is equally applicable to such improvement.

10. That your Memorialist is not aware that he is indebted to the Government for Quit Rent, the Deeds of Grant of his said land not having yet issued.

11. That your Memorialist has thus complied with all the conditions upon which Additional Grants were promised by His Majesty's Government in the Regulations of 1826-7.

12. That, before the expiration of the aforesaid term of seven years, the new Regulations of His Majesty's Government of June, 1831, abolishing the system of alienating Crown Lands otherwise than by sale, came into operation, and from the absolute and unconditional terms in which they were promulgated by the local Government (*Vide Appendix A*) he was led to understand, in common

1838.  
6 Aug.

Mémorial of  
F. Flanagan  
soliciting  
land grant.

with the Colonists generally, that the said Regulations were intended peremptorily and abruptly to bar and extinguish all future claims whatsoever to free Grants; nor was it until his attention was called to the Government Notice of the 27 June, 1837,\* respecting "Additional Grants," that he became aware that it had not been contemplated, nor by any means intended by His Majesty's Government that the said Regulations should be construed to the prejudice of rights accruing to individual Settlers out of the previous system.

13. That your Memorialist respectfully entreats your Lordship's attention to the facts out of which has arisen the necessity of his present appeal, and which he now proceeds to state.

14. That, by the aforesaid Government Notice of 27 June, 1837, it was directed that all persons, whose term of seven years had then expired, should apply for their Additional Grants on or before the 31 December then next ensuing.

15. That, at the date of the said Notice, and for upwards of six months thereafter, your Memorialist was residing upon his farm, which is situate on the extreme southern boundary of the Colony, distant from Sydney two hundred and forty miles, and upwards of fifty miles from the nearest Post; and the last fifty miles of country between his farm and Sydney being almost impassable, by reason of mountains, rocks and gullies, communication by land is extremely rare, and your Memorialist nearly altogether depends upon communication by sea, for which purpose he has usually to charter small coasting vessels. Hence it not infrequently happens that intervals of five or six months occur between his opportunities of correspondence with the seat of Government; in illustration whereof, he begs to mention that four or five months after the accession of Sir Richard Bourke to the Government, so ignorant was your Memorialist of His Excellency's arrival, that he addressed a Memorial to the Acting Governor, Colonel Sir Patrick Lindesay.

16. That, under these circumstances, your Memorialist had no knowledge whatsoever of the Government Notice until he was informed thereof by letter from his son, a youth at School in Sydney, which letter reached him only two days before last Christmas Day.

17. That at the time your Memorialist received the said letter, he was without an Overseer, and, it being the season of wheat-harvest, it was impossible for him to leave his farm without at once endangering his whole establishment, and violating the Government Regulations by leaving his numerous convict Servants, in so remote a situation, uncontrolled either by their Master or by a free Overseer; and, immediately after harvest, he was for five or six weeks laid up by a severe attack of illness.

18. That, by the very first opportunity he had of communicating with Sydney, namely, on the 10th of March last, your Memorialist wrote a Letter to his friend Mr. Thomas Connolly, Librarian of the "Australian Subscription Library," stating the particulars of his claim to an Additional Grant, and requesting his advice as to the proper mode of presenting the same, to which letter, after the lapse of several weeks, your Memorialist received an answer informing him that, Mr. Connolly having consulted an intelligent gentleman on the subject, he was of opinion that, under the peculiar circumstances, the Government would waive the point of form as to the

\* Vide New South Wales Government Gazette of 28 June, 1837.



limitation of time, and advising that he should proceed to Sydney as early as possible. (*Vide Appendix B.*)

19. That, in pursuance thereof, your Memorialist hastened to Sydney by the first conveyance, though at great loss and personal inconvenience; arrived there on the 1st ultimo; and, having occupied a few days in collecting information, presented his claim by a short and simple Memorial to His Excellency Sir George Gipps, dated the 6th ultimo, in which, however, he did not, as in the present Memorial, give a full and explicit narrative of the circumstances connected therewith.

20. That in reply to his said Memorial, your Memorialist received a letter from the Honorable the Colonial Secretary, dated the 12th ultimo, informing him, by direction of His Excellency the Governor, that, as the delay of six months (that is, from Christmas) in making his application was quite unaccounted for, His Excellency could not admit the claim. (*Vide Appendix C.*)

21. That, in answer to the said letter, your Memorialist addressed to the Honorable the Colonial Secretary a statement dated the 16th ultimo, somewhat explanatory of the delay objected to; but, from the Secretary's reply thereto, dated the 3rd Instant, it would appear that that statement was not deemed sufficiently explicit, your Memorialist being informed that His Excellency could not reverse his former decision. (*Vide Appendix D.*)

22. That, whilst your Memorialist can readily understand that His Excellency would not feel himself authorised, unless on very strong and palpable grounds, to depart from the letter of your Lordship's instructions, and of the Government Notice issued thereon by His Excellency's predecessor, he yet humbly but confidently appeals to your Lordship for a candid and beneficent consideration of all the circumstances of his case, feeling assured that your Lordship, in the exercise of a sound discretion, will not permit the *merits* of his claim to be sacrificed to a mere point of *form*, when non-compliance with that form was caused by *physical impediments beyond his control*.

23. That, although your Memorialist conceives he might safely leave his case to be determined upon its own independent merits, he begs to mention, as at least one precedent for a relaxation under special circumstances of the rule limiting the time for such applications, that Mr. Donald MacIntyre, an Emigrant Settler of the same standing as your Memorialist, was permitted to put in his claim to an Additional Grant after the lapse of the prescribed period, the Government Notice, as in the case of your Memorialist, not having come to his (Mr. MacIntyre's) knowledge until it was too late to apply within the rule.

Wherefore your Memorialist humbly prays, that your Lordship will be pleased to take the premises into your favorable consideration, and thereupon to authorise and instruct His Excellency the Governor of New South Wales to refer his claim herein to the Commissioners\* appointed under the Act of the local Legislature, 5th William IV, No. 21, and, upon his affording reasonable proof of the aforesaid improvements and Capital, to make to your Memorialist such Additional Grant of Land as he is thereby entitled to under the Regulations of 1826-7.

And your Memorialist will ever pray, etc., etc..

F. FLANAGAN.

New South Wales, 7th June, 1838.

1838.  
6 Aug.

Memorial of  
F. Flanagan  
soliciting  
land grant.

\* Note 103.

1838.  
6 Aug.

Abolition  
of free  
land grants.

[Appendix A, referred to in Paragraph 12.]

EXTRACT from Government Notice, dated 1st July, 1831.

"It has been *determined* by His Majesty's Government that *no land* shall, in future, be disposed of in New South Wales, or Van Diemen's Land, *otherwise* than by *public sale*.

"His Majesty's Government having deemed it expedient to *substitute* new Regulations for those at present in force, respecting the system of granting land in the Australian Colonies, and according to which *no land* will in future be disposed of otherwise than by *public sale*," etc.

EXTRACT from Government Order, dated 1st August, 1831.

Land to  
be sold  
by auction.

"HIS EXCELLENCY the Governor directs it to be notified that *all Crown lands* will in future be disposed of *only* according to the Regulations published in the Government Notice of the 1st of last month" (i.e., the Notice from which Extracts are given above).

EXTRACT from "Summary of the Existing Land Regulations," dated the 1st November, 1831, and officially published, "for general information," in the Australian Almanack for the year 1832.

"HIS MAJESTY'S Government having *determined* to dispose of Crown Lands by *sale only* (printed in Italics) *all former Regulations on this subject have been rescinded*."

[Appendix B, referred to in Paragraph 18.]

Certificate of  
T. Connolly.

I HEREBY certify, that the statement made in the 18th Paragraph of the foregoing Memorial, respecting the Memorialist's letter to myself, and my answer thereto is strictly true and correct.

Witness my hand this 7th July, 1838.

THOS. CONNOLLY.

[Appendix C, referred to in Paragraph 20.]

(No. 38/523.)

Refusal of  
additional  
land grant.

Sir,  
Colonial Secretary's Office, Sydney, 12 June, 1838.  
With reference to your Memorial dated the 6th Instant addressed to the Governor, claiming an additional Grant of Land, I am directed by His Excellency to inform you that, according to your own statement, you became acquainted with the Regulations in December last, and that, as the delay of six months in making your application is quite unaccounted for, His Excellency cannot admit your claim.

I have, &c.,

T. C. HARRINGTON.

Mr. Francis Flanagan, care of Mr. Connolly, Australian Subscription Library, Sydney.

[Appendix D, referred to in Paragraph 21.]

(No. 38/571.)

Decision  
confirmed.

Sir,  
Colonial Secretary's Office, Sydney, 3 July, 1838.  
I duly received and submitted to the Governor your letter of the 16th Ultimo explanatory of the delay in your making application for an additional Grant of Land, and in reply am directed to acquaint you that His Excellency cannot reverse his former decision, as communicated to you by my letter of the 12 Ultimo.

I have, &c.,

J. DEAS THOMSON.

Mr. F. Flanagan, care of Mr. Connolly, Australian Subscription Library.

[A copy of the issue of the *New South Wales Government Gazette*, dated 28th June, 1837, was also enclosed.]

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 175, per ship Alfred.)

7 Aug.  
Despatch  
acknowledged.

Sir,

Downing Street, 7 August, 1838.

I have received Sir Richd. Bourke's Dispatch No. 105 of the 1st of November last, enclosing a copy of a Notice issued by the Local Government of New South Wales on the 27th of June,

1837, relative to the admission of claims of certain Colonists to additional Grants under the terms of the Land Regulations of 1826 and 1827.

1838.  
7 Aug.

Sir Richard Bourke was quite Correct in assuming that, in my Dispatch of the 31st July, 1826, I did not anticipate any other claims than those of persons actually leaving England on the faith of the general Regulations of 1826 and 1827. It was my intention to limit the instructions contained in that Dispatch to those cases, and a further extension of it does not appear to me to be called for by strict justice, while it would be productive of the greatest inconvenience.

Intentions  
re claims to  
additional  
land grants.

I am, therefore, unable to sanction a compliance with any of the applications for additional grants, to which Sir R. Bourke's dispatch refers.

I have, &c.,

GLENELG.

---

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 121, per ship *Marims*; acknowledged by marquess of Normanby, 7th March, 1839.)

My Lord,

Government House, 8th August, 1838.

8 Aug.

I have the honor to forward herewith two Memorials, which have been addressed to your Lordship by Mr. James King.

Transmission  
of memorials-  
from J. King.

The first of these, marked A, has simply for its object to get compensation for an injustice which Mr. King alleges he suffered from the Local Government of New South Wales in the year 1827, in which year he obtained from General Darling a Grant of 1,920 acres of land in lieu of 2,560, to which he thinks he was entitled. But, as there is no reason to doubt the sound discretion exercised in 1828 by General Darling, or to conclude that the Government of New South Wales was obliged at that time to give land to any person who claimed it on the mere proof of the possession of a certain amount of Capital, I do not think it necessary to say more on the subject of this Memorial.

Claim to  
land grant  
in extension.

Criticism  
of claim.

The second Memorial, marked B, embraces two topics; one has reference to a secondary Grant of land, the other to a reward for services alleged to have been rendered to the Public.

With respect to Mr. King's secondary Grant, being a settler of 1827 and having complied with the terms on which he received his first Grant of 1,920 acres, he has an acknowledged claim to a Secondary Grant under the orders, that have been issued and acted on in the Colony since the receipt of Your Lordship's Dispatch No. 180 of the 31st July, 1836. But a question has arisen whether, in Mr. King's case and in a great number of similar ones, this secondary grant is to be a maximum one or

Claim by  
J. King to  
secondary  
land grant.

1838.  
8 Aug.

Problem for  
decision.

Reward  
claimed for  
discovery of  
sand suitable  
for glass.

only equal to the amount of the primary grant. This question was referred to your Lordship in the case of Mr. Richard Glanville by the late acting Governor in his Despatch No. 19 of the 5th Feby., 1838, and Mr. King has already been told that the decision of your Lordship in that case will rule all similar ones.

The second point in Mr. King's second Memorial has reference to a remuneration claimed by him on the ground of services alleged to be rendered by him to the Public. I have no reason to doubt the truth of the facts set forth by Mr. King, either in respect to his being the first person who sent sand from this Country to England for the purpose of being manufactured into glass, or to his having established a Pottery at his estate of Irrawang; but I cannot on account of either of these facts, meritorious as they may be, undertake to advocate with your Lordship his claims to any greater reward\* than that which has been already offered to him, vizt., a remission in the purchase of land to the amount of £100.

I have, &c.,

GEO. GIPPS.

[Enclosure marked A.]

THE Memorial of James King of William's River, in the Colony of New South Wales,

To The Right Honorable Her Majesty's Principal Secretary of State for the Colonies, etc., etc., etc.

Humbly Sheweth.

That your Memorialist, having emigrated to this Colony from Scotland in the year 1827, procured a grant of Land of one thousand nine hundred and twenty acres, whilst his available capital, as proved before the Land Board which investigated his claim, entitled him under the Regulations then existing to a grant of 2,560 acres.

That your Memorialist, instead of remonstrating against this curtailment of the quantity of Land, to which his capital gave him a rightful claim, proceeded forthwith to improve the quantity actually granted, on the faith of availing himself of that clause in the Regulations which promised a grant in extension.

That, accordingly in the year 1829, after expending the necessary amount of capital in improvements on his primary grant, Your Memorialist made application, in terms of the abovementioned clause, for an extension of the said grant to the maximum quantity, but that, contrary to his reasonable expectations, this application on the part of your Memorialist was not acceded to by the Local Government.

That your Memorialist, conceiving at the time that this breach of faith was the result of specific instruction from the home Government, deemed it hopeless to urge further his rightful claim.

That, having now learned the absence of all design on the part of the Government at home to violate that clause of the Regulations referred to, and learning at the same time that the refusal given to your Memorialist's application had resulted from a temporary

\* Note 104.

Memorial  
of J. King  
soliciting  
grant in  
extension.

suspension of part of the Land Regulations at the instance of His Excellency Governor Darling, whilst the clause in question authorising Grants in extension was acted on subsequently (as it had been previously) to the period of such suspension, during which period your Memorialist's application had unfortunately been preferred. Your Memorialist therefore considers his claim to a "grant in extension" still valid; and also aware that the Local Government is not now authorised to entertain such claims, humbly and most respectfully solicits that Your Lordship, upon a review of his case, will authorise the Local Government to issue to your Memorialist such an extension of his primary grant as he was justly entitled to by the terms of the Regulations, then existing.

And your Memorialist will ever pray.

Sydney, 2d May, 1838.

JAMES KING.

1838.  
8 Aug.

Memorial  
of J. King  
soliciting  
grant in  
extension.

[Enclosure marked B.]

THE Memorial of James King of William's River, in the Colony  
of New South Wales.

To The Right Honorable Her Majesty's Principal Secretary of  
State for the Colonies, etc., etc., etc.,

Humbly Sheweth

That, by a letter dated 16 February last from the Honorable The Colonial Secretary here, authorising to him a secondary Grant of 1,920 acres of Land, he is advised that the Commissioners of claims for secondary Grants have recommended your Memorialist to a secondary Grant of 2,560 acres; but that the claim for the remaining 640 acres should await the decision of a similar case, which had already been referred to your Lordship's consideration, although your Memorialist cannot see in his case reason for withholding a portion of the quantity recommended by the said Commissioners.

That, in corroboration of this view, your Memorialist begs most respectfully to submit to your Lordship the following facts, which may possibly differ from those of the case already referred to your Lordship; but your Memorialist in the first instance in the year 1827 received less land than his capital entitled him to by the existing regulations. Subsequently, in consequence of a temporary suspension of the Land Regulations by the Local Government in 1830, your Memorialist was refused his claim for an extension of his original Grant, a claim which is altogether distinct from the one now urged; and which Your Memorialist has done himself the honor of submitting in a separate memorial to your Lordship's consideration.

That the further ground, on which Your Memorialist rests his claim, not merely for the additional 640 acres recommended by the Commissioners of claims, but for such an amount of Land *in addition* as Your Lordship shall deem adequate to meet the circumstances of his case, are as follows, vizt.:—

Your Memorialist has proved to the satisfaction of the Commissioners that he had expended in permanent improvements on his primary Grant *two years ago* the sum of £2,900; and up to the present time, a sum of not less than £3,330, while the regulations required the expenditure of only £1,600 to entitle him to a secondary Grant.

Memorial  
of J. King  
soliciting  
secondary  
land grant  
and reward  
for discovery  
of sand suitable  
for glass-  
making.

1838.  
8 Aug.

Memorial  
of J. King  
soliciting  
secondary  
land grant  
and reward  
for discovery  
of sand suit-  
able for glass-  
making.

Independent of the above amount expended in improvements on his primary grant, Your Memorialist is possessed of available capital to the amount of not less than £7,000, as proved before the Commissioners, besides of several other portions of valuable landed property in various parts of the Colony, the value of which it was not necessary to lay before the Commissioners, as the possession of capital to the amount of £2,000 entitled your Memorialist to a secondary grant of 2,560 acres.

Your memorialist has at very considerable expense established in the Colony a manufactory of Brown Earthenware for the production of such articles as, from their great bulk and risk of breakage, cannot conveniently be supplied by the Mother Country.

Your Memorialist brought before the notice\* of one of Your Lordship's Predecessors in Office, in the year 1833, his discovery of the superior quality of the sand of this Colony for the production of fine crystal glass; a copy of this communication which failed in obtaining the object in view is herewith transmitted for your Lordship's perusal. In doing so, your Memorialist begs to call your Lordship's attention to the growing importance of this discovery inasmuch as, since the date of the above communication, some hundreds of Tons of this sand have been imported as ballast into England by various parties resident in Britain, Your Memorialist having no pecuniary interest whatever in traffic hence arising; and Your Memorialist takes this opportunity of again urging on the notice of your Lordship the inadequacy of the premium\* awarded to him by the Government for the expenses, troubles, etc., attendant on the experiments, which brought into Public notice and established the value of the discovery in question. The Society of Arts in London, however, in order to bear testimony of the merits of this discovery have since and without solicitation awarded to your Memorialist its large Silver medal.

In fine your Memorialist begs respectfully to call your Lordship's attention to the fact that many persons have obtained Grants of Land far beyond what is denominated a maximum grant; whilst some of those grantees have never yet thought it worth while to expend any capital in improvements at all. And of a number of grants that might be mentioned, your memorialist would specify on this head 10,000 acres granted to Mr. John M'Arthur, 10,000 acres to Mr. R. Jones, 5,000 or 10,000 to Mr. Kent, 10,000 to Sir Thomas Brisbane since leaving the Colony, 10,000 to Mr. H. Davis, who has never been in the Colony at all.

From the foregoing considerations, therefore, vizt. :

- 1st. By emigrating to the Colony with capital at first;
- 2d. By continuing to reside in the Country and improve to a great extent his primary grant;
- 3d. By now possessing a considerable amount of capital, available for the further improvement of his landed property;
4. By introducing into the Colony an important and useful domestic manufacture;
5. By discovering and bringing into notice a source of lucrative commerce to the Colony, advantageous at the same time to science, and to the Commercial and manufacturing interests of Great Britain;

\* Note 104.

6th. By comparison with the circumstances, conduct and position of others, who are extensive grantees of Land from the Crown;

Your Memorialist most respectfully submits to Your Lordship that he is entitled, not only to the grant in extension, referred to in his previous memorial, and to the remaining 640 acres recommended by the Commissioners of claims, but also to such additional remuneration, as Your Lordship from an impartial review of his case, will naturally deem merited and equitable.

And your Memorialist will ever pray.  
Sydney, 2d May, 1838.

JAMES KING.

1838.  
8 Aug.

Memorial  
of J. King  
soliciting  
secondary  
land grant  
and reward  
for discovery  
of sand suit-  
able for glass-  
making.

[Appendix A.]

STATEMENT BY REV. H. CARMICHAEL.

I CONSIDER it altogether due to Mr. King's ingenuity, enterprise, and perseverance, when applied to for this purpose, to certify most readily that I have visited his Pottery at Irrawang, on the River William, and have seen the Pits, Buildings, Kilns, Materials, Moulds, Machines, Implements and other appliances, used in the Earthenware Manufactory there established.

Statement  
by Revd.  
H. Carmichael  
re pottery  
established  
by J. King.

The expenditure of Capital, patience and Skill, necessary to the formation and successful play of such a series of operations as is now maintained at the Irrawang Pottery, cannot in my opinion be adequately appreciated in the Mother Country, where the facilities and appliances for conducting such operations are ample, and where appropriate labour is easily obtained. In New South Wales, in the present state of its advancement as a community, the difficulties to be overcome in establishing so effectually a manufacture of the sort are next to insuperable, the outlay of Capital and labour necessarily great.

I have seen the Irrawang Ware in General Sale about Sydney, and have always understood its character, as to quality, to be excellent. I can bear direct testimony to the excellence and usefulness of such samples of it as have been, and now are, in constant use in my own house. The manufacture, in a public view, I consider of essential value to the Colony; inasmuch as it is fitted to furnish to the Colonists, at a moderate price, a supply of such indispensable articles of Earthen-ware for domestic and other purposes, as cannot be procured from England, except at a risk and consequent expence which raise their price much beyond their intrinsic value.

HENRY CARMICHAEL, A.M.,  
Vice-President of the Mechanics' School  
of Arts, Sydney, New South Wales.

Normal Institution, 29th March, 1838.

[Appendix B.]

MR. J. KING TO VISCOUNT GODERICH.

My Lord, New South Wales, Sydney, 1st July, 1833.

The liberty, which I now take in again addressing\* your Lordship through His Excellency Governor Bourke on the subject of my discovery of the value of the white sand contiguous to the Harbour of Port Jackson, arises from my having had the honour

\* Note 105.

1838.  
8 Aug.

of receiving a communication upon the subject from the Honorable the Colonial Secretary here, of which the following is a copy:—

(No. 33/360.)

Sir, Colonial Secretary's Office, Sydney, 11th June, 1833.

Reward  
granted to  
J. King for  
discovery  
of value  
of sand.

The Governor having brought under consideration in Council a Letter\* from Mr. Under Secretary Hay, dated 2nd October, 1832, having reference to an application made by you for a Grant of Land as a reward for the discovery of a tract of sand adapted for the manufacture of Flint Glass, I am directed to inform you that it was decided, that it be recommended by His Excellency to the Secretary of State to grant you a remission in the purchase-money of land to the extent of One Hundred Pounds. I have, &c.,

James King, Esq., Sydney.

T. C. HARRINGTON.

On receiving this official document, I was unwilling to consider the compliment passed in my favour, as other than a mere expression on the part of our Colonial Executive Council of their wish to support cordially any claims, which justice and expediency might dictate to your Lordship as rightfully urged by an individual placed in my situation. And I am accordingly glad to learn, from the verbal assurances of several Members of the Council themselves, that this view of the matter is in accordance with their *individual* feelings upon the subject, although the terms of their official letter authorises a contrary conclusion. This hundred-pounds worth of drawback in the purchase of land (provided I should ever find it convenient to advance the additional purchase-money, which would, even under these circumstances, be necessary to put me in possession of the smallest section vendible under the existing regulations) is merely a well-meant act of appreciation here, which cannot be considered as a rule to guide your Lordship in placing upon public record the sense of a British Statesman of the merit involved in a discovery of high scientific value and national importance, but not of any individual profit to the discoverer.

Evidence of  
value of  
discovery.

In order, therefore, to bring before your Lordship the true merits of the case, I beg to submit to your Lordship's perusal, the accompanying documents (vizt.):

1. Appendix A, containing extracts from the correspondence of Messrs. Buckles, Bagster and Buckle, of London; wherein these highly respectable Merchants and Ship-owners express their opinion of the value of the sand in question, as ballast for ships home-bound from the Colony.

2. Appendix B, being part of the report of Messrs. Pellatt and Co., the well-known Glass Manufacturers, wherein testimony is borne to the superior quality of the crystal glass, manufactured at their establishment, out of Sydney sand, transmitted to them by me for that purpose through the firm of Messrs. Buckles, Bagster and Buckle.

3. Appendix C, being an extract from a Letter on this subject by James Dunlop, Esq., F.R.S., Government Astronomer at Parramatta, wherein that able optician and mechanic passes judgment on the advantages derivable by science from the discovery in question.

4. Appendix D, being an extract from a Report made of an introductory Lecture, delivered at the opening of the "Sydney Mechanics' School of Arts" by the Vice-President of that Institution,

\* Note 195.



of which His Excellency Governor Bourke is Patron; wherein is shewn the estimation in which this discovery is held by men of general intelligence in the Colony.

1838.  
8 Aug.

The first three of the documents here referred to, together with several others relating to the same subject, are already, I believe, at full length in your Lordship's possession.

As a further guide in coming to a right judgment in this matter, I beg to call your Lordship's attention to Appendix E, which specifies instances wherein Bonuses have already, in similar cases connected with this Colony, been awarded to individuals, either by your Lordship or your Lordship's predecessors in office. And, in order that my individual case may not seem unworthy to be considered in connection with these, I crave the indulgence of your Lordship, whilst I endeavour to bring the peculiar circumstances of my discovery under your Lordship's notice.

Rewards  
granted for  
services to  
colony.

In the first place, I have received no mercantile advantage from my exertions in this matter. Nor am I, as an individual, ever likely to derive any; because, for many years to come, it will be hopeless for a maker of glass in this Colony to compete profitably with the glass manufacturer in the Mother Country; and because, moreover, there can be no profit derivable from any use of the sand in question, which, under the existing laws of the country, would not be at the command of every other capitalist as well as of myself;\* whilst my country in particular, by the consequent improvement of its crystal and plate glass, and the world in general, both by this acknowledged improvement and by the probable extension of science through the greater efficiency of optical instruments, will, in the meantime, certainly reap whatever amount of advantage may be due to the discovery.

Absence of  
pecuniary profit  
from discovery.

In comparing this with instances specified in Appendix E, your Lordship will perceive how much better fitted for becoming sources of profitable speculation to the parties concerned are the cases referred to; and although the superior profitableness of any speculation consequent on the exertions and sagacity, involved in any of the cases mentioned, by no means detracts from the merits of the parties immediately interested, yet in my case, I humbly conceive that the absence of profit to myself strengthens my claim for remuneration from the Public, who thus solely reap the benefit of my individual exertions.

In the next place, I beg to call your Lordship's attention to the *certain* results of my discovery. The sand got here is of greater purity than sand found anywhere else. And, as the quality of glass is dependent on the purity of the sand which forms the main ingredient of its composition, you have here, in exhaustless abundance, the peculiar means of bringing the crystal and plate glass of the United Kingdom to such a state of perfection, as shall render its excellence unrivalled in the market of the world.

Value of  
discovery.

Besides I feel confident that your Lordship, as an enlightened man, interested in the scientific fame of our common country, will not overlook the value of that vantage-ground, on which (through the exclusive possession of this essential element in the manufacture

\* This sand results from the decomposition of the white sand-stone of the coal formation (which is the geological character of the coast about Port Jackson), and constitutes the soil of the country, which is still a large proportion the property of the Crown.—J.K.

1838.  
8 Aug.

Value of  
discovery.

of fine glass for philosophical purposes) the British Astronomer, Optician, and Experimental Philosopher are placed. For forty years past have men of all ranks here trode unheeded this storehouse of philosophical power; whereas, had its treasures been for this long period at the services of the British manufacturer, who can tell how eminent, at the present moment, Great Britain might have stood as the unrivalled producer of one of the most extensively useful, and at the same time most elegant and ornamental of the results of manufacturing industry? And who can tell what discoveries might have hence been made by her men of science, during a period remarkable above all previous eras for the interest taken throughout the philosophical world in experiments and discoveries, which depended for success and accomplishment on the perfection of optical apparatus.

Request for  
adequate  
reward.

With anticipations of future consequences from my discovery, based upon these considerations, I humbly solicit your Lordship to follow up the individual wishes of His Excellency Governor Bourke, and our Executive Council here, by taking such a view of my claims as will justify you in regarding their official communication to me upon this subject as a mere notification of approval on their part of my exertions, and in rewarding those claims with such a token of approbation as shall be worthy of a British Senator to offer, and befitting a man in my situation to receive.

Reward  
proposed  
insufficient  
to meet costs  
of discovery.

Moreover, as the particulars of my discovery have already been transmitted in a communication to the Royal Society, I should feel at ease, were the estimation which your Lordship may form of my claims to be wholly based, if necessary, on the opinion of their merits which that learned body are so well fitted to pronounce. But, should your Lordship not take a view of these claims different from that embodied in the official document transmitted to me from the Executive Council here, I feel constrained to bring before the notice of Your Lordship the fact that the amount of this reward, as it is called, which is recommended in that document, though it were paid in money instead of being merely a discount on the purchase of land, would not reimburse me for the loss incurred in bringing my discovery under the notice of the glass-makers of England, and in authenticating it to your Lordship and the Council here;\* whilst their decision on this discovery as officially communicated

\* I beg moreover to state for the information of your Lordship that, whilst the merits of this discovery were under discussion before His Excellency the Governor in Council, I was questioned with regard to the expense which I had incurred in the prosecution of my experiments and endeavours to ascertain the true character of the sand under consideration. I have had reason to think, in consequence, that the estimation, formed by the Executive Council of the value of my services in this matter, has been grounded on the nature of my replies on that occasion. Conceiving the value of the benefits clearly resulting from my discovery to bear no comparison whatever with the trouble and expense which I had incurred in its prosecution, I represented to His Excellency in Council that my individual expenses in the matter were comparatively trifling; little imagining that such a representation could ever be taken as a measure, by which the merits of such a question was to be judged either here or elsewhere. It was on this account that I naturally felt aggrieved, when I received an official document containing a prejudgment of my case, seemingly founded on a wrong appreciation of the statement which I had unsuspectingly made. And when, upon application to His Excellency, I was informed that this judgment, being put on record, could not be recalled (although His Excellency at the same time kindly undertook to represent the matter right to your Lordship), I conceived myself justified in expressing to your Lordship my wish that the judgment formed on the subject by the Home Government should rest solely upon the merits of the case.—J.K.

to me, if acted on by your Lordship, will be a matter of serious regret to all persons of intelligence with whom I have conversed upon the subject; for it is feared that it will have a tendency to discourage such scientific and other useful investigations in this remote Colony, as have not an immediate prospect of profit to the parties concerned, however much they may be of advantage to the Mother Country or to the Colony itself. But whatever may be the results consequent on my discovery, I am sure it will afford your Lordship little satisfaction to reflect at a future day that the discoverer neither reaped mercantile profit, nor was otherwise recompensed by his country, except in a manner which excited feelings the reverse of grateful satisfaction and honest triumph.

I have, &c.,

JAMES KING.

[Appendix A.]

EXTRACT of a Letter dated 5th June, 1832, from Messrs. Buckles, Bagster and Buckle, of London, to James King, Sydney.

"YOUR eleven bags of sand were safely landed from the 'Stirling Castle,' and independently of the pleasure which we should feel in being serviceable to you individually at the request of our esteemed friend Mr. Burdiken, we consider this matter in itself as deserving our warmest assistance and co-operation, looking upon the discovery, as we do, as one that is likely to prove beneficial not only to the Colony, but to all ship-owners employing vessels in your trade."

Probable value of discovery.

EXTRACT from another Letter, dated London, 20th July, from the same gentlemen to Mr. King, Sydney.

"REFERRING to our respects of the 5th Ultimo, the object of the present few lines is merely to acquaint you that we have just received from Messrs. Pellatt and Co. a very satisfactory verbal report upon your sand, which they will fully commit to writing for the purpose of our forwarding to the Colonial Secretary, and we shall of course hand you a copy of the same. They consider it on the whole better than any sand obtainable in this country, and in every way worthy of encouragement. Your glass is to be ready for shipment by the Prince Regent next month, and all the better articles will be made from the Sydney sand."

Glass made from sand.

\* These articles arrived and were distributed some months ago by Mr. King among his friends in Sydney.

[Appendix B.]

EXTRACT from the Report of Messrs. Pellatt and Co. on the Sydney sand, addressed to Messrs. Buckles, Bagster and Buckle, dated Falcon Glass Works, 17th August, 1832.

Report on sand by glass manufacturers.

"WE have much pleasure in acquainting you that, having used the quantity of sand furnished by your house from Sydney, we find it *decidedly* superior to any we have previously employed.

"The most esteemed property of this sand, and which makes it *of the greatest importance to glass-makers*, is derived from the absence of oxide of iron and every other combination that would affect the color of the glass when made.

"It is also free from insoluble matter; glass *made from this sand is more brilliant and watery than any other.*

"We consider it fortunate at this period that this sand has been discovered, as the sand from Lynn Regis, with which most glass-makers were supplied, is now very bad in quality, and has in consequence been given up by many."

[Appendix C.]

EXTRACT of a Letter from James Dunlop, Esq., F.R.S., to James King, dated Parramatta, 5th May, 1833.

"BUT the important result of your discovery of that unexhaustable deposit of sand between Sydney and Botany Bay will be to furnish the glass manufacturers with the principal ingredient of flint glass in a state of greater purity than it has hitherto been obtained for the manufacture of flint glass for optical instruments, the perfection in which has not yet been attained to satisfy the wants of science. The sand, being free of iron and other metallic impurities, is of itself a sufficient

Opinion of J. Dunlop re value of discovery.

1838.  
8 Aug.

Opinion of  
J. Dunlop re  
value of  
discovery.

recommendation to the manufacturer by removing a difficulty in the way of obtaining glass unobjectionably free from color, and to the *Optician of great importance in the construction of the achromatic telescope*, the loss of the light in them being dependent upon, and in proportion of the color of the glass used in their construction.

The mean of the specific gravity of the four specimens which you sent me is 3.271, which is very nearly the medium specific gravity of that usually manufactured by Messrs. Pellatt and Company for optical purposes, of which I send you a specimen (by Watsford's coach) which I purchased at their works about January, 1828; its color (looking through the edge) resembles that of pale roll-sulphur or yellow, which is in all probability occasioned by the presence of iron in the sand, from which it is made, while your specimens are of the color of pure water and will therefore intercept less light."

[Appendix D.]

EXTRACT from a Report of an Introductory Lecture delivered at the opening of the "Sydney Mechanics' School of Arts" by the Rev. Henry Carmichael, M.A., one of the Professors of the Australian College, Sydney, March 22, 1833.

Reference to  
discovery in  
lecture at  
school of arts.

"As bearing upon the importance of widening the facilities of investigation into the physical resources of this Colony, it does not seem out of place here to remark that another member of our Committee has just now succeeded in bringing into notice, as a matter of national importance, that exhaustless magazine of purely silicious sand, which constitutes the great bulk of the soil we tread upon. Mr. King has lately ascertained the unrivalled excellence of Sydney sand in the manufacture of glass, that most beautiful article of every-day use. Specimens of glass, made wholly of this sand, which had been sent to Great Britain by the above-named gentleman for the express purpose of experiment, have been received from the first glass manufacturers in London, who pronounce the manufactured article to be superior to that which their best home-materials have enabled them to make. Messrs. Pellatt and Co. the manufacturers in question, are employed to supply Government with glass made expressly for astronomical and other philosophical purposes; so that this announcement of theirs, concerning the Sydney sand, is to be regarded as of essential importance to science in general. The glass in question is pronounced to be especially fitted for the formation of lenses; and this, at a time when accurate observation of optical phenomena occupies a prominent and singularly interesting portion of philosophical investigation. Thus may it be, that the barren rocks of Sydney are no less destined to become famous in the Annals of Philosophy, than the Observatory at Parramatta, where there now labours for immortality another member\* of our Committee, who is probably better fitted for turning this glass to advantage in the service of science than any other single observer at present on the surface of the globe.

"But, in a commercial and economic view, this discovery may be of greater consequence to the Colony than appears at first sight. By taking this sand as dead-weight, our wool exporters, it appears, will be enabled to ship a much larger cargo of wool in any given vessel, than they can do under present circumstances; whilst the sand itself will become a profitable article of sale in the London market; and thus, by the export of this sand, will a double advantage be gained by the ship-owner, which will tell directly in favor of the growth of wool, the staple commodity of the Colony," etc., etc.

\* James Dunlop.

[Appendix E.]

Land grants  
given for  
services.

A GRANT of 10,000 Acres of Land was presented to John M'Arthur, Esq., for having imported into the Colony a number of fine-wooled Rams, with the view of improving the breed of his own flocks, which were then known to be superior. The immediate effect of this importation was to improve the quality of the wool of Mr. M'Arthur's flocks, enabling him thus to dispose at advanced prices both the wool in the London Market and the breed itself to newly arrived Emigrants.

A Grant of 10,000 Acres of Land was made by the Home Government to Richard Jones, Esq., for having imported, in like manner, a number of Saxon Sheep, male and female, with the view of stocking his own Establishment, and enabling himself to export wool to greater advantage.

A Grant of 10,000 Acres of Land was, also, given to Mr. Kent, for having suggested the manufacture of Mimosa Extract for tanning, so as to save a certain amount of freight in the export of the Bark for the London market.

Besides the above Grants for the services respectively described, a variety of grants have been made to a number of other individuals, as premiums for specific services rendered to the Colony. As for instance, for shooting Bushrangers; for marking lines of road through the woods; for accidentally discovering tracts of

grazing ground, etc., etc., etc. But in no instance, so far as can be ascertained, was any grant for such services as these ever offered less than 640 acres; unless the grant was specially made in some highly valuable spot, such as would be an allotment in the immediate neighbourhood or within the limits of some Township.

1838.  
8 Aug.

A number of individuals, moreover, have lately obtained as grants allotments of from 10 to 20 Acres extent adjoining the Town of Sydney, which possess a value of from £50 to £500 Sterling per acre, for no other service, and coupled with no other condition, than that they shall thereby bind themselves to erect on their respective allotments a commodious dwelling house for their own use and convenience.

Grants of allotments near Sydney.

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LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 176, per ship Alfred; acknowledged by Sir George Gipps, 1st April, 1839.)

Sir,

Downing Street, 9 August, 1838.

9 Aug.

With reference to the Correspondence, which has taken place between your Predecessor and myself as to the expediency of raising the minimum price of Crown Land in New South Wales, I have to acquaint you that Her Majesty's Government are of opinion that the time has arrived when the interests of the Colony require that a considerably higher price should be affixed to Land than that which was named by Lord Ripon\* as the minimum price in 1831, and which was clearly intended to be merely experimental. The object of the change of system introduced by Lord Ripon was to remedy the great want of labour, which was at that time complained of in the Colony, by providing the pecuniary means of assisting emigration, and at the same time preventing the undue dispersion of the Emigrants. The result has been to refute the arguments with which the change of system was originally opposed, and completely to justify the principle on which Lord Ripon's regulations were based. In order, however, to give full effect to that principle, it is indispensable that the price of Land should now be considerably raised. So far as regards the encouragement of Emigration, the measure has to a considerable degree succeeded, but the extent of Land which has been sold and the increasing want of labour affords decisive proof that the check, which it was intended to impose on the undue dispersion of the Inhabitants of the Colony, has not been sufficient. It is only by raising the minimum price of Land or by restricting the quantity offered for Sale that the end in view can be obtained, because in the present circumstances of the Colony, tho' competition may determine the relative value of different allotments of Land, while none is offered for Sale than can be profitably occupied, it is obvious that the minimum price demanded by the Government will determine the saleable value of Land, which has no peculiar advantages either from its neighbourhood to a market or from its natural fertility.

Decision to raise minimum price of land.

Object of disposal of land by sale.

Result of system.

Necessity for raising price of land.

\* Note 106.

1838.  
9 Aug.  
Increase in  
minimum  
price of land.

Instructions  
for further  
increase if  
necessary ;

and for  
restriction  
on extent of  
land offered  
for sale.

I have, therefore, to instruct you forthwith to substitute 12s. for 5s. as the upset price of Land of ordinary quality. I have at the same time to desire that you will closely watch the effects produced by this enhancement of the price, with a view of ascertaining whether it may not be necessary to carry it still higher in order to accomplish the purpose for which the measure is intended. If you should perceive that the extension of the population into the unsettled Districts should still proceed with a rapidity beyond what is desirable, and that the want of labour still continues to be seriously felt, or if you should have reason to believe that large purchases are made on speculation, you will without waiting for further instructions from me take measures for checking the Sale of Land even at the price of 12s. an acre. But, as inconvenience would arise from the frequent announcements of changes in the upset price of Land, it will be expedient to impose this check not in the first instance by declaring such a further change in the minimum upset price, but by restricting the extent of Land offered for Sale only to Lands of a quality inferior to that which is likely to be in demand for cultivation, putting a proportionally higher price upon good land. In this manner, a considerable augmentation might by degrees be made in the price which land would fetch, and the upset price might be again ultimately raised with less difficulty than would probably be experienced if this rise were to precede instead of following that which would take place in the Market.

I have, &c.,

GLENELG.

P.S.—You will of course understand the Instructions contained in this Dispatch as applying to Port Philip equally with other parts of the Colony of New South Wales.

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LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 177, per ship Alfred.)

10 Aug.

Despatch  
acknowledged.

Sir,

Downing Street, 10 August, 1838.

I have received Sir R. Bourke's Dispatch No. 115 of the 18th November last, enclosing an application for a retiring allowance from Mr. Anderson, one of the Colonial Surgeons at New South Wales, and suggesting whether it might not be advisable to establish some scale of retiring allowance for Colonial Medical Officers in that Colony to be paid from the Convict Fund.

I have referred this Dispatch to the Lords Commissioners of the Treasury for their consideration, and I now enclose, for your

information and guidance, the copy of a letter from the Board of Treasury, representing that in their Lordships' opinion it would not be advisable to establish any particular regulations for the retirement of Colonial Medical Officers at New South Wales, and that, in the event of Mr. Anderson's retirement, his claim to a retiring allowance must depend entirely on its own merits.

1838.  
10 Aug.

Objections to retiring allowances for medical officers.

I have, &c.,  
GLENELG.

[Enclosure No. 1.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 2nd August, 1838.

The Lords Commissioners of Her Majesty's Treasury having had under their consideration the application from Mr. Anderson, the Medical Officer attached to the Convict Establishment at New South Wales, for some extra remuneration for his services, as well as for a retiring allowance in the event of his relinquishing his present employment, with the suggestions of the Governor of the Colony relative to the Establishment of some general scale of retiring allowance for the Medical Officers there, to be paid from the Convict Fund, and to the expediency of placing the whole of the Colonial Medical Establishments under Military Surgeons, which accompanied your letter of the 4th of last June, I have received their Lordships' Commands to request you will observe to Lord Glenelg that they consider the revision of the Medical Establishments in the Australian Penal Settlements, which has been carried into effect, to have been made with the understanding that those Establishments should be conducted as nearly as possible in conformity with the Army Medical Regulations; and that, although the Officers of the former Colonial Medical Establishments would continue to be employed under the new arrangements, their successors, when it might become necessary to replace them, would be selected as far as practicable from the Army Medical Department.

Medical establishments to be subject to army medical regulations.

You will also observe to Lord Glenelg that their Lordships do not conceive it would be advisable that any particular regulations should be laid down in regard to the retirement of the Colonial Medical Officers at New South Wales, more especially as those Officers will generally revert to Naval or Military Half Pay on the cessation of their Colonial employment.

Objections to retiring allowances for medical officers.

With reference to Mr. Anderson's application to the Colonial Secretary of New South Wales, I am commanded by their Lordships to transmit to you the Copy of a letter from the Secretary to the Admiralty, dated the 19th of June, by which it appears that the forfeiture of half pay therein adverted to arose from Mr. Anderson having preferred remaining in that Colony when called upon to resume his duties in Her Majesty's Navy; and, so far as regards his application for extra remuneration, their Lordships do not find that any specific proposition has been made by the Governor, without which they are not prepared to entertain claims of this description.

Criticism of application from M. Anderson.

I am to add that, in the event of any necessity arising from the retirement or superannuation of Mr. Anderson, their Lordships would be prepared to consider the claims he may have to retired

1838.  
10 Aug.

allowance for services in New South Wales on being furnished with the usual specification of the causes for such retirement, and of the appointments he has held in the Colony, with the periods he has been employed in each and the Emoluments he has derived from them.

I am, &c.,

A. Y. SPEARMAN.

[Enclosure No. 2.]

SIR JOHN BARROW TO MR. A. Y. SPEARMAN.

Sir,

Admiralty, 19th June, 1838.

Removal of  
M. Anderson  
from list of  
naval surgeons.

Having laid before My Lords Commissioners of the Admiralty your letter of the 16th Instant, requesting to be informed what amount of half pay Mr. Matthew Anderson, late Surgeon, R.N., would be entitled to in the event of his retiring from the situation of Medical Officer attached to the Convict Establishment at New South Wales; I am commanded by their Lordships to acquaint you, for the information of the Lords Commissioners of the Treasury, that Mr. Anderson was removed from the list of Naval Surgeons for refusing to serve, and he has no claim whatever on the Medical Department of the Navy.

I am, &c.,

JOHN BARROW.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 122, per ship *Marinus*; acknowledged by marquess of Normanby, 10th March, 1839.)

My Lord,

Government House, 10th August, 1838.

Transmission of  
memorial from  
T. P. Macqueen.

I have the honor to forward herewith a Memorial, which has been addressed to Your Lordship by Mr. Potter Macqueen, preferring a claim to an additional grant of land, which claim Sir Richard Bourke refused to entertain on the 16th June, 1837, on the grounds that the orders conveyed to him by your Lordship's Despatch No. 180 of the 31st July, 1836, had reference only to cases, in which grants of land had been made under the orders of 1826 and 1827.

Land  
granted to  
T. P. Macqueen.

Mr. Potter Macqueen received his grant in 1824, at which time (as far as I am informed) it was not customary to make any express promise of a secondary grant; but, as the order for Mr. Potter Macqueen's grant was given in England, the intention of the Secretary of State in granting it can best be ascertained from the records of your Lordship's office.

Invalidity  
of claim to  
additional  
land grant.

I will only add that it appears to me quite clear that Mr. Macqueen cannot claim under the orders of 1826 or 1827, first, because those orders had no retrospective effect, and secondly, because they applied only to grants not exceeding 2,560 acres, whereas Mr. Macqueen's grant was made in 1824 and extended to 20,000 acres.

I have, &c.,

GEO. GIPPS.



[Enclosure.]

1838.  
10 Aug.

THE Humble Memorial of Thomas Potter Macqueen, at present resident in Sydney in the Colony of New South Wales, Esquire,

To Her Majesty's Principal Secretary of State for the Colonial Department, etc., etc., etc.,

Memorial of  
T. P. Macqueen  
soliciting  
additional  
land grant.

Sheweth,

1. That, in the month of August, 1824, your Memorialist, in consideration amongst other things of his declared intention to invest large sums of money in agricultural pursuits within the Colony of New South Wales, received from the Right Honorable the Earl Bathurst, at that time His Majesty's Principal Secretary of State for the Colonial Department, an Order to His Excellency the Governor, Sir Thomas Brisbane, to make to your Memorialist a Primary Grant of twenty thousand (20,000) Acres of land within the said Colony.

2. That the said order was given to your Memorialist with the distinct assurance, on the part of the Secretary of State, that, under the said Primary Grant, he (your Memorialist) should be entitled to all the benefits of the Regulations and usages of the Colonial Government touching Grants of land, one of the said benefits being understood to consist of additional Grants, receivable after a given term of years from the date of obtaining possession of the Primary Grants, and upon proof of the investment of adequate capital in permanent improvements thereon.

3. That, upon the faith of the said order and assurance, your Memorialist, in the same year (1824), chartered and despatched from England to the said Colony two Ships, namely, the "Hugh Crawford" of 420 tons burthen, and the "Nimrod" of 260 tons burthen.

4. That, by the said Ships, your Memorialist sent out a considerable number of carefully-selected Emigrants, shepherds, husbandmen, and mechanics, for the purpose of improving his said Primary Grant, under the superintendence of Peter MacIntyre, Esqr., his principal Agent in the said Colony.

5. That the said Ships were also freighted with a flock of fine Saxon Sheep, and another of fine Merinos, accompanied by valuable Highland Sheep dogs, two Stallions of the first blood, the purest samples of Durham, Devon, and Highland Cattle, amongst which was a Durham Bull (whose sire, "Comet," was sold in Northumberland for one thousand guineas), allowed to be the progenitor of the finest breeds of horned cattle in New South Wales; together with every description of agricultural implements, on the most modern and approved models.

6. That the cash outlay, in chartering, freighting, and despatching the said Ships, can be proved to have amounted to about Eight thousand Pounds (£8,000) sterling, the whole of which was provided out of your Memorialist's private funds.

7. That your Memorialist's Primary Grant aforesaid was selected and finally taken possession of by your Memorialist's said Agent, under the authority of His Excellency Governor Darling, in the year 1826, the name of "Segenhoe" being given to it.

1838.  
10 Aug.  
Memorial of  
T. P. Macqueen  
soliciting  
additional  
land grant.

8. That Mr. MacIntyre thereupon began to improve the said land upon a scale, far exceeding in magnitude and expense the efforts of any other new Settler, either before or since; insomuch that, within the four years of his holding charge of the estate, that is, from 1826 to 1830, he expended thereon, in clearing, fencing, buildings, cultivation, and live stock, not less than Eighteen thousand Pounds (£18,000) sterling, for the whole of which large sum he drew Bills of Exchange upon your Memorialist.

9. That, in the year 1830, Mr. McIntyre was succeeded, as your Memorialist's Agent, by H. C. Sempill, Esqr., whom your Memorialist had for that purpose despatched from England to the Colony; and from that year to the close of 1836, when his engagement with your Memorialist terminated, Mr. Sempill expended on the Estate of Segenhoe a further sum of at least Sixteen thousand Pounds (£16,000) sterling.

10. That your Memorialist is thus prepared to prove that, in making permanent improvements upon his said Primary Grant, he has sunk a clear money capital of not less than Forty-two thousand Pounds (£42,000) sterling.

11. That, by one of the Government Regulations of 1826-7, it is provided that if, at the end of seven years from the date of his obtaining possession of his Primary Grant, an emigrant can prove an expenditure in permanent improvements thereon to the amount of five times its estimated value, he shall be entitled to an additional Grant, with a reduction of five per cent. on the Quit Rent; and, by the Government Notice of the 27th June, 1837, the said value is estimated at three shillings and four pence per acre, making the total amount of required expenditure to be sixteen shillings and eight pence per acre, whereas your Memorialist has shewn more than Two Pounds (£2) per acre.

12. That, to illustrate still further the valuable character of his agricultural and other improvements, your Memorialist begs respectfully to inform your Lordship that, in the course of the present year, portions of his estate of Segenhoe have been sold at thirty shillings an acre, *for the freehold alone*, whilst the stock is fairly valued at about Thirty thousand Pounds (£30,000) sterling.

13. That, besides the merit of so large an outlay of capital in territorial improvement, your Memorialist begs respectfully to submit to your Lordship's consideration several indirect but important services, which he has thereby rendered to the Colony and to the Government, namely:

(1) He has employed and maintained about one hundred and sixty (160) convicts.

(2) He has brought out from Great Britain and Ireland, at his own expense, the wives and families of about (20) convicts; and nearly the whole of these convicts, on becoming free or obtaining tickets of leave, have settled as tenants upon small farms, paying handsome rents, and furnishing instructive examples of sound reformation.

(3) He has also brought out from England, at his own expense about ——— virtuous and industrious emigrants, consisting for the most part, of first-rate mechanics and agriculturists, all of whom, after faithfully completing their terms of service with your Memorialist, have become the purchasers of Crown lands, on which they are now prosperously settled.

(4) By the importation of superior implements of husbandry, and of thoroughly experienced agriculturists, he has been the means of introducing great and valuable improvements into the Colonial methods of tillage.

(5) During the memorable seasons of drought, from 1827 to 1830, your Memorialist's establishment supplied nearly the whole of the upper districts of Hunter's River with grain for seed and for subsistence.

(6) Your Memorialist trusts he may add, without ostentation, that in having personally resided upon his estate for four years, during which period he erected at his own cost an Infirmary for Government Servants, providing it with free medical attendance, contributed largely to the building of Churches, and to the general cause of moral and religious improvement, and made over to trustees, at the special request of the Right Reverend the Lord Bishop of Australia, two acres of valuable land as the site of a Protestant Episcopalian Church, and Clergyman's dwelling, he has afforded an example in some degree beneficial to the Colony.

14. That, on the promulgation of the Government Notice of date the 27 June, 1837, setting forth the conditions upon which your Lordship had authorised the Colonial Government to make additional Grants of Land, your Memorialist applied to His Excellency Sir Richard Bourke for the additional Grant to which he conceived he was justly entitled; when he was given to understand that the terms of your Lordship's instructions did not enable His Excellency to comply with your Memorialist's request, on the ground of his Primary Grant having exceeded the ordinary maximum of two thousand five hundred and sixty (2,560) Acres.

15. That your Memorialist most respectfully but confidently submits that his is one of those special cases, which cannot in fairness be bound by the letter of the ordinary Regulations, and for which a special provision was made by the 20th paragraph of the Regulations dated "Colonial Office, Downing Street, November, 1824," and by the 23rd paragraph of those dated "Colonial Office, Downing Street, April, 1827," which provide that "persons desirous to receive Grants of land without purchase, on terms different from those above stated, must lay before the Secretary of State a full explanation, in writing, of the circumstances which they may conceive to exempt them from the fair operation of these general Rules."

16. That the said paragraph, inserted in two separate sets of Regulations, would seem distinctly to recognise the principle that the conditions, by which ordinary Grantees were restricted, were never intended either to deprive the subject, under special circumstances, of the right of appeal to the Secretary of State, or the Secretary of State of the power of meeting such appeal in a fair and equitable spirit.

17. That your Memorialist humbly trusts he has herein laid before your Lordship such an explanation of the circumstances, which he conceives to exempt him from the fair operation of the general Rules, as may induce your Lordship to place his case upon a separate and independent footing, and to cause it to be determined upon its own intrinsic merits.

1838.  
10 Aug.

Memorial of  
T. P. Macqueen  
soliciting  
additional  
land grant.

1838.  
10 Aug.

Memorial of  
T. P. Macqueen  
soliciting  
additional  
land grant.

Wherefore your Memorialist humbly prays that your Lordship will be pleased to take the premises into your favorable consideration, and to direct any enquiry to be made into the truth of the foregoing statements which to your Lordship may seem proper; and that your Lordship, upon being satisfied therewith, will be pleased to instruct His Excellency the Governor of New South Wales to make to your Memorialist an additional Grant of Land, proportioned in extent to his outlay upon his Primary Grant, and to the services he has thereby rendered to the Colony.

And your Memorialist will ever pray, etc., etc., etc.

[Unsigned.]

Sydney, New South Wales, 25 June, 1838.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 123, per ship *Marinus*; acknowledged by marquess of Normanby, 12th March, 1839.)

13 Aug.

Transmission  
of memorial  
from  
H. I. Pilcher.

My Lord, Government House, 13th August, 1838.

I have the honor to forward herewith a Memorial, which has been addressed to Your Lordship by Mr. Henry Incedon Pilcher, in consequence of his having been refused an additional grant of land under circumstances which I will briefly detail.

Reasons for  
refusal of  
additional  
land grant.

Mr. Pilcher, being an Emigrant under the Regulations of April, 1827, and having received a primary Grant of 1,920 acres, would be entitled to an additional grant if he could prove, to the satisfaction of the Commissioners appointed under a Local act, 5th Willm. 4th, No. 21, that he had complied with all the conditions on which he received his original Grant, one of which was that he should expend Capital on the land to the amount of 16s. 8d. per acre, or which is the same thing to the amount of five times the estimated value of the land at 3s. 4d. per acre. The Commissioners report that Mr. Pilcher has not made this necessary outlay, although he has expended more than the required amount on other land at a distance of 25 miles from that which was granted to him.

The directions of your Lordship being that, in every case respecting additional Grants, the Regulations are to be construed strictly, I have not thought myself at liberty to admit Mr. Pilcher's claim, nor can I undertake to advocate it with your Lordship at a time when our Land Revenue is so seriously affected by the extension of Additional Grants.

I have, &c.,  
GEO. GIPPS.

[Enclosure.]

[A copy of this memorial is not available.]

SIR GEORGE GIPPS TO LORD GLENELG.

1838.  
15 Aug.(Despatch No. 124, per ship *Marinus*; acknowledged by  
marquess of Normanby, 12th March, 1839.)

My Lord, Government House, 15th August, 1838.

I have had the honor to receive your Lordship's Despatch No. 63 of the 5th Jany., 1838, in which your Lordship requires further information on the subject of a claim to a free grant of land, preferred by Mr. G. Wentworth on the ground that he had been recommended for a Grant by the Land Board of 1831.

Despatch  
acknowledged.

I have now the honor to enclose to your Lordship a Copy of the Report of the Land Board referred to; endorsed upon it is a Minute of Sir Ralph Darling's, which your Lordship will perceive put a decided negative upon the recommendation of the Board; and your Lordship is, I believe, aware that a recommendation of the Land Board did not of itself confer a right, being always subject to the approval or disallowance of the Governor.

Transmission  
of papers *re*  
claim of  
G. Wentworth  
to land grant.

Whether Sir R. Darling acted harshly or not towards Mr. Wentworth in refusing to act on the recommendation of the Board is a question on which I am not able to pronounce an opinion. The recommendation of the Land Board was, it is true, made prior to the receipt in New South Wales of the order for discontinuing free Grants, and the Minute of Sir Ralph Darling was written after the receipt of that order; still it would I think be wrong to conclude that it was in consequence of that order alone that General Darling refused to make Mr. Wentworth the Grant, because Sir Ralph Darling did in other cases make such Grants in fulfilment of promises made under a different state of things. Sir Ralph Darling assigns, in his Minute as a further reason for not complying with the recommendation of the Board, the fact that Mr. Wentworth was already in possession of a large quantity of land, and it appears that this land (5,000 acres) had been granted gratuitously to his father, Mr. D'Arcy Wentworth, then recently deceased.

Decision by  
R. Darling.

It does not appear that General Darling's refusal to act on the recommendation of the Land Board was specially communicated to Mr. Wentworth, the general communication, contained in the promulgation of the orders of 1831, being judged a sufficient announcement of the intentions of Government.

Mr. George Wentworth remained perfectly silent for more than five years, and it was only on the 24th Novr., 1836, that he revived his claim by a letter to the Colonial Secretary, of which I enclose a Copy.

Delay of  
G. Wentworth  
in submitting  
claim.I have, &c.,  
GEO. GIPPS.

1838.  
15 Aug.

[Enclosure No. 1.]

THE LAND BOARD REPORT NO. 461.

Land Board Office, 18th February, 1831.

Report by  
land board  
re claim of  
G. Wentworth  
to land grant.

THE Board beg Leave to acknowledge the receipt of the Colonial Secretary's Letter of the 31st August last, covering the application herewith returned of Mr. George Wentworth for a Grant of Land and requesting them to take the necessary measures for ascertaining the actual amount of that Gentleman's Capital, which is now available in that Colony for Agricultural purposes.

The Board have accordingly the honor to report—

1st. That Mr. George Wentworth appeared before them this Day and furnished them with the accompanying Schedule of Capital amounting to Two thousand, Nine hundred and forty five pounds. Mr. George Wentworth, son of the late D'arcy Wentworth, Esquire, became entitled on his Death, as is proved by Mr. William Wentworth his referee and Brother, and who is Executor and Trustee under the Will, to the 10th part of the Personal Estate which will realize he has no doubt Ten thousand Pounds, so that Mr. George Wentworth states his share very properly at one thousand Pounds; of this Sum about Six hundred Pounds are laid out in Mortgages, about the one half of which are over due, and might consequently be readily made Available for Agricultural purposes, And about Four hundred Pounds consist, according to the testimony of Mr. William Wentworth, in Money and Notes of hand, in Wheat, implements of Husbandry, Seed Corn, etc., etc.

2nd. Mr. George Wentworth at present Superintends the Personal Estate of his late Father for which he receives a Salary, but this will cease in April.

3rd. The Applicant is possessed of Five thousand Acres at the Cow Pastures specially bequeathed to him by Mr. Darcy Wentworth his Father.

4th. Mr. William Wentworth having fully confirmed the Statement of his Brother in all particulars, The Board see no objection to giving to Mr. George Wentworth a Maximum Grant of Land. He is not Married.

C. D. RIDDELL.  
WM. DUMARESQ.  
FREDK. A. HELY.

Decision by  
R. Darling.

COPY General Darling's decision on preceding Report:

"Cannot receive a Grant of Land under Existing circumstances; it appearing besides that He is in possession of a considerable quantity of Land."

R.D.

19th July.

[Enclosure No. 2.]

MR. G. WENTWORTH TO COLONIAL SECRETARY.

Sir, Greendale, near Penrith, 24th November, 1836.

Application by  
G. Wentworth  
for land grant.

On the 24th of August, 1830, under the then existing regulations for granting Land in New South Wales to persons who were prepared to prove their possession of such Capital as should entitle them to a proportionate Grant, I made application to the Land Board for a Maximum Grant of 2,560 Acres, and had the honor to receive a communication from it, desiring me to attend before it on a certain day, viz., the 18th day of February, 1831. When having been examined as to the Value of my property and the

Board having expressed themselves Satisfied as to my claim, I was subsequently given to understand that the Board had reported favorably as to Such claim; but from some reason, for which I am at a loss to account, I have never received any order for the Selection of the Grant. I have therefore the honor to request you will Submit this my respectful Application to His Excellency the Governor to be allowed a ratification of my Claim.

I have, &c.,

G. WENTWORTH.

1838.  
15 Aug.

Application by  
G. Wentworth  
for land grant.

SIR GEORGE GIPPS TO LORD GLENELG.  
(Despatch No. 125. per ship Kinnear.)

My Lord, Government House, 17th August, 1838.

17 Aug.

I am extremely sorry to have to report to your Lordship that the Convict ship "Lord Lynedoch" arrived here on the 8th instt. in a very dreadful state from the ravages of the Scurvy among the Prisoners embarked in her.

Arrival of ship  
*Lord Lynedoch*  
with scurvy.

The disease is said to have first manifested itself, when the ship was a little to the Eastward of the Cape of Good Hope; 19 men died on board, and 114 were conveyed to the Hospital immediately on their arrival in this Port. Seven have died since they left the ship, four more are expected to die, and many will feel the effects of the disease for the remainder of their lives. On the whole, about 160 have been afflicted with it in a greater or less degree.

I have appointed a Board of Officers to enquire into the causes of the appearance of the disease, as well as of the way in which it was treated by the Medical officer in charge of the ship; and, as soon as I have received their Report, I shall forward it to your Lordship.

Board of  
inquiry  
appointed.

I have, &c.,

GEO. GIPPS.

SIR GEORGE GIPPS TO LORD GLENELG.  
(Despatch No. 126. per ship Kinnear.)

My Lord, Government House, 19th August, 1838.

19 Aug.

The Estimates for the year 1839 being just received from the Printer, I think it right to forward to your Lordship Copies of them, by a vessel (the "Kinnear") which sails this day for England.

Transmission  
of estimates  
and financial  
minute.

I enclose also a Printed Copy of the Minute,\* which (according to the custom of this Government) I laid upon the Table of the Legislative Council with the Estimates.

As the Estimates have not yet been taken into consideration by the Council, it would be premature for me to make any

\* Note 107.

1838.  
19 Aug.

Probable  
expenditure  
of surplus  
revenue.

remarks on them to your Lordship. I will therefore content myself with requesting your Lordship's attention to the latter part of my Explanatory Minute, in which it is pointed out that, if the rate of expenditure, which I found established when I took possession of the Government, be persevered in, the whole accumulated fund of our savings will be exhausted by the end of the year 1839.

I have, &c.,  
GEO. GIPPS.

[Enclosures.]

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

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 127, per ship *Marinus*; acknowledged by marquess of Normanby, 13th March, 1839.)

20 Aug.

My Lord,

Government House, 20th August, 1838.

Transmission  
of memorial  
from  
A. Glennie.

It having been represented to me that a promise was made to Mr. Alfred Glennie by Sir Richard Bourke, and repeated by Colonel Snodgrass during his administration of the Government, to forward the enclosed Memorial to the Secretary of State, I do myself the honor now to bring it under your Lordship's notice, though I must at the same time respectfully state that I cannot in the smallest degree undertake to advocate Mr. Glennie's claim with your Lordship.

Opinion  
adverse to  
claim for  
land grant.

Mr. Glennie never received any promise of a grant of Land, nor was he even eligible for one prior to the year 1831.

It is quite true that, if the orders of 1831 had never been issued, he might have got a Grant, and so might, I would observe, thousands of others.

I have, &c.,  
GEO. GIPPS.

[Enclosure.]

THE Memorial of Alfred Glennie

Memorial of  
A. Glennie  
soliciting  
land grant.

To His Excellency Lieutenant General Sir Richard Bourke, K.C.B., Governor and Commander in Chief in and over the Territory of New South Wales, and its Dependencies, etc., etc., etc.,

Most respectfully sheweth,

That your Memorialist arrived in this Colony in the month of January, 1828, having Emigrated from England with a view of settling as a Farmer and Grazier.

Your Memorialist was then only Seventeen years old, and, being informed that a minor could not obtain a Grant of Land from the Crown, accepted the appointment of Clerk to the Bench of Magistrates at Patrick's Plains, which was then vacant and which he has held ever since.



On the 30th June, 1828, Memorialist's Brother, Mr. James Glennie, addressed a Letter to the Colonial Secretary, wherein he requested permission to rent a portion of vacant Land near his own farm, until Memorialist should be old enough to obtain a grant of Land. The Colonial Secretary acquainted Mr. James Glennie in reply (by Letter dated the 2nd August, 1828) that "the Land in question had been selected by another Individual, but, independently of that, the arrangements would not have permitted his request to be complied with."

1838.  
20 Aug.

Memorial of  
A. Glennie  
soliciting  
land grant.

About the Year 1832, your Memorialist, after becoming of Age, applied personally at the Office of the Colonial Secretary, but was then informed that, in consequence of his holding a Government appointment, he was not entitled to receive a Grant of Land from the Crown.

Your Memorialist, having thus been disappointed in the hopes of obtaining Land, which he entertained on leaving England, and being well aware that Crown Lands were granted to other Individuals holding Government situations, as well as to persons under Age, most respectfully Solicits Your Excellency's kind consideration of his case, and prays that Your Excellency will be pleased to transmit to the Right Honorable the Secretary of State a recommendation that your Memorialist may be allowed a Grant of Land proportionate to his Merits, in lieu of which he will gladly give up his present appointment which he has held nearly ten Years.

And your Memorialist, as in duty bound, will Ever pray.

ALFRED GLENNIE.

Patrick's Plains, Hunters River, 15th November, 1837.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 180, per ship Alfred.)

Sir, Downing Street, 22 August, 1838.

22 Aug.

I enclose for your information and guidance the Copy of a Letter from the Secretary at War stating in what cases it is adviseable that discharged Soldiers should be allowed a remission of Money in the purchase of Land. I have, &c.,

Instructions re  
concessions on  
purchase of  
land for  
discharged  
soldiers.

GLENELG.

[Enclosure.]

MR. E. MARSHALL TO UNDER SECRETARY STEPHEN.

Sir, War Office, 6th August, 1838.

With reference to your Letters of the 12th May last and 6th Ultimo, I am directed by the Secretary at War to state for the information of Lord Glenelg that Lord Howick is of opinion that such Infantry Soldiers, as are discharged in the Colonies after 15 years' service and are therefore in a situation to receive free Discharges with gratuities, should have such indulgence as the Secretary of State for the Colonial Department may think proper to grant with respect to the purchase of land, but that Soldiers of shorter service, who purchase their discharges, should not have the same advantage.

I have, &c.,

E. MARSHALL.

1838.  
22 Aug.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 181, per ship Alfred.)

Sir, Downing Street, 22 August, 1838.

Address to  
H.M. Queen  
Victoria  
received.

I have received your despatch No. 40 of the 19th March last, transmitting an address to the Queen on Her accession from the Inhabitants of Maitland and its vicinity in the Colony under your Government.

I have had the honor to lay this address before the Queen, and Her Majesty was pleased to receive it very graciously.

I have, &c.,  
GLENELG.

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SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 128, per ship Marinus; acknowledged by marquess of Normanby, 15th March, 1839.)

My Lord, Government House, 22nd August, 1838.

Claim by  
J. Mackay for  
bounty on  
introduction of  
Indian coolies.

I have the honor to transmit herewith a Memorial, which has been addressed to your Lordship by Mr. J. Mackay, requesting he may be allowed Bounties at the rate of six pounds per head on certain Natives of India, called Hill Coolies, which have been introduced by him into the Colony of New South Wales. Your Lordship will observe that Mr. Mackay founds his claim upon the fact of a Bounty having been recommended by a Committee of the Legislative Council of New South Wales in 1836, and also on some expectations alleged to have been held out to him by Sir Richard Bourke.

Opinion  
adverse  
to claim.

Without attempting to dispute the alleged fact of Mr. Mackay's having been induced in some degree by these expectations to bring Natives of India (to the number of forty one) to New South Wales, I must remark to your Lordship that by no act of the Government were Bounties on them ever promised; and, concurring as I entirely do with the sentiments expressed in your Lordship's Despatch No. 46 of the 14th Decr., 1837, on the subject of the proposed importation of Natives of India to this Colony, I cannot take on myself to advocate with your Lordship Mr. Mackay's claim to remuneration or bounty.

I have, &c.,  
GEO. GIPPS.

[Enclosure.]

[A copy of this memorial is not available.]

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 182, per ship Alfred.)

1838.  
23 Aug.

Sir, Downing Street, 23 August, 1838.

I have received Sir Richard Bourke's dispatch, No. 110 of the 6th of November last, transmitting the Report of a Committee of the Legislative Council of New South Wales appointed to enquire into the state of the Tunnel for conducting water into the town of Sydney, and the claims to further remuneration of Mr. Busby who superintended the work from its commencement to the 30th of June, 1837.

Despatch acknowledged.

Having referred the subject for the consideration of the Lords Commissioners of the Treasury, I have the honor to acquaint you that Her Majesty's Government are prepared to sanction the payment of One Thousand Pounds to Mr. Busby by way of gratuity in addition to what has been already authorized, and also the issue to Mr. William Busby of a Sum equal to One Hundred Pounds per annum by way of Salary, and Fifty pounds for the keep of a Horse for the period commencing the 1st of May, 1831, during which he was discharging the duties of Assistant Superintendent on the Tunnel without a Government Salary.

Allowances for J. and W. Busby *re* tunnel for water supply of Sydney.

I have, &c.,

GLENELG.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 184, per ship Alfred.)

Sir, Downing Street, 24 August, 1838.

24 Aug.

I have the honor to transmit to you a Copy of an Act which has been passed this Session to continue for another year the Act for the Administration of Justice in New South Wales and Van Diemen's Land.

Statute to continue statute, 9 Geo. IV., c. lxxxiii.

The enquiries of the Select Committee of the House of Commons on the subject of Transportation, to which I referred in the Despatch No. 368 of the 25th August, 1837, were renewed in the present Session, but circumstances, over which Her Majesty's Government had no control, delayed the completion of those enquiries and the adoption of a report until a very late period of the present Session. The evidence and the Report, although recently presented to the House of Commons, have in fact not yet been printed and circulated. In consequence in great measure of this delay, Her Majesty's Government have thought it necessary to postpone until the next session submitting to Parliament any alteration in the existing Act.

Reasons for continuance of old statute.

I have, &c.,

GLENELG.

[Enclosure.]

[*This was a copy of the statute 1-2 Vict., c. l.*]

1838.  
24 Aug.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 185, per ship Alfred.)

Sir, Downing Street, 24 August, 1838.

Refusal of  
land grant  
for C. Prout.

I have received your despatch No. 47 of the 2d of April last, enclosing a Memorial from Mr. Cornelius Prout praying for a Grant of Land.

I have to request that you will acquaint the Applicant that it is not in my power to accede to his request. I have, &c.,  
GLENELG.

LORD GLENELG TO SIR GEORGE GIPPS.  
(A circular despatch per ship Alfred.)

Sir, Downing Street, 24 August, 1838.

Schedules of  
contents of  
despatches  
to be  
transmitted.

In the printed book of regulations which has been forwarded to you from this Department, a rule is laid down at Page 85, Paragraph 14, respecting the transmission, with each series of dispatches, of Schedules stating their contents, etc.

This regulation, when adhered to, has facilitated the dispatch of public business.

I am anxious, therefore, that it should be punctually observed in every instance, and with that view I have marked this dispatch "Circular," although in some cases the communication may not be necessary in consequence of the rule having been already attended to. I have, &c.,  
GLENELG.

SIR GEORGE GIPPS TO LORD GLENELG.  
(Despatch No. 130, per ship Marinus.)

My Lord, Government House, 24th August, 1838.

Arrival of  
J. Digby  
and wife.

With reference to your Lordship's Despatches of 29th Sept., 1837, No. 377, 31st Oct., 1837, No. 18, 11th Decr., 1837, No. 39, 26th Jany., 1838, No. 67, I have the honor to report to your Lordship that Mr. and Mrs. Digby arrived at Sydney on the 1st July last.

Erection of  
lunatic  
asylum.

The New Lunatic Asylum\* will not be ready for the reception of Patients until about the middle of October; but, as soon as it is occupied, I shall take measures for carrying into effect your Lordship's instructions, contained in the last of the above-mentioned Despatches, for charging against the Colony the expense of maintaining in the Asylum Lunatics who are not Convicts. I have, &c.,  
GEO. GIPPS.

Maintenance  
of lunatics.

\* Note 27.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 186, per ship Alfred.)

1838.  
25 Aug.

Sir, Downing Street, 25 August, 1838.

I have received Colonel Snodgrass' Despatch No. 21 of the 7th of February enclosing applications from Messrs. Elyard and Newcombe, Clerks in the Colonial Secretary's office at New South Wales, for augmentation of Salary. Despatch acknowledged.

Her Majesty's Government will not object to those Gentlemen being allowed to reckon their respective periods of Service as Clerks of the first class under the arrangement suggested in the Report of the Board, assembled by order of Sir Richard Bourke, from the dates at which their Salaries under the Regulations previously in force were severally raised to £300 per annum, which however in both instances appear to have only taken place from the year 1836. Concessions granted *re* salaries of W. Elyard and G. W. Newcombe.

Her Majesty's Government, however, cannot feel warranted in giving any further retrospective effect to those Regulations.

I have, &c.,  
GLENELG.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 187, per ship Alfred.)

Sir, Downing Street, 25 August, 1838.

I have received your dispatch, No. 58 of the 12th of April last, reporting the nomination of Mr. Ryan Brennan to the Office of Third Police Magistrate of Sydney, vacant by the resignation of Mr. Young, and proposing that he should hold that appointment in conjunction with the Office of Coroner which he already filled. Appointment of J. Ryan Brennan as third police magistrate.

In my dispatch No. 174 of the 6th Instant, I authorized you to offer to Mr. Brennan the Office of Clerk of the Crown at Port Phillip with a Salary of £400 per annum; but, as the combination of the Offices to which you have appointed Mr. Brennan appears to have been indispensable, and will confer on him a higher rate of Salary than the situation at Port Phillip, I have much pleasure in confirming Mr. Brennan as a Police Magistrate and Coroner of Sydney. Confirmation of appointment.

I have, &c.,  
GLENELG.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 188, per ship Alfred; acknowledged by Sir George Gipps, 30th July, 1839.)

Sir, Downing Street, 25 August, 1838.

I have received an application from Mr. John Batman of Port Philip for permission to purchase at a moderate price and not subject to public Competition a portion of Land\* in that Application by J. Batman to purchase land at Melbourne.

\* Note 108.

1838.  
25 Aug.

Settlement not exceeding twenty Acres, on which he states that the House and Premises inhabited by himself and his family are situated, having already expended upwards of £1,500 in improvements on the Land.

You will be so good as to call on Mr. Batman for a Copy of his letter.

Principle  
to control  
application.

If, on the receipt of his Application, the result should be to shew to the Conviction of yourself and your Council that the facts are accurately stated by Mr. Batman, the case would appear plainly to fall within the principle laid down in the letter,\* which was addressed by my directions to the Port Phillip Association on the 27th July, 1837, the scope and meaning of which was correctly interpreted in the Minute\* of the Executive Council of your Government No. 25, dated 21 October, 1836.

Proposed  
allowance  
for value of  
improvements.

Under these circumstances, I am of opinion that, in the purchase of the Land on which his House was built, with any adjacent land actually cultivated by him as a Garden or improved by any material outlay, previously to the arrival at Port Phillip of the general Instructions on the subject of the disposal of the Crown Lands in this Settlement, Mr. Batman should be allowed the fair value of such improvements.

I have, &c.,

GLENELG.

SIR GEORGE GIPPS TO LORD GLENELG.  
(Despatch No. 131, per ship *Marinus*.)

My Lord, Government House, 25th August, 1838.

Despatch  
acknowledged.

I have had the honor to receive your Lordship's Despatch of the 29th Jany., 1838, No. 70, enclosing a Copy of a letter from Mrs. Durant respecting the fate of her brother, who is stated to have been wrecked in the "American Transport" in the Torres' Straits; and I have the honor to report that I have communicated to the undermentioned Captains and Commanders of ships in Her Majesty's Service your Lordship's desire that they will use their best endeavours to ascertain whether Mr. Durant, and the other young man stated to have been his companion, are yet alive, and if possible to rescue them from their state of suffering.

Searches to  
be made for  
T. Durant.

Captain Sir J. Gordon Bremer, H.M.S. "Alligator"; Commander Wickham, H.M. Surveying Vessel "Beagle"; Captain Bethune, H.M.S. "Conway."

All these officers will shortly visit Torres Straits, and they have engaged to pay every attention to your Lordship's wishes.

\* Note 109.

I have also taken steps to make known the probability of Mr. Durant's being alive and in the hands of the savages to the Commanders of various Merchant Vessels, about to visit the Straits, and particularly to Mr. Watson, owner and master of a schooner called the "Essington," who is about to visit Murray's Islands, and will afterwards join Sir Gordon Bremer at the proposed New Settlement\* on the Northern Shores of Australia.

1838.  
25 Aug.

Information given to merchant captains.

I have, &c.,  
GEO. GIPPS.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 189, per ship Alfred.)

Sir, Downing Street, 27 August, 1838. 27 Aug.

I have the honor to transmit to you a Copy of a letter from the Board of Treasury, enclosing a Correspondence which has passed between the Officer in charge of the Commissariat in New South Wales and the Colonial Secretary on the subject of certain Convicts employed under the Town Surveyor; and I have to desire that, in compliance with the suggestions of the Lords Commissioners of the Treasury, unless these Convicts are assignable as servants, the expense of victuall'g them may be defrayed from the Funds of the Colony.

Maintenance of convicts employed by town surveyor.

I am, &c.,  
GLENELG.

[Enclosure.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 15th August, 1838.

I am commanded by the Lords Commissioners of Her Majesty's Treasury to transmit copy of a Letter, addressed by the Officer in charge of the Commissariat in New South Wales on the 7th of February last to the Colonial Secretary, suggesting that the Convicts employed under the Town Surveyor should be victualled at the expense of the Colony, together with copy of Mr. Deas Thomson's reply thereto; and I am directed to request that, in submitting these papers to Lord Glenelg, you will observe to his Lordship that, as the Convicts therein referred to do not appear to be Penal Labourers, but Labourers who, if they were not retained in the Service of the Colonial Government, would be assigned as Servants to Settlers, my Lords conceive that the expense of their maintenance ought to be defrayed from Colonial Funds; and they request that his Lordship will call the attention of Sir George Gipps to the application of Deputy Commissary General Miller, and apprise His Excellency that, unless the Convicts alluded to are not assignable as Servants, that application should have been complied with.

I am, &c.,  
A. Y. SPEARMAN.

\* Note 37.

1838.  
27 Aug.

[Sub-enclosure No. 1.]

DEP. COMMISSARY-GENL. MILLER TO COLONIAL SECRETARY THOMSON.

Sir, Commissariat, Sydney, 23 November, 1837.

I have the honor to state, for the Information of His Excellency the Governor, that the Convicts, assigned to the Department of the Town Surveyor and employed as Mechanics, Boatmen, Watchmen and Carters in Sydney Streets, etc., about 50 in number, still continue to be supplied with Rations at the charge of the Military Chest; and, as these men are not wrought in Irons nor for punishment, but rather in the character of assigned Servants for the benefit of the Colony, there does not appear to be any reason why their rations should not be transferred to the charge of the Colonial Secretary, in the same manner as those of Convicts assigned to other Colonial establishments, and which I beg to propose for His Excellency's consideration.

I have, &c.,

WM. MILLER, D.C.G.

[Sub-enclosure No. 2.]

COLONIAL SECRETARY THOMSON TO DEP. COMMISSARY-GENL. MILLER.

Colonial Secretary's Office,

Sir, Sydney, 4th December, 1837.

I have the honor to acknowledge the receipt of your letter of the 23d of Novr. suggesting that the men under the Town Surveyor should be victualled by the Colony; and, in reply, I am directed by His Excellency the Governor to inform you that the Convicts alluded to in your communication, being employed on the Streets, are to continue as in other similar cases to be rationed at the expense of the Military Chest.

I have, &c.,

E. DEAS THOMPSON.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 132, per ship *Marinus*.)

My Lord, Government House, 27th August, 1838.

I have had the honor to receive your Lordship's Despatch of the 26th Oct., 1837, No. 16, by which I was informed that Mrs. Foster had complained to your Lordship of the nonperformance on the part of her husband of an agreement, which he had entered into to appropriate to her use a portion of the salary which he receives as Superintendent of Convicts at Norfolk Island; and, in reply, I have to acquaint your Lordship that it has been proved to my satisfaction by Mr. Foster that he remitted from Norfolk Island to Sydney in the month of Sept., 1837, the sum of £60 for the use of his wife, and that the same was remitted to Mrs. Foster in England in the form of an order, dated the 22nd Decr., last, on the firm of D. Cooper and Co. of London from Mr. James Holt, a Merchant of Sydney.

I have also to inform your Lordship that a further sum of £60 has been since paid into the Colonial Treasury by Mr. Foster,

Proposal *re*  
maintenance  
of convicts  
employed by  
town surveyor.

Convicts to  
be maintained  
by military  
chest.

Despatch  
acknowledged.

Remittance  
by W. Foster  
to his wife.

Second  
remittance.



and that an order was forwarded to Mr. Barnard on the 26th August last to pay an equal amount to the order of Mrs. Foster.

1838.  
27 Aug.

The salary of Mr. Foster as Superintendent of Convicts at Norfolk Island is £150 per annum; the sum which he ought to allow his wife, according to his own agreement is therefore £75, and I shall call on him in future to remit this sum in lieu of only £60.

Salary of  
W. Foster.

I have, &c.,  
GEO. GIPPS.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 191, per ship Alfred.)

Sir, Downing Street, 28 August, 1838. 28 Aug.

I have received your Dispatch No. 45 of the 29th of March last, transmitting a Memorial from Lieutenant A. Martin, R.N., praying for a Grant of Land. Despatch acknowledged.

I entirely concur in your observations on Mr. Martin's application, and I have to request that you will acquaint him that it cannot be complied with. Refusal of land grant for A. Martin.

I have, &c.,  
GLENELG.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 192, per ship Alfred.)

Sir, Downing Street, 28 August, 1838.

I have received your Dispatch No. 42 of the 22d of March last, transmitting a letter addressed to me by Captain King, R.N., on the subject of his not being placed in the Legislative Council of New South Wales. Letter received from P. P. King.

As I cannot anticipate any advantage either to Captain King or to the Public at large in prolonging the correspondence on this subject, I must decline to pursue it any further. Further correspondence declined.

I have, &c.,  
GLENELG.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 193, per ship Alfred.)

Sir, Downing Street, 28 August, 1838.

I have received your dispatch No. 50 of the 5th of April last transmitting a Memroial from Mr. John Henry Berner praying for a Grant of Land. Despatch acknowledged.

You will be so good as to inform Mr. Berner that I cannot comply with his application. Refusal of land grant for J. H. Berner.

I have, &c.,  
GLENELG.

1838.  
25 Aug.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 194, per ship Alfred.)

Sir, Downing Street, 28 August, 1838.

Despatch  
acknowledged.

I have received your Despatch No. 44 of the 27th of March last respecting Mr. Richard Linch's claim to a Grant of Land.

Refusal of  
land grant  
for R. Linch.

You will be so good as to acquaint Mr. Linch that it is not in my power to accede to his request.

I have, &c.,  
GLENELG.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 195, per ship Alfred.)

Sir, Downing Street, 28 August, 1838.

Approval of  
appropriation  
act for 1838.

I have received Sir Richard Bourke's despatch No. 70 of the 28th July, 1837, transmitting the Estimates of the Expenditure of the Government of New South Wales for the present year with the Annual Appropriation Act, and I have to signify to you the approval of Her Majesty's Government of the Provisions, which they contain, referring you however to my Despatch No. 71 of the 30th January last on the subject of the newly created Office of Crown Prosecutor.

I enclose for your information and guidance the Copy of a letter from the Board of Treasury respecting the Expenditure of your Government.

Instructions *re*  
appropriation  
of land fund.

It must be distinctly understood that it is only in the event of a deficiency in other branches of the Revenue in providing for the ordinary expenditure of your Government that H.M. Govt. can sanction any portion of the Land Fund being diverted from the purposes of Emigration.

Report  
required *re*  
ordnance store  
department.

You will be so good as to send home, for the information of the Lords of the Treasury, a special Report on the subject of the Ordnance Store Department.

I have, &c.,  
GLENELG.

[Enclosure.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 13th August, 1838.

Approval of  
estimates.

The Lords Commissioners of Her Majesty's Treasury having duly considered the estimates of the expenditure of the Government of New South Wales for the year 1838, with the annual appropriation Act forwarded to them in your letter of the 31st of last January, and assuming that Lord Glenelg does not disapprove of the Regulations relating to the classification and periodical increase of the Salaries of Clerks in the Colonial Service, which is adverted to in the Governor's Minute, I have received their commands to

state that it does not occur to them to be necessary to add any thing to His Lordship's remarks on the newly reported appointment of Crown Prosecutor for the Quarter Sessions, or to object in any other respect to the Provisions of the Estimate and appropriation Act. They therefore propose to forward copies of these documents to the Commissioners of Audit for their guidance, apprizing them of the further enquiry that will be addressed to the Governor relative to the office of the Crown Prosecutor.

1838.  
28 Aug.  
Approval of estimates.

Their Lordships, however, deem it necessary to observe to Lord Glenelg that, as a Sum of £50,000 is included in the estimated resources of the year as a balance that will be available from the Crown Land Revenue, after deducting charges of Immigration, they trust that the whole of the proceeds of that revenue for the year will not have been appropriated to Immigration expenses, until it shall have been ascertained that the produce of the other branches of the Revenue will be such as to render it unnecessary to apply any portion of the Land fund to the ordinary expenditure of the Colonial Government; and, as it would appear from the Estimate, and from Sir Richard Bourke's Minute, that he had found it necessary to re-establish a Colonial Store Department, the discontinuance of which was one of the objects contemplated in the employment of an Ordnance Storekeeper's Establishment in New South Wales, their Lordships conceive it will be advisable to call upon the present Governor for a special Report as to the necessity for maintaining the Ordnance Store Department at its present strength, notwithstanding its having been thus relieved from one branch of the Duties it was intended to perform. I am, &c.,

Instructions proposed *re* appropriation of land fund;

and *re* report on ordnance store department.

A. Y. SPEARMAN.

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LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 196, per ship Alfred; acknowledged by Sir George Gipps, 17th September, 1839.)

Sir, Downing Street, 28 August, 1838.

I have received your Dispatch No. 59 of the 13th of April last and its enclosures respecting the suspension of Mr. H. F. White, an assistant in the Surveyor General's Department.

Despatch acknowledged.

The fact of Mr. White having diverted the Public property under his charge to his own benefit is clearly substantiated in the documents, which you have sent home, and is indeed admitted by himself, while the very slight apology made for that abuse of his Official Authority is directly contradicted in point of fact, and is wholly unproved by Mr. White. I can therefore only concur with you in considering Mr. White's removal from Office to be indispensable.

Approval of dismissal of H. F. White.

I have no reason to doubt that the complaints preferred by Mr. White against the Police Magistrate, Mr. Gray, were rightly decided by Colonel Snodgrass, altho' it does not appear that evidence was received either in support or in refutation of them. I apprehend that there might be an apparent if not a real failure

Charges by H. F. White against W. N. Gray.

1838.  
23 Aug.  
Inquiry  
ordered.

in impartial justice, if Mr. White should not have an opportunity afforded him of substantiating his charges by the production of the evidence in support of them either before the Executive Council or any other competent and impartial persons to be appointed by you for that purpose. I am of opinion, therefore, that, if such an enquiry has not yet been instituted, the opportunity of entering on it ought now to be afforded to Mr. White.

I have, &c.,  
GLENELG.

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LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 197, per ship Alfred.)

Sir, Downing Street, 28 August, 1838.

Despatch  
acknowledged.

I have received your despatch, No. 54 of the 7th of April, informing me that the Revd. John Brady, who had been selected by Dr. Ullathorne to do duty as a Roman Catholic Clergyman at Norfolk Island, had on his arrival at New South Wales been appointed by the Roman Catholic Bishop to officiate at Windsor within the Colony of New South Wales, and of the explanations which you consequently demanded. I fully approve of the course which you have adopted on this occasion. Mr. Brady's appointment was made expressly for the purpose of remedying the urgent want of religious instruction among the Roman Catholic prisoners at Norfolk Island, an object to which the attention of the Government has been earnestly directed as one of the greatest importance. With this view the expense of Mr. Brady's passage was defrayed out of the funds of this country applicable to convict services, and his Salary was agreed to be paid from the same source. Of course he will not receive any portion of the Salary assigned from those funds to a Roman Catholic Clergyman at Norfolk Island, and, if he remains in New South Wales, the £100 advanced for his passage must be repaid by the Colony if his services are transferred from the Convicts at Norfolk Island to the mixed inhabitants of the Colony under the existing ecclesiastical arrangements. I trust, however, that an arrangement may have been speedily made for supplying his place at Norfolk Island, as Her Majesty's Government considered that Dr. Ullathorne had become pledged by the arrangement respecting Mr. Brady that provision should be made without delay for this object.

Reasons for  
appointment of  
Revd. J. Brady.

Adjustment  
required *re*  
allowances.

Provision of  
R.C. chaplain  
for Norfolk  
island.

I have, &c.,  
GLENELG.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 198, per ship Alfred.)

1838.  
28 Aug.

Sir, Downing Street, 28 August, 1838.

I have received your despatch, No. 43 of the 25th of March last, transmitting a Letter from the Sheriff of New South Wales on the subject of his precedency. Despatch acknowledged.

The omission of the Sheriff in the list of persons, to whom rank is assigned in virtue of their offices as established by the Book of Regulations issued from this Department, is justified by the following considerations. Reasons for omission of sheriff from table of precedency.

The title of Sheriff, though adopted in New South Wales as the most appropriate which could be found for describing the duties of the Officer who bears it, is still in certain respects inapplicable.

It was never designed to place him in the position or to delegate to him all the duties or to invest him with the rank of the high Sheriff in an English County. The corresponding Office in a large proportion of the other Colonies is designated by the title of Provost Marshal, to which, however, objection having been made on the ground of its apparent relation to Military, rather than to Civil duties, the term Sheriff was substituted in the New South Wales Charter of Justice. But, the Sheriff of that Colony being never designed to occupy any other place than that of the Executive Officer of the Court, it would be attended with much practical inconvenience to ascribe to him an official rank, which might be supposed to recognize pretensions of a different kind.

You are aware that, by conventional usage in England, precedency is given to the Sheriff in his own County on all occasions of ceremony, not only over all other persons of the same rank in life, but with some few exceptions over all persons, whatever may be their personal or official dignity. Precedency of sheriff in English county.

To introduce such a principle into the Colonies would give birth to great jealousies and would encourage the Sheriffs or Marshals to claim for themselves the right of holding County Courts and of presiding in them, and of exercising other powers which the Crown has never intended to confer on them. Objections to similar principle in colony.

I have, &c.,  
GLENELG.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 199, per ship Alfred.)

Sir, Downing Street, 28 August, 1838.

I have received your despatch, No. 55 of the 9th of April last, transmitting two letters from Mr. Justice Willis on the subject of his Salary from the date of his embarkation in England to that on which he entered on his duties in New South Wales. Despatch acknowledged.

1838.  
28 Aug.

Refusal of  
full salary for  
J. W. Willis  
during voyage  
from England.

Mr. Willis's claim to full Salary during that period cannot be admitted.

The case, which has occurred in this instance, is not contemplated nor provided for by the Charter of Justice which was made in reference to the single Judge then appointed. Mr. Willis was appointed to succeed to an Office, which had become vacant, and the duties were discharged in the meantime by another person. The double issue of Salary under such circumstances would be directly contrary to the established rules of the Colonial Service.

I have, &c.,  
GLENELG.

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LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 200, per ship Alfred; acknowledged by Sir George Gipps, 22nd February, 1839.)

Sir, Downing Street, 28 August, 1838.

I have the honor to transmit the copy of a Letter addressed to this Department by desire of the Lords Commissioners of the Treasury on the subject of a Sum of Money received by the Superintendent of the House of Correction at Sydney for grinding Corn at the Treadmill, which appears to have been stolen from the Clerk to whose custody it had been entrusted. In calling your attention to the suggestions contained in the letter from the Commissioners of Audit respecting the collection and payment into the Military chest of the money received for work done at the House of correction, I have to desire that you will furnish me with an explanation of the circumstances of this case, and that you will take measures for providing for the safe custody of such money and for ensuring the more frequent payment into the Military Chest of the Colony of the sums collected.

I have, &c.,  
GLENELG.

[Enclosure.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 15th August, 1838.

The Commissioners of Audit having represented to this Board that, upon inspecting the Cash Accounts for the Service at New South Wales for Septr., 1837, it appears that the Sum of £18, part of the Money received by the Superintendent of the House of correction at Sydney for grinding corn at the Treadmill, had been stolen from the Clerk to whose custody the receipts had been entrusted, I have it in command from the Lords Commissioners of Her Majesty's Treasury to request, in submitting the accompanying copy of the Commissioners' Report on the subject, you will observe

Theft of  
money received  
for grinding  
corn at tread-  
mill.

to Lord Glenelg that it appears to my Lords to be necessary that he should call the immediate attention of the Governor of New South Wales to the suggestion, therein offered, in regard to the Collection and payment into the public chest of the money, which may be received for work done at the House of correction at Sydney; and that his Lordship should desire Sir George Gipps to furnish the explanation adverted to by the Auditors, and to give the necessary directions for entrusting the duty of collecting this money to some more responsible party than the Clerk in whose hands it has been retained. His Excellency should at the same time take measures for ensuring the more frequent payment into the Military Chest of the Sums collected.

I am, &c.,

A. Y. SPEARMAN.

1838.  
28 Aug.

Instructions proposed  
re money received at  
treadmill.

[Sub-enclosure.]

THE AUDIT COMMISSIONERS TO LORDS COMMISSIONERS OF TREASURY.

My Lords,

Audit Office, 27th July, 1838.

We have the honor of representing to your Lordships that, upon inspecting the cash accounts of Deputy Commissary General Miller for the Service at New South Wales for the month of September, 1837, we find that the sum of £18, being a portion of the money received by the Superintendent of the House of Correction at Sydney for grinding Corn at the Treadmill had been stolen from the Clerk, to whose custody it appears the receipts had been entrusted, and that the Governor had authorized the Superintendent to take credit for the sum of £18, which has been allowed accordingly out of the full sum of £76 7s. 2d. which should have been paid over to the Military Chest for this service in the period between the 1st of April and the 31st of August, 1837.

Theft of money received for grinding corn at treadmill.

It also appears that the Superintendent had been instructed to apply to the Commissary for an Iron Chest, in which to deposit his collections from this source weekly, and to pay over the amount to the Military Chest at the end of each month instead of quarterly as heretofore.

Upon which we beg leave to observe that, although it may be presumed that the Governor made such enquiries as were necessary to satisfy himself of the propriety of allowing this sum, nevertheless as it does not appear whether any check is established upon the receipts from this source, and as we consider it doubtful how far the Clerk alluded to, who is a person receiving a Pay of 2s. 3l. a day only, should be as it would appear entrusted almost entirely both with the receipt and accounts arising therefrom, we submit that your Lordships should call upon the Governor to explain the manner in which this service is conducted, and to state whether any further means can be adopted for the purpose of guarding the public against loss, in addition to the measures already taken by the Governor.

Proposed request for report.

It is also proper to remark that the Governor's attention should be drawn to the circumstance that the payment made in the present case embraces the period of five months, instead of a quarter of a year; at which latter intervals it appears the payments were formerly directed to be made.

We have, &c.,

F. S. LARPENT.

H. F. LUTTRELL.

HENRY ARBUTHNOT.

1838.  
28 Aug.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 133 per ship *Marinus*; acknowledged by marquess of Normanby, 4th April, 1839.)

My Lord, Government House, 28th Augt., 1838.

Despatch  
acknowledged.

In reply to your Lordship's Despatch No. 60 of the 2nd Jany., 1838, I have the honor to inform your Lordship that I have called on Mr. Atkins to refund the sum of £12 9s. paid for Clerical robes for that gentleman whilst officiating at Norfolk Island, the disbursement having been disallowed by the Lords of the Treasury, as stated in the letter of their Lordships' Secretary to Mr. Stephen of the 28th Decr., 1837; and I have now the honor to transmit to your Lordship a Copy of the reply which I have received from Mr. Atkins, in which he states that the robes, having been supplied to him by Government, were considered by him to be public property and left as such at Norfolk Island, when his employment ceased there.

Transmission  
of letter from  
Rev. T. Atkins.

It is right I should inform your Lordship that Mr. Atkins is not a Clergyman of the Church of England, nor, as far as I can learn, has he ever been ordained according to the rites of any recognized religious community, though at the time he went to Norfolk Island an intention existed I believe on the part of the Lord Bishop of Australia to admit him to ordination in the Church of England.

Clerical  
status of  
Rev. T. Atkins.

Employment  
in colony.

Mr. Atkins quitted Norfolk Island on the 19th Jany., 1837, after which he was employed for a time as a Catechist in this Colony by the Lord Bishop of Australia; but his connection with the Church of England has now entirely ceased, and he is I believe at the present moment seeking a Congregation of Independents in Sydney.

Inability to  
compel refund.

Under these circumstances, I feel that I have no power to compel Mr. Atkins to refund the cost of the robes; and I trust that this explanation will be satisfactory to your Lordship and the Lords Commissioners of the Treasury. I have, &c.,

GEO. GIPPS.

[Enclosure.]

REV. THOMAS ATKINS TO COLONIAL SECRETARY.

Sir, Jamison Street, Sydney, 9th August, 1838.

Statement re  
clerical robes  
at Norfolk  
island.

In reference to the request of His Excellency the Governor, on the Authority of the Secretary of State, that I will refund into Commissariat Chest the Sum of Twelve pounds Five shillings paid for Robes for my use when officiating at Norfolk Island, I beg you to inform his Excellency that, on my arrival in this Territory, it was the opinion of the late Colonial Secretary and also of the Lord Bishop of Australia that Robes should be provided for me by the Government, and His Lordship Authorised me to provide them, the



expense of which he promised to see defrayed. That promise His Lordship performed, and, as those Robes were the property of the Government, when I embarked for Sydney from Norfolk Island, they were left by me in the settlement.

1838.  
28 Aug.

I am, &c.,  
THOMAS ATKINS.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 201, per ship Alfred.)

Sir, Downing Street, 29 August, 1838.

29 Aug.

I have received your Despatch No. 46 of the 31st of March last transmitting a letter addressed to me by Mr. Allan Park setting forth his claim to an additional grant of Land.

Despatch acknowledged.

As Mr. Park's case does not come within the rule which has been established in regard to secondary grants, you will be so good as to acquaint him that I cannot accede to his request.

Refusal of land grant for A. Park.

I have, &c.,  
GLENELG.

SIR GEORGE GIPPS TO LORD GLENELG.  
(Despatch No. 134, per ship Marinus.)

My Lord, Government House, 29th Augt., 1838.

With reference to your Lordship's Despatch of the 14th Octr., 1837, No. 3, on the subject of a division between the Military Chest and the Colonial Treasury of the expense of maintaining the Police Establishment at Port Macquarie, I have the honor to report to Your Lordship that I have taken measures for transferring the whole of that expense to the charge of the Colony from the 1st April last. The Country round Port Macquarie is now as open to Settlers as any other District of the Colony, and I am aware of no reason why any difference should be made in respect to the payment of its Police Establishments.

Maintenance of police at Port Macquarie.

Opening of district to settlers.

I have, &c.,  
GEO. GIPPS.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 202, per ship Alfred; acknowledged by Sir George Gipps, 11th July, 1839.)

Sir, Downing Street, 30 August, 1838.

30 Aug.

I have received Sir Richard Bourke's Dispatch with its enclosures, No. 118 of the 21st November last, respecting the disposal of the Interest on Public Monies deposited by Government Officers in New South Wales in the Sydney Banks.

Despatch acknowledged.

The course adopted by your Predecessor in calling on the several Collectors of Revenue to account for any interest received by them on Balances of public money lodged in the Banks at Sydney has met with the decided approbation of Her Majesty's Government.

Approval of action re disposal of interest on public money.

1838.  
30 Aug.

Instructions  
re interest on  
public money.

The several amounts of interest, reported in the documents, which accompanied Sir Richard Bourke's dispatch, to have been placed to the credit of certain Collectors of the Revenue, or which may have subsequently accrued on Balances of their collections lodged in the Banks, must be paid over to the Colonial Treasury and carried to the account of the Revenue.

You will be so good as to apprise the Collectors, as well as any other officers entrusted with the public money, that any future attempt to retain interest on or derive profit from their respective public balances will be visited with the marked displeasure of Her Majesty's Government.

I have, &c.,

GLENELG.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 203, per ship Alfred; acknowledged by Sir George Gipps, 23rd February, 1839.)

31 Aug.

Advance for  
emigration  
service.

Sir, Downing Street, 31st August, 1838.

The Lords Commissioners of the Treasury having directed a Warrant to be prepared for issuing to Mr. Barnard, the Agent General for New South Wales, the sum of Eight Thousand Pounds to enable him to meet the Emigration Services and other current expenses on account of your Government, I have to instruct you to repay the said advance into the Military Chest at Sydney.

I have, &c.,

GLENELG.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 204, per ship Alfred.)

Sir, Downing Street, 31st August, 1838.

Addresses  
received from  
R.C. clergy.

I have received your dispatch No. 41 of the 20th March last, transmitting two Addresses from the Roman Catholic Clergy of New South Wales and Van Diemen's Land, one of congratulation to the Queen on her accession, the other of Condolence to the Queen Dowager.

I have had the honor to lay the former Address before the Queen, and Her Majesty was pleased to receive it very graciously.

I enclose the answer which the Queen Dowager has been pleased to give to the latter address.

I have, &c.,

GLENELG.

[Enclosure.]

[*This was a sealed letter which was transmitted to Dr. Polding direct.*]

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 205, per ship Alfred.)

1838.  
31 Aug.

Sir, Downing Street, 31 August, 1838.

I have received Colonel Snodgrass' dispatch No. 22 of the 8th February last, transmitting a letter addressed to me by Mr. James Mitchell, together with a printed Statement\* on the subject of his removal from the Office of Colonial Surgeon in New South Wales.

Papers received from J. Mitchell.

I have referred these documents to Sir Richard Bourke, and the reasons, which he has stated for having removed Mr. Mitchell from his situation, appear to me so conclusive that I can find no cause for the interposition of my authority.

Refusal to reverse decision of Sir R. Bourke.

You will be so good as to communicate this decision to Mr. Mitchell.

I have, &c.,

GLENELG.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 135, per ship Marinus; acknowledged by marquess of Normanby, 14th March, 1839.)

My Lord, Government House, 31st August, 1838.

I have the honor to report to your Lordship that, on the application of the Chief Justice of this Colony, I have granted leave of absence to Mr. H. B. Bradly, second Clerk in the Supreme Court, to return to England on account of ill health.

Leave of absence for H. B. Bradly.

Mr. Bradly's salary is £350 per annum, and an arrangement has been made for the performance of his duties during his absence to the satisfaction of the Chief Justice, by which more than one half of his salary will be saved; but still, as I have doubts whether Mr. Bradly comes under the class of officers who are allowed to draw half salary during leave of absence, I have made the payment of such half salary contingent upon your Lordship's approval after Mr. Bradly's arrival in England.

Contingent payment of half salary.

Mr. Bradly was appointed Third Clerk of the Supreme Court by the Chief Justice on the 8th Feby., 1834, at a salary of £160 per annum, and promoted to the situation of Second Clerk at his present rate of salary, vizt., £350 on the 1st Jany., 1837.

Appointments held by H. B. Bradly.

Your Lordship is aware that the 9th Section of the Charter of Justice of this Colony gives to the Chief Justice the power of appointing persons to fill all inferior offices in the Supreme Court; therefore that the Clerks of the Supreme Court do not stand towards the Head of the Government exactly in the same position as other Clerks; but at the same time I am not prepared to say that they are entitled to any greater indulgence than others, in respect to leave of absence.

Officers of supreme court appointed by chief justice.

1838.  
31 Aug.

This is the first time that the question has been raised, and I think it therefore right to reserve it for your Lordship's decision.

I have, &c.,

GEO. GIPPS.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 206, per ship Alfred.)

1 Sept.

Sir,

Downing Street, 1st September, 1838.

Correspondence  
transmitted.

I have the honor to transmit to you for your information the enclosed copies of a correspondence, which has taken place between my Under Secretary and the Revd. Dr. Macfarlan relative to the terms on which the Revd. Colin Stewart has been allowed the usual grant of £150 for outfit and passage to New South Wales, as Presbyterian Minister.

I have, &c.,

GLENELG.

[Enclosure No. 1.]

REVD. PRINCIPAL MACFARLAN TO SIR GEORGE GREY.

Sir,

College, Glasgow, 21st August, 1838.

I have laid before the acting Committee of Assembly on Colonial Churches your letters of date the 10th and 14th of August, respecting the appointment of Ministers and Schoolmasters to Vessels with Emigrants for Australia.

Conditions for  
appointment  
of clergy and  
schoolmasters  
to emigrant  
ships.

In answer, I am directed to represent that the Committee are perfectly aware of the terms on which such persons receive their allowances for outfit and passage, vizt., that they are without any further remuneration to employ themselves in communicating religious instruction to the Emigrants during the voyage, and that after their arrival they are to have no claim to any salary till they shall have been appointed to particular charges, according to the regulations of the Colonial Government.

The Committee are particularly on their guard against recommending a larger number of Clergymen than their information gives them reason to believe are likely to find employment soon after landing in Australia, and are more disposed for the present to provide the Vessels conveying Emigrants with Schoolmasters, in the belief that their services will be more in demand than those of Ministers; but they feel anxious that their recommendation of Mr. Stewart should be confirmed by Her Majesty's Government, as they understand that he has already made arrangements to leave this country, and should regret his being exposed to the expence and mortification of a disappointment.

Request for  
confirmation  
of nomination  
of Revd. C.  
Stewart.

I trust my letters of date the 15th Currt. with Extracts of the Resolutions of the Committee, and of the proceedings of the Commission (the latter composed of all the Members of last General Assembly) will be found to contain a sufficient answer to the Despatches from New South Wales, which Lord Glenelg was pleased to submit to their consideration in the communication forwarded to me by his desire under date the 10th of July, and satisfy his Lordship as to the position in which some of those Clergymen, who were sent out last year, have placed themselves in relation to the Church of Scotland, and

I have, &c.,

D. MACFARLAN.

[Enclosure No. 2.]

1838.  
1 Sept.

SIR GEORGE GREY TO REVD. PRINCIPAL MACFARLAN.

Sir, Downing Street, 30th August, 1838.

I am directed by Lord Glenelg to acknowledge your letter of the 21st instant, and to acquaint you that, under the circumstances which you have stated relative to Mr. Colin Stewart, his Lordship will not withhold his sanction from the arrangement which you have proposed, and will authorize the issue to him of the ordinary allowance for outfit and passage. Until however he shall have received further information from the Governor of New South Wales as to the opportunities of employment for an additional number of Presbyterian Clergymen, Lord Glenelg would not feel himself at liberty to charge the revenue of the Colony with the expence of any further allowance for passage and outfit on this account.

Approval of nomination of Revd. C. Stewart.

I have, &c.,  
GEO. GREY.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 207, per ship Alfred; acknowledged by Sir George Gipps, 14th and 18th January, 1839.)

Sir, Downing Street, 3d September, 1838.

3 Sept.

On the receipt of Colonel Snodgrass' dispatch No. 24 of the 17th February respecting the Proceedings of the Revd. Dr. Lang, I transmitted a copy of that dispatch and of its enclosures to the Revd. Principal Macfarlan, the couvener of the General Assembly's Committee on Colonial Churches, in order that the subject might be referred to that Committee for its consideration.

Reference to Revd. D. Macfarlan of despatch re schism in Presbyterian church.

I now transmit to you the copy of a letter, which I have received from Principal Macfarlan, enclosing certain resolutions which had been adopted by the Committee with reference to those proceedings, and also a letter from the Moderator of the General Assembly of the Church of Scotland, with an extract from the Record of the Assembly's Commission on the same subject.

Adverting to the views expressed in these documents as to the position, in which Dr. Lang and those Presbyterian Clergymen, who have acted with him, have placed themselves with regard to the Church of Scotland, I have to convey to you my approval of the course taken by Colonel Snodgrass with the concurrence of the Executive Council in declining, under the circumstances stated in his dispatch, to issue the Salaries applied for by Dr. Lang on behalf of the six Clergymen named in the proceedings.

Approval of refusal to issue salaries to clergy.

These Salaries were assigned to them as Ministers of the Church of Scotland and cannot be paid to them while they are, in consequence of their opposition to its recognized authority, disavowed by that church.

1838.  
3 Sept.  
Salary of  
Rev. J. D.  
Lang to be  
withheld.

With respect to Dr. Lang himself, Colonel Snodgrass felt that the case was less clear, because his Salary was fixed before the introduction of the new Ecclesiastical arrangements. So far, however, as that Salary was assigned to him exclusively in his character of a Minister of the Church of Scotland and in consideration of the services, which in that capacity he was to render to the Members of that Church in the Colony, I cannot perceive any sufficient justification for a continuance of the Salary, after he shall have ceased to be in connection with the Church.

I earnestly hope, however, that any question of this nature, both as it respects Dr. Lang and the other Clergymen associated with him, will be set at rest by their submission to the authority of the General Assembly.

Principle *re*  
stipends of  
clergy.

I wish it to be understood that, in questions of this nature, Her Majesty's Governemnt have no wish to constitute themselves judges of Ecclesiastical discipline as affecting the Members of any Church; but that the principle, on which Salaries have been assigned to the Ministers of the several Churches in the Colony, requires that those Salaries should be received only by such Ministers as remain in connection with and are recognized by the superior authority in their respective Churches.

I have, &c.,  
GLENELG.

[Enclosure No. 1.]

REV. PRINCIPAL MACFARLAN TO SIR GEORGE GREY.

Sir, College, Glasgow, 15th Aug., 1838.

Transmission  
of resolutions  
of committee  
of general  
assembly.

In compliance with the request of Lord Glenelg, signified in your communication of the 10th July, I have laid the Documents from New South Wales, which you forwarded at the same time, before the Committee of General Assembly on Churches in the Colonies, at their meeting on Tuesday, the 7th Currt., and am directed to transmit to you, for his Lordship's information, an attested copy of Resolutions expressing their opinion on the subject.

I have, &c.,  
D. MACFARLAN.

[Sub-enclosure.]

#### RESOLUTIONS.

At Edinburgh, the seventh day of August, Eighteen hundred and thirty eight years.

Resolutions in  
condemnation  
of action of  
Rev. J. D.  
Lang.

WHICH day the General Assembly's Committee for promoting the Religious Interests of the Scottish Presbyterians in the British Colonies being met and constituted, inter alia, having taken into consideration the Letter from Sir George Grey to the Governor of date the tenth of July, Eighteen hundred and thirty eight, and accompanying documents, Resolve:

First. That the Presbytery of New South Wales constitutes the only Ecclesiastical Judicatory in that Colony recognized by the Church of Scotland.

Second. That the Church of Scotland gave no authority or sanction to Dr. Lang, or the other persons uniting with him, to assist in reconstituting or reorganizing the Presbyterian Church in New South Wales; which Church they held to be validly constituted in the Presbytery, but, on the contrary, the understanding of the Committee and of the Assembly was that Dr. Lang and the persons, who went out with him, were to unite with and submit themselves to the said Presbytery.

Third. That this Committee strongly condemn the proceedings of Dr. Lang, and those who have united with him in forming the so called Synod of New South Wales, as in violation of presbyterian order and of the duty incumbent on them; and that, while they persevere therein, this Committee must recal and withhold any recommendation formerly given in their favor to Her Majesty's Government.

Fourth. That, with reference to the measures which may be necessary for remedying the grievous evils likely to arise from the proceedings of Dr. Lang and his adherents, the Committee agree to refer the whole matter to the meeting of Commission tomorrow.

Extracted from the Record by Wm. Young, Clerk to the Committee.

1838.  
3 Sept.  
Resolutions in  
condemnation  
of action of  
Rev. J. D.  
Lang.

[Enclosure No. 2.]

MODERATOR MUIR TO LORD GLENELG.

My Lord,

Edinburgh, 24th August, 1838.

As Moderator of the General Assembly of the Church of Scotland, I am appointed to transmit to your Lordship an Extract from the Record of the Assembly's Commission relative to the present state of the Presbytery in New South Wales.

Transmission of  
record of  
commission.

And I have, &c..

WILLIAM MUIR.

[Sub-enclosure.]

EXTRACT FROM RECORD.

At Edinburgh, the eighth day of August, Eighteen hundred and thirty eight years.

WHICH day the Commission of the General Assembly of the Church of Scotland being met and constituted, inter alia, an Extract of the Minutes of a Meeting of the General Assembly Committee on Colonial Churches held yesterday was laid on the table and the advice of the Commission on the matter was craved; of which extract minutes, the tenor follows. Principal Macfarlane called the attention of the Committee to a communication from the Colonial Office with correspondence relative to the Scotch Church in New South Wales, which he had ordered to be printed. He also read a report drawn up by him as to the state of this matter up to the date of the proceedings now laid before the meeting, and expressed his willingness to give any explanations that might be wished for by any Member present. After much deliberation on this important matter, Mr. Dunlop proposed the following Resolutions which were unanimously agreed to.

Decision by  
commission of  
general  
assembly.

The Committee having taken into consideration the letter from Sir George Grey to the Governor, of date tenth July, Eighteen hundred and thirty eight, and accompanying documents, Resolve:

[These were a repetition of the four resolutions of the general assembly's committee.]

1838.  
3 Sept.

Decision by  
commission  
of general  
assembly.

The Commission of the General Assembly having heard the Report of the Assembly's standing Committee on Colonial Churches, and having considered the documents therewith transmitted, approve of the Report and of the Resolutions of the Committee. The Commission have learnt with the deepest Sorrow the proceedings, which have recently been adopted in New South Wales by the Revd. Dr. Lang and others, who have most unwarrantably attempted to assume to themselves the Character of a Church Judicatory, self constituted, in disregard of the subsisting ecclesiastical authority in that Colony recognized by the Church of England. The Commission find that the Representation, which appears to have led to this measure, vizt., that this Church had considered the Presbytery of New South Wales to be in a state of disorganisation, and had authorized the said Revd. Dr. Lang and those Ministers, who accompanied him to that Colony, to assist in reorganizing and reconstituting the Presbyterian Church there, is altogether at variance with the fact. They farther find that, if this measure were otherwise justifiable, it would have imported an abandonment on the part of those adopting it of the means in their power to correct the very evils, of which they complain and which they allege in vindication of their conduct; but the Commission unanimously condemn these proceedings as in all respects unjustifiable, unwarranted, in violation of Presbyterial discipline and order, and of the duty incumbent on those who have taken part in them, and calculated to be most injurious to the Character of the Presbyterian Church and to the interests of Religion in a Colony, most important in itself and in its position with a reference to the Multitudes of unconverted heathen, in that quarter of the World. The Commission feel confident that those individuals, who have been misled into a concurrence in these proceedings, will, on due deliberation, see the error of their course, and the Commission expect that the Presbytery of New South Wales, the only Judicatory recognised by this Church while they with all faithfulness follow out those steps, which may be necessary for the due enforcement of discipline and strict investigation of all alleged evils within their own body, whereby alone they can maintain their proper character as the Judicatory of a Church of Christ, will with tenderness and affection readily receive such of their separating brethren as, convinced of their error, may desire to retrace their steps. With a view in the meantime to impress upon all parties their duty in this matter, the Commission resolve that a Pastoral Address to the Ministers, Elders and People of the Presbyterian Church in New South Wales in connection with the Church of Scotland, be immediately transmitted; and, with reference to those further measures which may be necessary to redress the evils and heal the differences which have arisen in that Colony, and in particular in regard to the steps, which may require to be taken with respect to the individuals, who, holding the status and character of licentiates or ordained Ministers of the Church of Scotland, may persevere in refusing to submit themselves to the Church Judicatory recognised by this Church, and to which this Church is willing to commit the oversight of such of her Ministers and Licentiates, as may be settled in New South Wales, the commission resolve to appoint a Committee to report thereon to the Meeting of Commission in November, and to make such preparation, as they may see fit for enabling the



Commission to carry into immediate execution the measures recommended by them, should these then be approved. In conclusion, the Commission express their high satisfaction at observing the resolutions of the Colonial Government of New South Wales to enforce the condition adopted by the Legislature of that Colony in regard to the provision for Presbyterian Ministers there settled, and they earnestly and confidently trust that they, and that Her Majesty's Government at home, may persevere in that course, by which the discipline of the Presbyterian Church and the subordination of its members to the recognised judicatories thereof may be most effectively secured.

1838.  
3 Sept.

Decision by  
commission  
of general  
assembly.

The Commission direct Copies of the above deliverance to be transmitted to Her Majesty's Secretary of State for the Colonies, and to the Moderator of the Presbytery of New South Wales, and they also direct a copy of the same and of the resolutions of the Assembly's Committee, and of the documents transmitted from the Colonial Office, to be transmitted to the Moderator of the Synod of Ulster, expressing their hope and expectation that the said Synod will cordially co-operate with them so far as in their power for the restoration of subordination, unity, and order in the Presbyterian Church of New South Wales.

The Commission cannot pass from the subject without expressing their strongest condemnation of the unwarrantable imputation cast on the Reverend Principal Macfarlan, Convener of the General Assembly's Colonial Committee and other Members of the Committee, to whose zealous, able and effective labours the cause of the Colonial Churches is under God so greatly indebted.

The Commission appoint the following members a Committee to prepare an address, and authorize their Moderator to sign and transmit the same as speedily as possible:—Dr. Muir, Dr. Lee, Dr. Brunton, Dr. Craig Buchanan, Dr. Clason, Dr. Forbes, Mr. Dempster, Mr. Wilkie, Mr. Liddell, Mr. Lorimer, Mr. Buchanan Glasgow, Mr. Balfour Graham, Mr. Simpson, Mr. McKenzie, the Procurator Dr. Brown, Dr. Welsh, Mr. Buchan, Sir Charles D. Ferguson, Dr. Bryce, Mr. Tennent, Mr. Bonar, Mr. Hope, Mr. Dunlop, Mr. Hog, Mr. Bridges, Mr. Dalmahoy, Mr. Laurie; Dr. Muir to be Convener.

Extracted from the Records of the Commission of the General Assembly of the Church of Scotland upon this and the twelve preceding pages with marginal note on page fourth by John Lee, ch. Eccl. Scot.

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SIR GEORGE GIPPS TO LORD GLENELG.  
(Despatch No. 136, per ship Marinus.)

My Lord, Government House, 3rd Sept., 1838.

I have had the honor to receive your Lordship's Despatch of the 3rd Jany., 1838, No. 61, enclosing a letter from the Secretary to the Treasury dated the 22nd Decr., 1837, requiring to be informed how certain Bazils or Leg Irons and Religious Books have been disposed of, which were delivered from the Convict ship "Lady Nugent" in the month of April, 1835; and prescribing the course which is to be pursued in respect to all stores, the property of the Board of Admiralty, which may be

Despatch  
acknowledged.

1838.  
3 Sept.

Disposal of  
leg-irons and  
religious books  
*ex ship*  
*Lady Nugent.*

delivered from Convict ships in New South Wales. In reply, I beg leave to report to Your Lordship that the course, prescribed by the Treasury, will in future be followed in this Government; and, with respect to the Bazils or Leg Irons landed from the "Lady Nugent," I have to report that they were delivered on the 12th Feby., 1838, to the Ordnance Storekeeper, but have, since the receipt of your Lordship's Despatch, been transferred to the Deputy Commissary General. The Religious Books were delivered to the Revd. Wm. Cowper (Senior Chaplain of the Church of England in Sydney) on the 24th April, 1835, and a receipt for them taken. The way, in which they were disposed of, is shewn by the Revd. Mr. Cowper in a letter of which I transmit a Copy.

I have, &c.,  
GEO. GIPPS.

[Enclosure.]

REV. WILLIAM COWPER TO COLONIAL SECRETARY.

Sir, Sydney, 9th August, 1838.

Statement by  
Revd. W.  
Cowper.

In reply to your Letter No. 38/239 received yesterday, I beg leave to state that the Books, which were sent to me from the Convict Ships, I distributed as the Requisitions were made by Individuals or by Government from time to time for the use of Convicts at Penal Stations, in Ironed Gangs, or on the Roads, or Sick in Hospitals. Viz., at Sydney for the Jail, the Hulk, the Treadmill, the asylum, and the Hospital; at Parramatta, for the Female Factory, the Jail, and the Hospital; at Liverpool, at Bathurst, at New Castle, at Maitland, at Moreton Bay, at Norfolk Island, etc. None of those Books, received by me, were sold either by auction or otherwise.

Indeed, I scarcely think the Books in question, if sold by Auction, would have paid the usual expenses attending the Sale; at the same time I would observe that, although a very large proportion of the Books were imperfect or damaged and almost useless; yet, those which were in a Condition to afford instruction and edification to the serious and well disposed reader, if purchased new by the Government, would have cost a very considerable Sum of Money.

I have, &c.,  
WILLIAM COWPER.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 208. per ship Alfred.)

4 Sept.

Sir, Downing Street, 4 September, 1838.

Despatches  
acknowledged.

With reference to the dispatches from Sir Richard Bourke referred to in the margin,\* I have now to transmit to you, for your information and guidance, the enclosed copy of a letter from the Secretary of the Treasury. The subject, to which it

\* *Marginal note.*—No. 79, 12 Augt., 1835; No. 92, 15 Sept., 1835; No. 60, 10 June, 1836; No. 82, 25 July, 1836; No. 85, 7 Augt., 1836.

refers, has undergone very full consideration, and the decision which I now transmit to you must be considered as the deliberate result of that consideration.

1838.  
4 Sept.

I should have been happy, could I have felt myself justified in adopting a view of this subject more in accordance with the sentiments entertained by the Members of the Council of New South Wales in 1835; but I must avow my inability to dispute the soundness of the arguments, by which the Lords Commissrs. of the Treasury have been influenced or to discover any sufficient reason for withholding my sanction from the application in this instance of the general principle that expenditure, incurred in and for the benefit of the Colony, ought, whenever practicable, to be defrayed out of the Colonial Revenue.

Principle to control expenditure from colonial revenue.

The present state of the Revenue of New South Wales is such as to leave no doubt of its sufficiency to meet these charges, and I have every reason to anticipate from the measures recently adopted to promote the immigration into the Colony of a numerous body of free Mechanics and Agricultural labourers that its resources will rapidly increase.

State of revenue.

Under these circumstances, I trust you will have no difficulty in inducing the Council, without encroaching on those funds which are primarily applicable to immigration, to provide the requisite means for defraying that portion of the expense of the Police and Gaol Establishment, which is not already borne by this Country.

I have, &c.,

GLENELG.

[Enclosure.]

MR. F. BARING TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 30th September, 1837.

With further reference to your letter of the 1st of May last, and to the reply to that part of your communication, which related to the Ecclesiastical Establishments in New South Wales addressed to you on the 7th of June last. I am commanded by the Lords Commissioners of Her Majesty's Treasury to request you will state to Lord Glenelg that my Lords have had under consideration the Estimates of Revenue and expenditure of the Government of that Colony for the current year, which accompanied the despatch of Sir Richard Bourke of the 7th of August, 1836, with the several remaining points to which you had been directed to call their attention, and have also considered the despatch and report on the subject of the Police and Gaol Establishments in New South Wales, forwarded to this Board in your letter of the 11th of November, 1836.

Consideration by treasury of estimates and problem of police and gaols.

I am further commanded to request that you will acquaint Lord Glenelg that my Lords concur in his Lordship's suggestion that the arrangements, relating to the Police Establishments which have been suggested by Local experience and after careful investigation, should be sanctioned; and, looking to the state of the Colonial Resources, my Lords see no reason to dissent from the view his

1838.  
4 Sept.

Lordship has taken in regard to the items of increased expenditure, which appear in the estimate. It consequently only remains for my Lords to advert to the objections, which have been urged to the payment of the whole amount of the charges for maintaining the Police out of the Colonial funds, on which subject my Lords entirely concur with Lord Glenelg that it is essentially necessary that some final decision should be adopted.

Reasons for  
maintenance  
of police by  
colonial funds.

Referring to the communications, which have by my Lords' direction been made to Lord Glenelg, relating to the charges in question, and more particularly to the Letters of the 8th and 21st of September, 1836, and 3d of May last, I am directed to request that you will observe to his Lordship that the documents now before this Board confirm the impression previously entertained by my Lords that the necessity for the very large amount of Police Force, the respective Governments of New South Wales and Van Diemen's Land have proposed to keep up, has arisen from the assignment of the Convict Servants and the natural desire of the Settlers "to turn to the best account and obtain in the largest proportion the labour of the convicts thus assigned"; and as the entire charge for maintaining and superintending all those Convicts who are in any respect under Penal coercion, whether from reconviction or disorderly conduct in the Colony or under their original sentences, and notwithstanding they are principally employed in Colonial works, is borne by this country, my Lords can entertain no doubt of the propriety in every point of view of looking to the Colonial resources for the means of defraying the whole of the Police expenses.

Adverting in the case of New South Wales now more immediately in question, to the representation to which my Lords' attention has been particularly directed by Lord Glenelg, respecting "the insufficiency of the Colonial Revenues to bear the charge, which (it is assumed) had so much exceeded the Estimate of His late Majesty's Government, without encroaching on measures urgently required for other objects and crippling the means of improving the social character of the Colony," you will suggest to Lord Glenelg that, if the transfer of the Police expenses has imposed on the Colonial funds an additional charge exceeding the amount of £25,000 per annum, at which it was estimated in the proposition submitted by direction of this Board to Mr. Secretary Spring Rice on the 23d of September, 1834, which, adverting to the counter-vailing effect of the arrangement already noticed in regard to the entire expense of the Convicts employed on Colonial works, would seem to be very questionable, the excess will have entirely arisen from augmentation of the numbers of magistrates and of subordinate Functionaries, which have been made by the local Government with a view to the objects already referred to.

You will also state to his Lordship that it has appeared to my Lords, on inspecting the Estimate accompanying Sir Richard Bourke's despatch of the 7th of August, 1836, and upon which the appropriation Ordinance for 1837 was founded, that, by charging the expense of the Surveyor General's Department to the Crown Land Fund, to which branch those expenses as entirely contingent upon the demand for Lands most properly attach, and considering the surplus which had accumulated in the Treasury as affording ample provision for the execution of the contemplated Public Works, the current Revenue as stated in those Estimates, and without

calculating upon further increase which the experience of previous years and the progressive improvement of the Colony might have warranted, would have been more than sufficient to defray the expenditure of the year, including the whole augmented charge for the Police.

1838.  
4 Sept.

Reasons for maintenance of police by colonial funds.

If, however, any doubt on this head could have been entertained, it must have been removed by the Documents forwarded to my Lords in your Letter of the 15th of July; and it consequently only appears to my Lords to be further necessary to observe that, on fully reconsidering the proceedings that have taken place on the subject, they see no grounds to call for or in any respect to justify a re-transfer of any portion of the police expenditure to the Military Chest, or the revocation of any of the directions with respect to the expenses of the Police and Marine Departments or the extra expenses of the Mounted Police suggested in the communications to Lord Glenelg to which reference has already been made.

My Lords conceive therefore that final directions may now very properly be given, confirming the arrangements the Governor has already been instructed to adopt with respect to the whole of the before-mentioned charges; and that the Governor should be distinctly apprized that, in the Parliamentary Grants for defraying Convict and other expenditure in the Australian Penal Settlements, no Provision is now made for the Police expenses, and that the Officers of the Commissariat will be prohibited from making any payment from Funds under their charge for those expenses, except as recognized advances on account of the Colonial Government, and to be refunded by the Colonial Treasury.

I am further directed to request that you will move Lord Glenelg to cause my Lords to be apprized, when these final directions shall have been communicated to the Governor of New South Wales, in order that the corresponding Instructions may be conveyed to the officers of the Commissariat.

I am, &c.,  
F. BARING.

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LORD GLENELG TO SIR GEORGE GIPPS.  
(A circular\* despatch per ship Alfred.)

Sir, Downing Street, 4 Sept., 1838.

I have received from *Mr. Edwin Park* a Letter, dated the 23rd of February last bringing under my consideration *his claim to a primary maximum grant of 2,560 acres of Land in the Colony under your Government.*

Application for land grant by E. Park.

This communication having been sent to me from the Colony by the Writer, and not having been transferred through you, I have to desire that you would apply to the Writer for a copy of it, and that you would forward that Copy to me, accompanied by such a Report as the case may appear to you to require.

I have, &c.,  
GLENELG.

1838.  
5 Sept.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 209, per ship Alfred; acknowledged by  
Sir George Gipps, 23rd March, 1839.)

Sir, Downing Street, 5 September, 1838.

Report required  
re gratuities  
to female  
convicts of  
good character.

The Lords Commissioners of the Treasury have brought under my notice a payment of £3, which had been made into the Savings Bank of New South Wales under the authority of a Letter, addressed by the Colonial Secretary to the Deputy Commissary General of Accounts in favor of Catherine Kenny, a Female Convict, in consequence of a recommendation of the Ladies' Committee for the Superintendence of Female Convicts that Women, remaining with a good character in their places for certain definite periods, should receive corresponding rates of gratuity. And I have to request that you will furnish me with some further information as to the grounds of this arrangement.

I have, &c.,  
GLENELG.

SIR GEORGE GIPPS TO LORD GLENELG.  
(Despatch No. 138, per ship Marinus; acknowledged by  
marquess of Normanby, 16th April, 1839.)

My Lord, Government House, 5th Sept., 1838.

Despatch  
acknowledged.

I have had the honor to receive your Lordship's Despatch of the 30th March, 1838, No. 96, by which I was informed that the trade, which had recently been opened between this Port and the Possessions of the King of the Netherlands in the East Indies, under an erroneous construction of the Treaty of the 17th March, 1824, was to be discontinued; and I have the honor to enclose for Your Lordship's information a copy of a Government Notice,\* which I issued thereupon, by which your Lordship will perceive that no produce, brought by a vessel under Dutch Colors from those Possessions, will be admitted to entry after the 1st Jany. next.

Prohibition of  
importation  
of Dutch  
produce.

Temporary  
suspension of  
prohibition.

It was on the recommendation of the Officers of Customs, and with the advice of my Executive Council, that I allowed an interval of four months for bringing the Trade to a conclusion, it being considered that it was only an act of justice to admit such vessels as might sail from any Dutch Port in the East Indies or Eastern Archipelago on the faith of the prior decision of this Government, and before it could be known that that decision had been reversed.

I enclose a Return of all the Vessels, which have been admitted to entry up to the present date, since the trade was opened in

\* Note 112.

May, 1837; and I do not expect that any considerable addition will be made to the List, by keeping it open 'till the 1st Jany., indeed the probability is that there will be none.

1838.  
5 Sept.

I have, &c.,

GEO. GIPPS.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 210. per ship Theresa.)

Sir, Downing Street, 6 September, 1838.

6 Sept.

I have received your Dispatch No. 125 of the 2nd of December last relative to the charge of Government Vessels at New South Wales; and, having referred it for the consideration of the Lords Commissioners of the Treasury, I have now the honour to transmit to you, for your information and guidance, a copy of the letter which has been addressed to this Department by their Lordships' direction in reply.

Transmission  
of instructions.

I have, &c.,

GLENELG.

[Enclosure.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 31st August, 1838.

With reference to your letter of the 31st of May last, inclosing copy of a despatch from the Governor of New South Wales, and to the correspondence which has previously taken place on the subject of the transfer of the charge for the Colonial Marine at New South Wales from the Military to the Colonial Chest, I have it in command from the Lords Commissioners of Her Majesty's Treasury to request you will state to Lord Glenelg that, under the circumstances stated in Sir Richard Bourke's despatch of the 2nd of December last, my Lords do not object to the continuance for the present of the expense of the two vessels, that have been retained, at that Station as a charge on the Funds of the Military Chest, and that, adverting to the proceedings which have taken place with respect to the employment of a Steam Vessel at New South Wales, and to the reports and information, relating to this subject, which will have been called for in consequence of the recommendation contained in the letter addressed to you by direction of this Board on the 14th of May last, my Lords do not deem it advisable that any directions should at present be given for the reduction of the Vessels that have been retained.

Instructions  
re charge for  
colonial marine.

I am, &c.,

A. Y. SPEARMAN.

SIR GEORGE GIPPS TO LORD GLENELG.  
(Despatch No. 139. per ship Marinus.)

My Lord, Government House, 7th Sept., 1838.

7 Sept.

I have the honor herewith to transmit a letter, which has been addressed to your Lordship by Mr. Roger Therry, a Barrister of high reputation and Commissioner of the Court of Requests in this Colony. Mr. Therry's services and claims were,

Transmission  
of letter from  
R. Therry.

1833.  
7 Sept.

I have reason to know, held in the highest estimation by Sir Richard Bourke; and, during the time that I have held the Government, I have had ample cause to form a very favorable opinion of his discretion and ability.

I have, &c.,  
GEO. GIPPS.

[Enclosure.]

MR. R. TERRY TO LORD GLENELG.

My Lord,

Sydney, N. S. Wales, 4 September, 1838.

Resolution of  
council in  
favour of  
R. Terry.

In addition to the testimonials which I recently transmitted to your Lordship from the late Chief Justice of this Colony, Sir Francis Forbes, and Mr. Justice Dowling certifying my fitness and qualification for legal promotion, I take the liberty of transmitting now a resolution\* of The Legislative Council in which notice is taken of the manner in which (in the opinion of The Council) I have discharged the duties of the office of Commissioner of the Court of Requests, which I have held for nearly ten years.

Reasons for  
transmission  
of resolution.

I trust Your Lordship may believe that I only do what I deem an act of Justice to myself in inviting your Lordship's attention to this resolution of The Legislative Council, in order that, in the event of any change or promotion in the legal Department of this Colony, I may have the advantage of the testimony which this resolution supplies of my having endeavoured to justify the recommendation of me to my present appointment by my late lamented friend Mr. Huskisson, and of my being regarded not as an unworthy candidate for promotion whenever a suitable opportunity for such promotion may present itself.

In further support of my claim to your Lordship's favorable consideration, I venture to refer to Sir Richd. Bourke now in England, who, I am satisfied, will readily testify that during his administration I discharged the duties of my office to his and the public satisfaction.

I have, &c.,  
R. TERRY.

[Sub-enclosure.]

[This was a printed copy of the "Votes and Proceedings" of the legislative council, dated 29th August, 1838.]

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 142, per ship *Marinus*; acknowledged by marquess of Normanby, 2nd April, 1839.)

12 Sept.  
Despatch  
acknowledged.

My Lord,

Government House, 12th Sept., 1838.

I have had the honor to receive your Lordship's Despatch of the 24th March last, No. 92, in which I am called on to afford some further explanation with regard to the increase in the expenses of the Convict Establishment in this Colony, which increase was brought under your Lordship's notice by a letter from the Secretary to the Treasury of the 13th of the same month.

\* Note 113.



With respect to the appointment of a Visiting Justice to the Female Factory at Parramatta with a salary of £100 a year, I can add little to the reasons given for the necessity of it in Sir Richard Bourke's Despatch to your Lordship of the 7th Novr., 1837, No. 111, and in the letter of the 28th July, 1837, from the Secretary of this Government to the Deputy Commissary General, sent by the latter to the Lords of the Treasury.

1838.  
12 Sept.

Necessity  
for visiting  
magistrate at  
female factory.

The Visiting Justice is a Stipendiary Police Magistrate, who receives a salary of £300 a year from the Local Government. It cannot, I apprehend, be expected that his services should be given gratuitously at the Factory; and, if a necessity existed for the appointment, somewhat more than a year ago, on account, as stated by Sir Richard Bourke, of the number of women in the Factory being upwards of 500, that necessity will not be the less now that the numbers have increased to 690. The total expence of Superintendence of the Factory does not exceed the sum sanctioned in your Lordship's Despatch of the 4th July, 1837, No. 337; and, though the distribution of it is somewhat different, I trust your Lordship will believe that the deviation from what was mentioned by your Lordship is not made with any other object in view than the good Government of the Establishment.

With respect to the Establishment of the Principal Superintendent of Convicts, the increase is to be ascribed to two causes; first, to the increase in the number of Convicts under his management, and to their wider dispersion over the immense territory comprised within the limits of this Government; and secondly, to the necessity of raising the salaries of Clerks in this Department to the rate at which salaries of Clerks in the employment of the Local Government were fixed during the course of last year on the recommendation of a Committee of the Legislative Council, which recommendation was transmitted to your Lordship with the printed proceedings of the Council for the year 1837. So far from any diminution in the expense of this Department being practicable, I am sorry to have to report that a further increase in the number of the Clerks was sanctioned by my Predecessor before he quitted New South Wales. I have not myself made any addition to what I found established when I assumed the Government; but I must confess that, unless I can devise means to lessen the quantity of business in the Department, I fear it will not be possible long to confine the expense of it within its present bounds. It is the practice at present never to refuse attention to the application of any Convict out of the 30,000, who are in the Colony, who may think it right to address a letter or a petition to the Government. The labour, that is incurred in investigating all the complaints they prefer, and the

Causes of  
increased  
expenditure on  
establishment  
of super-  
intendent of  
convicts.

Probable  
necessity for  
further increase  
of expenditure.

1838.  
12 Sept.

Probable  
necessity for  
further increase  
of expenditure.

grounds on which they appeal for mercy, is immense. The correspondence with the Police Magistrates and the different Benches of Justices throughout the Colony increases as these Benches are multiplied by the extension of our limits of occupation, or by the subdivision of the more populous districts; and the Returns, which have of late been so frequently called for by Parliament, not only cause a great deal of labor in the preparation of them, but force us to keep a much more complete record of all transactions concerning the discipline of the Convicts and the Statistics of crime than was customary in former times.

I enclose a statement of the present Establishment, and

I have, &c.,

GEO. GIPPS.

[Enclosure.]

*[This was a return, which detailed the names, dates of appointment and annual salary of the clerks, employed in the office of the principal superintendent of convicts.]*

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 143, per ship *Marinus*; acknowledged by marquess of Normanby. 5th March, 1839.)

14 Sept.

Transmission  
of letter from  
judges.

My Lord,

Government House, 14th Sept., 1838.

The accompanying Copy of a letter from the Judges of this Colony, though dated the 29th May last, was only transmitted to me by their Honors on the 12th instant.

Your Lordship will observe that it contains a representation of the evils, which are felt in the administration of Justice in New South Wales from the operation of an Act of Parliament, passed in the year 1813 (54th Geo. 3rd, Ch. 15) for allowing debts to be proved in any Court of New South Wales by the Affidavit of a party in England, for which affidavit a simple affirmation may be substituted under the 5th and 6th Willm. 4th, Ch. 62.

Recommendation  
by judges.

The recommendation of the Judges is that the statute should be repealed, or that the admission of such Oath or affirmation should be left to the discretion of the presiding Judge.

I have, &c.,

GEO. GIPPS.

[Enclosure.]

THE JUDGES TO SIR GEORGE GIPPS.

Sir,

Sydney, 29th May, 1838.

Proposal for  
repeal of  
statute for  
recovery of  
debts.

The practical inconvenience of the Statute 54 Geo. 3rd, Chap. 15, intituled "An Act for the more easy recovery of Debts in his Majesty's Colonies of New South Wales," as extended by the 15th and subsequent Sections of the Statute, 5 and 6 Wm. 4th.

Chap. 62, has in a recent case been so strongly pressed upon us, that we were constrained publicly to declare that we should think it our duty to recommend to Her Majesty's Government that these Statutes Should be repealed.

1838.  
14 Sept.

We now therefore most respectfully Solicit your Excellency's recommendation to that effect, or, if the total repeal of the Statute 54 Geo. 3rd, Chap. 15, should be deemed inexpedient, we trust that it may at least be modified.

The history of these Laws is briefly this :

The Act of 5 Geo. 2nd, Chap. 7, Intituled, "An Act for the more easy recovery of Debts in His Majesty's Plantations and Colonies in America," and commonly called "Beckfords Act." provided that "in any action or suit in any Court of Law or Equity in any of the said Plantations, relating to any Debt or Account wherein any person residing in Great Britain Shall be a party, it shall be lawful for the Plaintiff or Defendant, and also for any Witnesses, to be examined and made use of by Affidavit (or in case of Quakers by affirmation) before any Mayor or Chief Magistrate of the City, etc., in or near which he is resident, which Affidavit Certified and transmitted" (as the Act directs) "shall be of the same force and effect in the Colony, as if the Defendant had appeared and sworn the same matters in open Court, Provided that the addition and place of abode of the party Swearing or affirming be Stated in the Oath." And it is provided "that debts due to His Majesty may be proved in the same manner."

Provisions of  
Beckford's act.

It is a general rule in Courts of Law in England "that a person, who is a party on the record, though he be merely a Trustee, is incompetent to act as a witness for himself or a joint Suitor."

Objections  
to provisions.

It will also be observed "that no notice is required to be given to the opposite party, on the occasion of making the affidavit, but the proceeding is entirely *ex parte*"; thus all benefit of cross examination or exception to the testimony is excluded; and, on production in the Colonial Court of the affidavit so sworn, it is made imperative on the Judge to allow proof of the Debt.

This Statute was by the Subsequent Act of 54 Geo. 3rd, Chap. 15, extended to New South Wales and its Dependencies, And is (with the exception of the alteration of Names and the omission of the Word "Negroes" in the 4th Section) a transcript of the Bristol Traders Act of 5th Geo. 2nd, Chap. 7.

Extension of  
act to colony.

If this Law be not altogether repealed, as we trust it will be, we conceive that the admission of any such affidavit Should be left to the discretion of the presiding Judge, or else to such other cases only as, under Similar Circumstances, the like Affidavits would be admissible in the Superior Courts of Law or Equity in England.

Proposed repeal  
or amendment.

The Substitution of a mere Declaration for an Affidavit by Stat. 5 and 6 Wm. 4, Chap. 62, we consider so great an innovation upon the fundamental principles of Law as to induce us most strenuously to urge its repeal.

Objections to  
declaration  
*vice* affidavit.

We never for a moment can believe that the Oath, which the Witness Swears *in open Court*, viz., not only that what he deposes Shall be true (and the Declaration substituted for an Oath goes only thus far) "but that he shall also depose the whole truth, so that he is not to conceal any part of what he knows, whether interrogated particularly to that part or not," Can ever be honestly or fairly supplied by a mere *Ex parte* Statement that the party "Sincerely declares, and conscientiously believes" what is framed

1838.  
14 Sept.

Objections to  
declaration  
vice affidavit.

by himself, to meet his own case, and answer his own interested views, is true; such a Law is placing the absent Witness, who by the very reason of such absence is more likely to deceive, and is further from detection, in a more favored position than the Witness, who comes forward at the Trial.

It affords irresponsibility from an Oath, where an Oath is most required; and it would obviously be more consonant to Justice, if the Oath of Testimony is to be abrogated, in any case, to free the Witness, who is examined and may be cross examined in open Court And his Evidence thus thoroughly sifted, from that Obligation, and to impose it on the *exparte* testimony of an absent *and interested* Party.

We have, &c.,

JAMES DOWLING.

W. W. BURTON.

JOHN WALPOLE WILLIS.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 211, per ship Theresa.)

15 Sept.

Sir,

Downing Street, 15th September, 1838.

Instructions  
re employment  
of soldiers  
as mounted  
police.

I have the honor to transmit to you the copy of a letter, which I have received from the Secretary at War, calling my attention to the present system of employing Soldiers belonging to the Regiments stationed in the Australian Colonies as Mounted Police; and pointing out the inexpediency of allowing the men, while serving in the Police, to continue on the regular establishment of their respective Regiments, of which they reduce the real strength, while they receive a part of their emolument from the Ordinaries of the Army and a part out of the Colonial Revenue.

It is therefore proposed that Soldiers transferred to the Mounted Police in the Colony under your government should not still be borne as belonging to their respective Regiments; but that they should be considered as Supernumeraries, receiving no Military pay and not being ordered to rejoin their Regiments even when those Regiments leave the Colony unless for some special reason.

As the Secretary at War intimates that he has obtained the concurrence of the general Commanding in Chief in this arrangement, I have not hesitated to adopt it, having further communicated with the Lords Commissioners of the Treasury on the financial part of the arrangement.

I have accordingly intimated to the Secretary at War that you would be directed to propose to the Legislative Council to make the necessary provision for carrying the measure into effect from the 1st April next.

I have, &c.,

GLENELG.

[Enclosure.]

1838.  
15 Sept.

VISCOUNT HOWICK TO LORD GLENELG.

War Office, 11th July, 1838.

My Lord,

I have the honour to acquaint your Lordship that, having had my attention drawn to the system of employing Soldiers belonging to the Regiments stationed in the Australian Colonies as Mounted Police, by the evidence of Lieutenant Colonel Breton of the 4th Regiment before the select committee of the House of Commons on Transportation during the last Session, and, being persuaded from the facts stated in that evidence that the system is in many respects objectionable, I have stated to the General Commanding in Chief my views of the Alteration which should be made, and, having obtained Lord Hill's concurrence therein, I have now to state the particulars for your Lordship's consideration and approval. Colonel Breton stated that the "best Men of each Regiment are selected for this service; that they continue to be so employed until the Regiment embarks for India, being a period of four or five years; that, by that time, the Soldier becomes demoralized, and, in consequence of having been so long a period his own Master, his duty when he rejoins the Regiment is irksome to him, and he is no longer amenable to discipline, but is found to have become careless, slovenly, and insubordinate. It appears further that all the Men belonging to a Regiment proceeding to India are not recalled, but such as are old remain in the Police, and are transferred to another Regiment newly arrived in the Colony."

Objections to system for employment of soldiers as mounted police.

It appears to me highly inexpedient on all accounts that these Men, when serving in the Police, should continue on the regular establishment of their respective Regiments, of which they reduce the real strength, and that they should receive a part of their emolument out of the Ordinaries of the Army and a part out of Colonial Revenue. The simplest mode of obviating the objections to the existing practice would be to provide that, as soon as these Soldiers are definitely appointed to the Police, they should be considered as having been discharged from the Army, some arrangement being made with respect to their claim to pension, analogous to that which was adopted with regard to Soldiers of Cavalry Regiments transferred to the Coast Guard Service.

New system proposed.

As however some difficulty might thus arise, both as to the charge for pension, and as to the means of exercising the necessary controul over the Men so employed, I should rather be inclined to propose, at least in the first instance, that Soldiers transferred to the Mounted Police should still be borne as belonging to their respective Regiments, but that they should be considered as supernumeraries, receiving no Military Pay, and not being ordered to rejoin their Regiments, even when these leave the Colony, unless for some special reason.

The Effect of this Arrangement would be that the Regiments, serving in the Australian Colonies, would no longer be weakened by having a considerable number of Men withdrawn from their ranks, since the vacancies thus occasioned would in future be filled up, and that these Regiments would not, on proceeding to another station, be subjected to the inconveniences of having returned to them soldiers, for a considerable time unused to Military Discipline, and discontented in consequence of having to relinquish an advantageous employment; while at the same time the Mounted

1838.  
15 Sept.  
New system  
proposed.

Police would continue to be amenable to Military Law, and their pensions would be granted, as at present, for their whole service both in the Police and in the Army.

To avoid the inconvenience which would arise from retaining such Men on the Returns of Regiments transferred to the Establishment of the East India Company, I propose that, on the embarkation of any Regiment from the Australian Colonies for India, the Men of this description, who shall continue to belong to the Mounted Police, shall be considered as transferred to the Regiment newly arrived in those Colonies, and be borne on its returns as Super-numeraries belonging to such Regiment.

If your Lordship should approve of this arrangement, it would only be requisite that you should instruct the Governor of New South Wales to provide for the issue of the whole pay of the Mounted Police from such a date as may appear to you most convenient, informing me what is the time selected for the change, in order that I might make the necessary arrangements, so far as this department is concerned, for carrying it into effect. I have, &c.,  
HOWICK.

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LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 212, per ship Theresa.)

17 Sept.  
Transmission  
of letter from  
J. Dillon.

Sir, Downing Street, 17th September, 1838.  
With reference to my despatch, No. 285 of the 4th of April, 1837, I beg to enclose a copy of a further communication from Mr. J. Dillon relative to his claim on Mr. Kinchela.

I have, &c.,  
GLENELG.

[Enclosure.]

MR. JOHN DILLON TO LORD GLENELG.

My Lord, No. 10 Malpas St., Dublin, 31st August, 1838.

I have no hope of receiving the balance of my account only through your kind interference.

That more than a year and four months has elapsed since I received a remittance, and your kind letter, 8th April, 1837, acquainting me that a copy of my letter of the 1st April would be forwarded to the Governor of New South Wales with instruction to call upon Mr. Kinchela for such explanation as he may be able and desirous to offer respecting my claim upon him.

I am now advanced in life with a large Family, and no other means of recovering the debt except through your kindness.

I am, &c.,  
JOHN DILLON.

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SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 144, per ship Marinus; acknowledged by marquess of Normanby, 3rd March, 1839.)

My Lord, Government House, 17th Sept., 1838.

At the request of the Right Revd. Dr. Polding, Vicar General of the Roman Catholic Church in this Colony and Titular Bishop of the same, I have the honor to transmit to your

Claim by  
J. Dillon on  
J. Kinchela.

Lordship Copies of certain Resolutions, which have been generally adopted at Meetings of the Roman Catholic Communities in different parts of this Colony, convened under the authority of the Clergy of that Church, to take into consideration an expression made use of by Mr. Justice Willis at a Public Meeting of the Diocesan Committee of the Societies for promoting Christian Knowledge and for the Propagation of the Gospel in foreign parts, in which Mr. Justice Willis is said to have charged the Roman Catholics with the practice of *Idolatrous* Worship.

Also, at the request of Mr. Justice Willis, I transmit to your Lordship Copies of various documents on the same subject, the contents of which are briefly explained in the schedule annexed to this Despatch.

I beg to acquaint your Lordship that, although I heard as a matter of common rumour that Mr. Justice Willis had made a speech at the Diocesan Meeting of the 19th July, parts of which had given offence to the Roman Catholics, I had no information whatever of the intended Meeting in Sydney, and that the first information, I received of it, was by seeing an account of the proceedings that took place at it in a Newspaper;\* consequently that it was entirely out of my power by any friendly interference between the parties to have prevented the Meeting.

I have further, at the request of Mr. Justice Willis, to inform your Lordship that, subsequently to the Meeting, His Honor called upon me in person to request that I would direct the Attorney General to file an ex-officio information for Libel against Dr. Polding; and that it was only on my representing to His Honor, how seriously I thought the peace of the Colony would be disturbed by such a proceeding, that Mr. Justice Willis abstained from pressing it upon me.

Your Lordship will readily believe that such a controversy between the Head of the Roman Catholic Church on the one side and a Judge of the Supreme Court on the other did not fail to produce a considerable sensation in the Colony.

I certainly must deeply lament that a Judge of the Supreme Court should, on an occasion where it was so entirely uncalled for, have given utterance to opinions offensive to a large Body of the People of this Colony; whilst I must equally regret that it was thought necessary on the part of the Roman Catholics to have recourse to the proceedings they adopted in order to resent it.

Your Lordship will I hope believe that I am most anxious to keep the Colony free from any discussions on matters of Religious

1838.  
17 Sept.

Resolutions  
by Roman  
Catholics *re*  
statement by  
J. W. Willis.

Ignorance of  
Sir G. Gipps  
*re* proceedings.

Libel action  
proposed by  
J. W. Willis.

Public interest  
in controversy.

Regret at  
statement by  
J. W. Willis.

1838.  
17 Sept.  
Subsidence  
of public  
irritation.

Controversy, and that, if occasion render it necessary, no exertion on my part shall be wanting to check it. The case has not however as yet appeared to me to be one which required the interference of Government; the irritation, which for a time existed in the Public mind, is I am happy to say subsiding, and I sincerely hope that nothing will occur to cause a revival of it.

I have, &c.,

GEO. GIPPS.

SCHEDULE of Documents\* transmitted with this Despatch.

Schedule of  
documents  
transmitted.

A. Letter, dated 15th Augt., 1838, from the Right Revd. Dr. Polding to Sir George Gipps, transmitting,

*A 1.* A copy of the Proceedings of a Meeting of Roman Catholics of Sydney and its vicinity, held in St. Mary's Cathedral after divine service on Sunday, 29th July, 1838, to take into consideration a part of a speech delivered by Mr. Justice Willis on the 19th of the same month, in which Idolatrous Worship was imputed to Roman Catholics.

*B.* Second letter of the same date, from the same to the same, stating that similar Meetings had been held, and similar Resolutions adopted at Parramatta, Windsor, Wollongong, Bathurst and Campbelltown.

*C.* Letter, dated July 30th, 1838, from Mr. Justice Willis to Sir George Gipps, informing him that a Meeting of Catholics had been held on the 29th of the same month in Sydney, and claiming the protection of the Government, with six enclosures, vizt.,

*C 1.* A copy of the speech delivered by Mr. Justice Willis at the Diocesan Meeting held at Sydney on the 19th July, 1838.

*C 2.* Copy of a Note from the Right Revd. Dr. Polding to Mr. Justice Willis, dated 25th July, 1838, requesting to know whether that speech had been rightly reported in the Sydney Herald, Newspaper.

*C 3.* Mr. Justice Willis' reply of the same date.

*C 4.* Copy of a letter from Mr. Justice Willis to the Rt. Revd. the Lord Bishop of Australia, dated July 26th, 1838, requesting His Lordship's opinion and advice.

*C 5.* Reply to Mr. Justice Willis from the Lord Bishop of Australia.

*C 6.* Second letter from Mr. Justice Willis to the Lord Bishop of Australia, dated 26th July.

*D.* Note from Mr. Justice Willis to Sir George Gipps, dated August 9th, 1838, with one enclosure, vizt.,

*D 1.* Extracts from the Parliamentary Debates of 1829, containing the opinions of various Lords Spiritual and Temporal of Parliament on the subject of the Idolatrous Worship imputed to the Church of Rome, and also an Extract from the Coronation Oath.

*E.* Letter from Mr. Justice Willis to Sir George Gipps dated 11th Augt., 1838, with one enclosure, vizt.,

*E 1.* Second letter from the Lord Bishop of Australia to Mr. Justice Willis on the same subject of the Idolatrous Worship, imputed to the Church of Rome.

*F.* Printed Copy of the Proceedings at the Catholic Meeting of the 29th July, with a Pastoral address delivered on that occasion by Dr. Polding.



SIR GEORGE GIPPS TO LORD GLENELG.

1838.  
19 Sept.(Despatch No. 145, per ship *Marinus*; acknowledged by  
marquess of Normanby, 4th March, 1839.)

My Lord, Government House, 19th Sept., 1838.

With reference to my Despatches of the 3rd May last, No. 70, and the 7th July, No. 100, on the subject of the Female Factory at Parramatta, I have now the honor to report to your Lordship that Mrs. Leach ceased to hold her appointment of Matron on the 24th Augt. last, and that Mr. and Mrs. Bell have resumed the situations which they held in the Factory previous to the 10th Feby. last and at the same salaries, vizt., £150 a year each.

Reappointment  
of T. Bell and  
wife to female  
factory.

I have, &amp;c.,

GEO. GIPPS.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 147, per ship *Marinus*; acknowledged by  
marquess of Normanby, 26th February, 1839.)

My Lord, Government House, 22nd Sept., 1838.

22 Sept.

I have the honor to report to Your Lordship that the Expedition\* under Captn. Sir J. Gordon Bremer of the Royal Navy sailed from this harbour for Port Essington on the 18th instt.

Departure of  
expedition for  
Port Essington.

The Expedition consisted of Her Majesty's Vessels of War, "Alligator" and "Britomart," accompanied by the "Orontes," a Barque of about 400 Tons, which had been taken up here at the moderate freight of 14s. 11d. per ton per month to convey a portion of the Stores required for the intended settlement.

Vessels  
employed in  
expedition.

Six houses framed in wood and weather boarded have been shipped, as well as numerous other stores, obtained either from Her Majesty's Magazines or by purchase at this place; and I have the satisfaction to report to your Lordship that the Expedition has started as well equipped for the object it has in view, as could possibly be desired; at the same time, it is only justice to add that in my opinion no unnecessary or useless articles have been taken, or any expense incurred by Sir Gordon Bremer that could reasonably have been avoided.

Equipment  
of expedition.

I am greatly gratified in having to inform your Lordship that a very neat Church, framed in wood and weatherboarded, was presented to the persons engaged on this interesting expedition previously to their sailing by the Lord Bishop of Australia, on the part of the Diocesan Committee in Sydney of the Societies for promoting Christian knowledge and the Propagation of the

Church  
provided for  
new settlement.

\* Note 37.

1838.  
22 Sept.

Church  
provided for  
new settlement.

Gospel in foreign parts. This Church, capable of holding 300 persons, is very neatly executed, and will be I trust considered an object of great interest in the Settlement, not only on account of the purpose to which it is dedicated, but from the manner in which it was acquired. The cost of it is, I understand, upwards of £300.

Shipment  
on schooner  
*Essington*.

In consequence of this large addition to their equipment, it was found that the accommodation afforded by the three vessels I have already named was insufficient for the whole of the Stores, and it became necessary to put a portion of them into a schooner, which has been fitted out in this harbour by Mr. Watson, a Sydney Pilot, for the purpose of being the first to open the trade between Port Essington and this place. This schooner, which has been named the "*Essington*," sailed a few days before the rest of the Expedition, and will visit Murray's Island at the entrance of Torres Straits, where (as I reported to your Lordship in my Despatch of the 25th Augt. last, No. 131) the Master of her will endeavour to ascertain, whether any persons from the wreck of the "*American Transport*" are yet in existence.

Freight  
on stores.

The schooner "*Essington*" is not engaged as a part of the Expedition, but Mr. Watson, her Master, is to be paid £150 for the freight of the Stores which he has taken on board.

Method of  
equipping  
expedition.

The supplies for the Expedition have all been obtained through the Ordnance or Commissariat Departments in the way that is usual at foreign stations, so that the whole responsibility for the agreements under which, and for the prices at which they have been furnished, rests upon the officers of these Departments; but payment has been made by Bills drawn on the Military Chest (under my authority) by Sir Gordon Bremer, and the Vouchers are to be transmitted direct by the Deputy Commissary General, Mr. Miller, to the Accountant General of the Navy.

I enclose for your Lordship's information an abstract of the whole expense which has been incurred, exclusive however of the value of the articles which have been supplied from the Ordnance or Commissariat Stores without purchase.

Arrival of Sir  
J. G. Bremer  
at Sydney.

Sir Gordon Bremer arrived in Port Jackson on the 23rd July last; his stay therefore with us has been of eight weeks' duration.

Commission as  
commandant.

Agreeably to the directions contained in Your Lordship's Despatch No. 66 of the 25th Jany. last, I have issued to Sir Gordon Bremer a Commission in the name of the Queen, and under the Great Seal of this Colony, constituting him Commandant of the Settlement.

I have also given to Sir Gordon Bremer, and the undermentioned Officers of the Expedition, powers to act as Magistrates of

this Territory, and also as Commissioners of Crown Lands, under the Local Act of the Governor and Council of New South Wales of the 4th Willm. 4th, No. 10. The officers are:

Lieutt. Stanley, R.N., Commanding the "Britomart";  
 Lieutt. Kuper, R.N., 1st Lieutt. of the "Alligator";  
 Captn. McArthur, Royal Marines; Lieutt. Priest, Royal  
 Marines.

1838.  
 22 Sept.

Magistrates and  
 commissioners  
 of crown lands  
 appointed.

I cannot, My Lord, close this Despatch without congratulating your Lordship on the prospects which are opened, not only to this Colony but to the British Merchants in general, by the Establishment of this Settlement on the Northern Coast of Australia.

Prospects of  
 new settlement.

I have, &c.,

GEO. GIPPS.

[Enclosure.]

[A copy of this paper is not available.]

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 213, per ship Theresa.)

Sir, Downing Street, 24th September, 1838.

24 Sept.

With reference to my dispatch No. 187 of the 25th Ult., in which I stated that I should select two Gentlemen to fill the office of Police Magistrate in New South Wales, I have now to acquaint you that Mr. N. A. Fenwick will shortly proceed to the Colony for that purpose.

Appointment of  
 N. A. Fenwick  
 as police  
 magistrate.

I have, &c.,

GLENELG.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 148, per ship Marinus.)

My Lord, Government House, 24th Sept., 1838.

With reference to my Despatch of the 17th Augt. last No. 125, in which I reported to your Lordship that a large number of the Convicts by the ship "Lord Lynedoch" had been landed on the 8th of the same month in a dreadful state from the ravages of the Scurvy, I have now the honor to enclose to your Lordship a Report of a Board which I caused to be assembled to enquire into the probable causes of the breaking out of this disease.

Transmission of  
 report of board  
 re scurvy on  
 ship Lord  
 Lynedoch.

I also enclose for your Lordship's information a Return from the Principal Medical officer of the Colony, by which your Lordship will perceive that, of 150 men who have been admitted into Hospital since the arrival of the vessel, 15 have died, 91 have

Return re  
 persons affected.

1838.  
24 Sept.

been discharged, and 44 remain under Medical Treatment. If, to the number of deaths reported therein 8 be added which occurred before the vessel reached this harbour, the total number up to the present day will be twenty three. I have, &c.,

GEO. GIPPS.

[Enclosures.]

[Copies of these papers are not available.]

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 149, per ship *Marinus*; acknowledged by marquess of Normanby, 6th April, 1839.)

25 Sept.

Reasons against  
proposing grant  
by council to  
C. M. Lewis.

My Lord,

Government House, 25th Sept., 1838.

With reference to your Lordship's Despatch of the 18th Decr., 1837, No. 49, by which I was informed that Her Majesty's Government would be prepared to sanction a Grant to Mr. Lewis of a sum not exceeding £300, if the Legislative Council should be inclined to vote it from the general revenues of the Colony, I have the honor to report to your Lordship that I have not deemed it expedient to propose to the Legislative Council during its present Session such a grant to Mr. Lewis, as I felt sure that I should only be able to carry it by requiring the support of the Official Members, it being considered that the Service, on which Mr. Lewis was engaged in his voyage to Torres Straits, was one which regarded the general interests of the trade of the British Empire rather than any particular interest of this Colony.

Your Lordship will remember that the order for undertaking the voyage was received from England; and that the "Charles Eaton," in search of which vessel Mr. Lewis was sent, did not belong to the Port of Sydney, but had touched here only on her way to the East Indies.

I have, &c.,

GEO. GIPPS.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 150, per ship *Marinus*; acknowledged by marquess of Normanby, 21st August, 1839.)

26 Sept.

Submission to  
council of bill  
re lands for  
military  
purposes.

My Lord,

Government House, 26th Sept., 1838.

I beg leave to report to your Lordship that, very early in the present Session, I laid before the Legislative Council the Bill, which was transmitted to my Predecessor with your Lordship's Circular Despatch of the 11th Novr., 1836, for vesting in the Principal officers of Her Majesty's Ordnance all lands occupied for Military purposes in the Colony, with such alterations

only as were necessary to suit the original Draft of the Bill to the circumstances of New South Wales. The Bill, I regret to say, met with such a decided opposition, both in the Council and out of doors, that, after passing it through a second reading and making in it such amendments as were necessary to shew the true import of it, I judged it to be for the advantage of Her Majesty's service and for the peace of the Colony that I should attempt to carry it no further, and I accordingly withdrew it.

1838.  
26 Sept.

Opposition to bill.

Withdrawal of bill after second reading.

I shall now endeavour to explain to your Lordship the principal causes of the opposition which was excited against it.

Reasons for opposition.

Your Lordship is, I believe, aware that there is in the very heart of Sydney a space\* of about 15 acres of ground, occupied by Military Barracks, that these Barracks are in a very dilapidated state, and that it has been proposed to remove them to another site. The uncertainty as to the way in which this land might be disposed of, after the Barracks are removed, was I have reason to believe the first and principal cause of so great a degree of importance being attached to the Bill; it was at first asserted that the Bill was introduced for no other purpose than to enable the Ordnance Officers to dispose of this Land without any regard to the advantage of the Town; though in the course of the discussion in Council other grounds of opposition to it were started. It was discovered that there were other portions of ground in Sydney now open to the Public, which would be claimed by the Ordnance officers, and particularly one spot at the point of land called Dawes' Battery, from which a ferry has long been established between Sydney and the opposite or North Shore of the harbour; and it was stated that if the Bill were once passed, the Public might be shut out from this means of communication. At length all sorts of imaginary dangers were pictured as likely to occur from the establishment of a great Military Corporation, that might ultimately get possession of a great portion of the lands of the Country, and, by means of its wealth and power, obtain an unconstitutional influence; and the very circumstance (when it became known) of the Bill having been first prepared for and proposed in Canada was construed into a proof that there was some hidden purpose in it of control or coercion. In this excited state of the Public mind, it was quite in vain that I explained in Council the true nature of the Bill, that it was one only of official arrangement, and introduced with no other object whatsoever in view than to facilitate the transaction of Public business.

Military barracks at Sydney.

Dawes' battery.

Fears of power of military corporation.

It would I believe have been in my power to have passed the Bill through the Council by the Votes of the Official Members;

1838.  
26 Sept.

but I thought it more prudent not to do so; and, therefore after having, as I have already said, brought it by a succession of amendments to the state in which I think it ought to have passed, I withdrew it.

Problem of  
disposal of  
land occupied  
by barracks.

As the way, in which the land now occupied by the Barracks is to be ultimately disposed of, is a question of considerable importance, it is very desirable that it should be settled before the Bill be again presented to the Legislature; I shall therefore submit the consideration of this question to your Lordship in a separate Despatch.

I have, &c.,

GEO. GIPPS.

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SIR GEORGE GIPPS TO LORD GLENELG.  
(Despatch No. 151, per ship *Marinus*.)

27 Sept.

My Lord,

Government House, 27th Sept., 1838.

In my Despatch of yesterday's date, I had the honor to detail to your Lordship the reasons, which had induced me to withdraw for the present Session the Bill, which I had, agreeably to your Lordship's instructions, introduced into the Legislative Council for vesting in the Principal officers of Her Majesty's Ordnance all the lands and buildings now held for Military purposes in the Colony; and I stated that one of the principal causes of objection to the Bill arose out of the question, how the land, on which the Military Barracks in Sydney now stand, is to be disposed of after these Barracks shall be removed.

Land occupied  
by military  
barracks at  
Sydney.

I now propose to explain to your Lordship the nature of the question, which has arisen respecting this land, and, in order to make my statement clear, I transmit a Plan of Sydney, with the Sites\* both of the old and of the proposed new Barracks marked on it. The land, occupied by the old Barracks and colored green upon the Plan being situated in the best part of the Town, is very valuable. In the Debates in the Legislative Council, no Member seemed disposed to estimate the value of it at a less sum than £80,000, whilst out of doors and in the Newspapers its value was exaggerated to a much greater amount. Major Barney, the Commanding Engineer, never doubting the right of the Ordnance to dispose of the land, has proposed to cover the expense both of the New Sydney Barracks, and of others that he is now building at Newcastle, by the sale of it; but, during the recent discussions, it was asserted that the Ordnance had no right to sell the land, but that, when it was no longer wanted for Military purposes, it should revert to the Colony, and, if sold, that the proceeds of the sale should go into the Land

Disposal of  
land proposed  
by G. Barney.

Right of  
ordnance  
department  
to sell land.

\* Note 116.

fund to be spent on Immigration. I did not fail to resist this doctrine, and I explained in Council that it was the produce only of wild or unimproved lands of the Crown that could be claimed for such purposes.

1838.  
27 Sept.

In maintaining however the right of the Ordnance to sell the land, I ventured to state to the Council that I felt satisfied Her Majesty's Government would not dispose of it with the sole object of getting the utmost price for it, but that they would consult the general feelings and wishes of the Inhabitants; and I informed them further that a plan had already been proposed for laying out a Square on it, which would be an ornament to the Colonial Capital; whilst I said, on the other hand, that any groundless opposition on the part of the Council or the Public might have the effect of keeping the Barracks where they are, and thereby of preventing altogether the proposed improvements.

Right of  
ordnance  
department  
to sell land.

The right of the Board of Ordnance to dispose of this land appears to me so incontrovertible, that I should not think it necessary to say more on this head, were it not that the subject is somewhat embarrassed by the Local Government having recently agreed to pay out of the land fund the purchase money of the land at Newcastle, on which the New Barracks are now being erected; for if, when land is wanted for Military purposes, it is to be paid for out of the land fund, it would only appear to be reasonable that the proceeds of the sale of any land, which may no longer be required for such purposes, should be paid into the same fund.

Purchase  
of land for  
barracks at  
Newcastle.

The case of the Newcastle Barracks is as follows:—

In 1837, it was determined to rebuild these Barracks, but, the old site not being deemed eligible for the new Buildings, five and a half acres of land have been taken from the Glebe of the Church of England, and, after giving one acre in exchange which was particularly wanted by the Church, a sum of £818 has been taken out of the land fund to pay for the remainder, under an arrangement which was sanctioned by Sir Richard Bourke on the 25th Oct., 1837.

What I would respectfully propose to your Lordship is that this part of the arrangement should be cancelled, that the sum of £818 should be repaid to the Land fund out of the Military Chest, and that, so soon as the old Barracks can be removed, the land on which they stand should be sold and the proceeds paid into the Military Chest. This land will probably sell for about £600, so that the difference only between £818 and £600 or £218 will be the real amount which will be paid out of the Military Chest for the difference in value between the new site of the

Proposed  
adjustment  
for purchase  
of site.

1838.  
27 Sept.

Adjustments  
proposed *re*  
barracks at  
Sydney.

Barracks and the old one; and, by paying this sum, the question respecting the disposal of the ground at Sydney will be freed from the effect of an adverse precedent at Newcastle.

The land, on which the New Barracks are to be built at Sydney, will be furnished by the Colony, and, though it is far inferior in value to that on which the old ones stand, it would nevertheless, if sold in the usual way, bring in a very handsome sum to the land fund; it may therefore be not unreasonably contended that the Board of Ordnance should take no more than the difference in value between the one lot of land and the other, especially as this difference would be sufficient to build the New Barracks; and the Board of Ordnance would thus get new Barracks in a good situation, in exchange for old ones in a bad one; for it is admitted by everybody that the situation of the present Barracks is, in a Military point of view, not so good as the proposed site of the New ones.

Under all the circumstances of the case, it appears to me probable that the Board of Ordnance would not object to give over the present Barracks, and the land they stand on to the Colony, on condition of being put in possession of the land on which the new ones are to be built, and a sum of money sufficient to pay for the building of them. The Board would by such an arrangement be relieved from any difficulty in disposing of the land, and the charge of laying it out for the advantage of the Public would devolve upon the Local Government, which may be presumed to be better able to satisfy the reasonable demands of the Public than the Board of Ordnance. Indeed one of the most popular objections against the ordnance Bill was that the Ordnance officers, if put into full possession of this land, would dispose of it only with a view to getting the greatest possible sum for it, instead of laying it out, as the Local Government would do, in handsome streets, and requiring persons to build on it in a uniform manner.

Possibility  
of passing  
ordnance bill.

Should such a proposition or any one analogous to it meet your Lordship's approval, I think I should be able not only to carry it in the Legislative Council, but also to carry the Ordnance Bill. But I think it my duty to state to your Lordship that all the influence of the Government would be required, even with the present Council, to pass the Ordnance Bill, if some satisfactory arrangement be not previously made in respect to this land, and that I have very great doubts whether in an enlarged Council it would be passed at all.

I have already stated to Your Lordship that the proposal of the Ordnance Officers in the Colony was to pay for the Newcastle Barracks, as well as the New ones at Sydney, out of the proceeds



of this land; that they have a right to do so, if the Board insist on it, and that the land will sell for a sufficient sum cannot I think be denied; such an arrangement will nevertheless I fear be looked on as not a liberal one, and it will be asserted that the Ordnance will sell the land without a due regard to the improvement of the Town.

1838.  
27 Sept.

I will only add, My Lord, that the present is in my opinion a fit occasion for settling definitely how land, that may in future be required by the Ordnance for Military purposes, is to be obtained. The principle, which I would propose, is that which I believe is in force everywhere else, vizt., that when the land, which the Ordnance requires, is the property of the Crown, it should be granted gratuitously, but, when it is the property of Individuals, it should be paid for by the Board of Ordnance.

Necessity for  
decision *re*  
acquisition  
of land for  
military  
purposes.

I have, &c.,

GEO. GIPPS.

[Enclosure.]

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

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 152, per ship *Marinus*: acknowledged by marquess of Normanby, 21st August, 1839.)

My Lord, Government House, 28th Sept., 1838.

28 Sept.

In connection with the subject of my Despatches of the 26th and 27th instt., Nos. 150 and 151, I have still to bring under your Lordship's notice a case in which a purchase of land for the Ordnance in this Colony is concerned.

Your Lordship is aware that, previous to the year 1836, the Board of Ordnance had no officers of their own in New South Wales, the duties of their Department being performed by officers of the Line, by the Commissariat, or by Civilians.

Major Barney is the first Officer of Engineers ever stationed in the Colony; and it appears that, soon after his arrival, he represented to Sir Richard Bourke that nine allotments of Building ground, containing one eighth of an acre each, had been then recently sold, of which it was very essential to regain possession, the land being wanted for the defences of the place.

Repurchase of  
allotments for  
military  
purposes.

An attempt was therefore made to induce the Purchasers of the allotments to take other land in exchange for them, but, failing in this after a lengthened negotiation, the late Acting Governor settled, with the advice of the Executive Council, that the allotments should be repurchased and paid for out of the

1838.  
25 Sept.  
Repurchase of  
allotments for  
military  
purposes.

Land fund. The nine allotments, containing altogether little more than an acre of ground, were sold in 1835 for the sum of £1,617, and it was agreed to repurchase them for £3,084, or at an advance of £1,467. This arrangement, though sanctioned and the faith of the Government pledged to it before I arrived in the Country, had not been carried into effect when the discussion of the Ordnance Bill came on. I must candidly state to your Lordship that I then hesitated to complete it, and I even intimated to Major Barney that, if the Ordnance Bill passed, the utmost I could do would be to give back out of the Land fund, the sum which the sale of the land had brought into it, vizt., £1,617, leaving the difference or what was to be paid for the enhanced value of the land to be covered by the sale of other Military lands, which the Bill would have placed at the disposal of the Ordnance Officers.

The Bill however not having passed, they have of course no power to sell land; and I have therefore found myself under the necessity of completing the arrangements made by my Predecessors. I have accordingly to report to your Lordship that I have given an order for the payment of £3,084 out of the Colonial funds for the repurchase of the land in question, though I would earnestly recommend to your Lordship that the Ordnance should be required to pay at least the difference in the value of the land, if not the whole sum for which it has been repurchased.

I have, &c.,  
GEO. GIPPS.

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SIR GEORGE GIPPS TO LORD GLENELG.  
(Despatch No. 153, per ship *Marinus*.)

29 Sept.  
Immigrant  
ships placed in  
quarantine on  
arrival.

My Lord, Government House, 29th Sept., 1838.

I am sorry to have to report to your Lordship that two Government "Emigration ships, the "William Rogers" and the "Palmyra," which arrived in this harbour on the 26th instt., have been placed in Quarantine. On board the "William Rogers," eight cases of inflammatory fever occurred in the last month of her passage, two of which terminated fatally. As, however in the few cases (only three) which remain, the disease does not appear to exhibit any peculiar malignancy, it has not been thought necessary to land the Emigrants at the Quarantine Station, and I am in hopes that they may all be released in a few days. On board the other ship (the "Palmyra"), I am sorry to say that forty cases of Scarlet fever occurred on the voyage, in nine of which the disease proved fatal; Children only were attacked, and the disease has for the present disappeared. It has

been judged nevertheless proper to land all the passengers at the Quarantine Station, where they must remain until a sufficient time shall have elapsed to guarantee us against the revival of the disease.

1838.  
29 Sept.

I have, &c.,  
GEO. GIPPS.

P.S. October 6th.—I am happy that the delay, which has occurred in the sailing of the “Marinus,” enables me to report that both these vessels and the Emigrants by them are released from Quarantine.

Release of  
immigrants  
from  
quarantine.

I am also happy to announce the arrival in very good order of the Government Emigrant Ship “Parland.”

Arrival of  
ship *Parland*.

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LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 214, per ship *Planter*; acknowledged by Sir George Gipps, 17th September, 1839.)

Sir, Downing Street, 1st October, 1838. 1 Oct.

I have received a letter from Mr. H. F. White, dated the 1st of May, bringing under my consideration a correspondence of the subject of his suspension from the Office of Assistant Surveyor in the Survey department.

Letter received  
from  
H. F. White.

This communication was sent to me from the Colony by the writer, although the correspondence, to which it refers, was forwarded with your Despatch No. 59 of the 13th of April last. It may be desirable that you should call on the writer for a Copy of his present letter, although I can perceive nothing in it to alter the view of the case communicated to you by my despatch No. 196 of the 28th of August last.

I have, &c.,  
GLENELG.

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SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 154, per ship *Marinus*; acknowledged by marquess of Normanby, 9th March, 1839.)

My Lord, Government House, 1st October, 1838.

I beg leave to recommend to your Lordship that a Government Emigrant ship should as soon as possible be sent to Port Phillip, and that another should follow after a lapse of four or five months. A mixed Company of Emigrants, partly Mechanics and partly farm labourers, would be most acceptable, and the Mechanics should consist principally of Carpenters, Bricklayers (not Masons) and Smiths.

Proposal for  
immigrant  
ships for  
Port Phillip.

The settlement of Port Phillip is, I am happy to say, rapidly advancing. The first sale of land for Agricultural purposes took place on the 12th instt., when the prices realized far exceeded

Progress of  
settlement at  
Port Phillip.

1838.  
1 Oct.

my expectations. I enclose for your Lordship's information a Return of all land that has been sold, since the Settlement was first established.

Number of  
inhabitants  
including  
convicts at  
Port Phillip.

The number of Inhabitants of all descriptions is supposed now to exceed 3,000, of whom however a considerable number are convicts, as it has been found impossible to prevent Prisoners being taken there, notwithstanding the desire expressed in your Lordship's Despatch of the 31st May, 1837, No. 324, to limit the number as much as possible; and I must respectfully express an opinion that, if it had been intended to prevent altogether the Assignment of Convicts in that part of the Territory, it would have been better to have made it a separate Government.

I have, &c.,

GEO. GIPPS.

[Enclosure.]

[A copy of this return will be found in a volume in series III.]

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch marked "Confidential," per ship *Marinus*.)

My Lord,

Government House, 1st October, 1838.

Delay in  
closing session  
of council.

Opportunities for England not being frequent at this season of the year, I hoped to have been able to announce to your Lordship, by the vessel which is the Bearer of this Dispatch, that the Session of our Legislative Council had closed, and also to have transmitted to your Lordship the various acts which have been passed. I regret however to say that a week or ten days must yet elapse, before I can adjourn our sitting, as I have unexpectedly been forced to bring forward a Bill for the regulation of Distilleries, in consequence of finding that our revenue is rapidly falling off from the effect of illicit distillation. With the exception of the Ordnance and Appropriation Bills, everything has gone on very smoothly in Council; and I am happy to say that the Colony continues remarkably free from party spirit or political agitation. On the subject of the Ordnance Bill, I have addressed your Lordship at considerable length in my public Despatches; on that of the Appropriation Bill and finance generally, I shall have occasion to trouble your Lordship by the next opportunity. I will here only say that the principal objections were raised both in and out of Council to the charges, which have been this year thrown for the first time on the Colony, and to the pensions to Sir Francis Forbes and Dr. Kinchela. All however were passed.

Bill required  
for regulation  
of distilleries.

Absence of  
party spirit.

Objections to  
appropriation  
bill.

On the subject of Emigration, I shall address your Lordship as soon as a Committee of the Legislature now sitting on it

shall have reported. The expense of Government Emigration, as compared with that of the Bounty system, is what is most generally complained of, and the prospect of the speedy exhaustion of our funds will probably induce the Committee to recommend either the discontinuance of it or the borrowing of money to carry it on.

1838.  
1 Oct.  
Problems of  
immigration.

Your Lordship will have observed that, in the Minute which I laid before the Council in presenting the Estimates for 1839, I drew a less favorable picture of our finances than had previously been exhibited for many years in New South Wales. The simple truth, My Lord, is that the reputation of being very rich has occasioned demands upon the Government, which, unless they are resisted, will infallibly bring us to bankruptcy. When I assumed the Government, we were spending £10,000 a month beyond our whole income, and it is very evident that we cannot long continue at such a rate without becoming poor.

Excess of  
expenditure.

Our Land sales at Port Phillip have exceeded my expectations, as reported in my Despatch No. 154; but, on the other hand, our ordinary Revenue is falling off from the effect of the illicit Distillation, which I have above alluded to. The duties on Rum alone have decreased at the rate of £1,000 a week.

Land sales at  
Port Phillip.

Decrease in  
ordinary  
revenue.

I am sorry to inform your Lordship that the Country is suffering much from want of rain, and that the disease called the Catarrh is making dreadful ravages amongst the Sheep.

Prevalence of  
drought and  
catarrh in  
sheep.

In my Despatch No. 115 of the 21st July, I brought under your Lordship's notice a long list of atrocities, which had been committed by and on the Aborigines, and I stated that I had despatched a party of Mounted Police in search of some white men,\* who were supposed to have put to death in cold blood twenty two helpless and unoffending Blacks; the party returned only a few days ago after an absence of more than two months, having succeeded in taking eleven out of twelve of the persons, who were known to have been concerned in this deed of blood. They are now in Sydney Gaol, and will all be tried for murder. Instead of twenty two persons however, as at first reported, it is now certain that not less than twenty eight of all ages and sexes, though for the most part women and children, were deliberately put to death on this most shocking occasion.

Murder of  
aborigines.

Mr. Robinson from Flinders Island is here and under examination before a Committee of the Legislative Council. In the present state of the Public mind, I fear the project of bringing the Van Diemen Land Blacks from Flinders Island to Port Phillip must be abandoned; it meets with no support from any party here, even the Bishop is against it.

Examination of  
G. A. Robinson.

Objections to  
transfer of  
Tasmanian  
natives to  
Port Phillip.

I have, &c.,

GEO. GIPPS.

\* Note 117.

1838.  
3 Oct.

SIR GEORGE GIPPS TO LORD GLENELG.  
(Despatch No. 155, per ship *Marinus*.)

My Lord, Government House, 3rd October, 1838.

Transmission  
of return of  
immigrants.

I have the honor to forward herewith a Return of the number of Emigrants, who have arrived in New South Wales in ships freighted by the Government, since the new system was adopted in the early part of 1837.

Objections  
to cost of  
government  
system.

The mortality, which was at first so great among the Children, has considerably abated in the latter vessels, and at present the only complaint in the Colony against the system is the expense of it, which may I think be reckoned from 30 to 50 per Cent. higher than that of the Bounty System.

The principal reason, which I can assign for this difference, is that Private ships take in a portion of Cargo and Cabin Passengers, which Government ships do not.

Committee  
of council *re*  
immigration.

A Committee of the Legislative Council is now sitting on the subject of Emigration, and, as soon as they have made their Report, I shall again address your Lordship on the subject.

I have, &c.,  
GEO. GIPPS.

[Enclosure.]

[*A copy of this return is not available.*]

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 156, per ship *Marinus*; acknowledged by  
marquess of Normanby, 3rd March, 1839.)

5 Oct.

My Lord, Government House, 5th October, 1838.

Transmission  
of papers *re*  
trial and  
execution of  
Maori.

I transmit herewith for your Lordship's information a Copy of a letter dated 25th May last, which I have received from Mr. Busby, British Resident in New Zealand, informing me of the circumstances under which a Native of that Island had been tried and executed for the murder of a British subject. Before I returned any answer to Mr. Busby's communication, I thought it right to take the opinion of the Attorney General of this Colony on the proceedings in question, and I have the honor to enclose a Copy of his opinion, and also of the answer which I on the receipt thereof caused to be returned to Mr. Busby.

I have, &c.,  
GEO. GIPPS.

[Enclosures.]

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

SIR GEORGE GIPPS TO LORD GLENELG.

1838.  
6 Oct.(Despatch No. 157, per ship *Marinus*; acknowledged by  
marquess of Normanby, 3rd March, 1839.)

My Lord, Government House, 6th October, 1838.

On the 5th instt., I transmitted to your Lordship Copies of papers, which I had received from Mr. Busby relating to the murder of an English subject at New Zealand named Henry Biddle, and the way in which the murderer had been brought to justice; I have now, I am sorry to say, to lay before your Lordship another case reported to me by Captain Bethune of Her Majesty's ship "*Conway*," in which the Master of a British Vessel has been murdered in a different part of that Country. Your Lordship will observe that, in this case also, an attempt was made to give up to justice a man who was a slave; though it would be most unjust to Mr. Busby on that account to suppose that, in the case reported by him, he had not completely and in the fullest manner satisfied himself of the guilt of the murderer, before he suffered him to be put to death. The Report, which I have the honor to enclose, is one made by Lieutt. Chetwode, Acting Commander of Her Majesty's sloop "*Pelorus*," to Captain Bethune, the Senior Naval officer on the Station, and the place where the murder was committed is situated in Cook's Straits near the Southern extremity of the Northern Island.

Report *re*  
murder of  
merchant  
captain by  
Maoris.

I have, &amp;c.,

GEO. GIPPS.

[Enclosure.]

[*A copy this report will be found in a volume in series III.*]

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 158, per ship *Dryade*; acknowledged by  
marquess of Normanby, 11th June, 1839.)

My Lord, Government House, 8th Oct., 1838.

8 Oct.

I have the honor herewith to forward to your Lordship a Copy of some additional Regulations for the Assignment of Convicts, which I judged it expedient (with the advice of the Executive Council) to issue on the 15th August last.

Transmission  
of regulations  
*re* assignment  
of convicts.

It had become a matter of serious complaint in the Colony that a Regulation, intended for the advantage of New Settlers, had been very much abused. This Regulation (issued with the General Regulations of the 9th May, 1835) allowed in the Assignment of servants a preference to New Settlers, without any distinction as to whether the lands on which they settled, and for the cultivation of which they asked for Convict Servants, were freehold or leasehold; the consequence of which was that numerous

Preference in  
assignment  
given to new  
settlers.

1838.  
8 Oct.

Abuse of  
preference.

leases were granted for the sole purpose of qualifying persons as New settlers, it being in the power of any large landed proprietor, by granting fictitious leases to any number of his children, servants or dependents, to get eight Convict servants for each lease, whilst persons, who were more scrupulous as to the means they employed, could get none.

The four first of the New Regulations are intended to put a stop to this abuse.

Abolition of  
assignment of  
male convicts  
in towns and  
of male  
domestic  
servants.

The 7th and 8th Regulations are important ones; they put an end to the assignment of Male Convicts of any description in Sydney and the other Towns of the Colony after the 1st Jany. next, and to the assignment of Male Domestic Servants throughout the Colony on the 15th August, 1839. These have long been considered very desirable measures, but, on account of the scarcity of labor in the Colony, the Government has until now been unable to adopt them.

Objection by  
employers to  
tickets of leave.

The 10th Regulation is one altogether new, but of which the principle I hope will be admitted to be both just and necessary. Since Convict labor has become so exceedingly valuable as it now is, it is a matter of very frequent complaint that Masters prevent their servants getting Tickets of Leave from an unwillingness to lose their labor; and that they even cause (in some cases) their men to be punished, for the sake of retaining their services, it being known to your Lordship that each punishment, which an assigned servant receives, puts him back a year in getting his Ticket. I am willing to hope that the cases are but few, in which Masters have been guilty of such injustice; but room ought not, I think, even to be left for the suspicion of its being practiced; and, in order to remove it, the Regulation No. 10 has been adopted, under which in future the Master can have no interest in preventing his servant getting a Ticket of Leave, inasmuch as the man will be equally removed from his service, whether he obtain it or not.

I have, &c.,

GEO. GIPPS.

[Enclosure.]

*[A copy of these regulations will be found in a volume in series II.]*

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 215, per ship Planter.)

9 Oct.

Sir,

Downing Street, 9th October, 1838.

Despatch  
acknowledged.

I have received Sir Richard Bourke's despatch No. 111 of the 7th November last, and I have to convey to you the sanction of Her Majesty's Government to the allowance of One hundred



pounds per annum, which he had granted to the Police Magistrate at Paramatta for performing the office of Visiting Magistrate at the Female Factory.

I have, &c.,  
GLENELG.

1833.  
9 Oct.

Allowance for  
magistrate at  
female factory.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 216, per ship Planter; acknowledged by Sir George Gipps. 11th November, 1839.)

Sir, Downing Street, 9th October, 1838.

In accordance with the arrangement for providing the Agent General for New South Wales with such Funds as may be required to defray expenses incurred on account of your Government in forwarding Emigration from this country or for other Colonial Services, the Lords Commissioners of the Treasury have authorized further advances to Mr. Barnard to the amount of Twenty thousand Two hundred pounds.

Advance to  
agent general.

You will take measures for repaying this amount into the Military Chest in the Colony.

I have, &c.,  
GLENELG.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 159, per ship Dryade; acknowledged by marquess of Normanby, 18th May, 1839.)

My Lord, Government House, 10th October, 1838.

I have the honor to transmit herewith a Copy of a letter from Mr. E. C. Close, a Member of the Legislative Council of this Colony, tendering the resignation of his seat in that Body.

10 Oct.  
Resignation  
of E. C. Close  
as member of  
council.

Looking forward as we now are to a change in the constitution of the Council, I have not thought it right to nominate any one to act in Mr. Close's place, nor do I propose to submit for your Lordship's approval the name of any person as his successor, until I know the nature of the changes which are to be made in it.

I have, &c.,  
GEO. GIPPS.

[Enclosure.]

MR. E. C. CLOSE TO COLONIAL SECRETARY.

Sir, Morpeth, 8th September, 1838.

Having by the Solicitation of my friends, I may say for some years, continued to retain my situation in the Legislative Council against my own inclination, as it is an appointment I never desired, and to which I was nominated without my wishes being in any way consulted, and which alone I was induced to accept from a combination of Circumstances now needless to detail; Having exhausted a large portion of time, and between two or three hundred Pounds in effecting my attendance; Having four times

1833.  
10 Oct.  
Resignation  
of E. C. Close  
as member of  
council.

traversed the Sea to Sydney during the present Session, and on my arrival, when I expected the Council would proceed to business, been disappointed by adjournments for a week each time; and, finding that, had I attended during the whole Session, I should have been called on only to sit about thirty five times in nearly four Months, I have to request you will Acquaint his Excellency the Governor that I have neither inclination or ability to suffer such losses of time, and therefore beg to decline any further participation in the proceedings of the Council, and tender my resignation accordingly.

I have, &c.,  
E. C. CLOSE.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 218, per ship Planter.)

11 Oct.  
Despatch  
acknowledged.

Sir, Downing Street, 11th October, 1838.

I have received your dispatch No. 57 of the 11th April last, transmitting a letter addressed to me by Mr. McLeay, late Colonial Secretary of New South Wales, with two printed documents and one in manuscript.

Recognition  
of services of  
A. Macleay.

I have to request you to assure Mr. McLeay that I do full justice to his merits and character, as well as to the services which he has rendered to the Colony. It is obvious, however, that the pecuniary compensation allotted to a Public Officer cannot be regarded as an exact measure of the estimate attached by the Government to his public services. This is not the principle on which a retiring allowance proceeds. It implies therefore no disparagement of Mr. McLeay's acknowledged claims if I add that the allowance of £250 per annum, which has been granted to him in addition to his former Pension of £750 must be taken as a final satisfaction of those claims. Lord Goderich's Instruction of the 29th September, 1831, on which Mr. McLeay founds his claim for £4,000 clearly applies only to cases of reduction in consequence of the abolition of Office.

Pension for  
A. Macleay.

Compensation  
claimed.

I need not observe that I cannot acquiesce in the terms, in which Mr. McLeay, in his letter, characterises any allegations made respecting him by Sir Richard Bourke. In fact that Officer has never made any representation to me injurious to Mr. McLeay's personal or official reputation.

Statements by  
Sir R. Bourke  
re A. Macleay.

He has indeed stated that Mr. McLeay's political opinions were opposed on important subjects to his own, and that, as a Member of the Executive Council, Mr. McLeay acted on his own principle and therefore in occasional opposition to his immediate official Superior. But this, as far as I can bring to my recollection, is the whole extent of any representations of Sir Richard Bourke on this subject, and this I cannot regard as constituting injurious reflections in the personal sense of that expression.

To Mr. McLeay's demand for an admission that he is still considered worthy of the confidence of the Government, I can have no difficulty in answering that nothing has occurred to diminish the confidence formerly reposed by the Government in his diligence, talent, integrity and public spirit.

1838.  
11 Oct.

Opinion *re*  
ability of  
A. Macleay.

It cannot, however, be too clearly understood that every man in public life must be free to support that system of policy, which he conscientiously regards as most conducive to the public interests, and which is at the same time consistent with law; yet the Government also must be free to dispense with the services of any man, when the public interests require it, due regard being of course had to the just claims of the individual to a retired allowance.

Right to  
dismiss civil  
officials.

Understanding as I did originally that Mr. McLeay announced his intention of retiring from the public service, I was not unwilling to accept a resignation which relieved me from the necessity of any more active proceedings on my part. But, assuming that Mr. McLeay's intentions on the subject of his resignation were misunderstood, and that he was obliged to quit his office in opposition to his own will, I must refer to the preceding remarks as a sufficient justification of a measure, which it could not but be painful to adopt in any case, but more especially in the case of a Gentleman who possessed so unquestionable a title to public esteem and consideration.

Resignation  
of A. Macleay.

I have, &c.,

GLENELG.

SIR GEORGE GIPPS TO LORD GLENELG.  
(Despatch No. 160, per ship Dryade.)

My Lord, Government House, 12th October, 1838.

12 Oct.

I have the honor to forward herewith to your Lordship an Act of Appropriation,\* which was passed by the Legislative Council of this Colony in its late sitting, and with it all the Financial Papers\* of the year in the Form in which they have been usually forwarded to your Lordship from this Government. Among them, I would particularly ask your Lordship's attention to the Minute, which I felt it my duty to lay on the Table of the Council with the Estimates of the coming year, by which it appears that, though I inserted nothing of any importance in the Estimates to which I did not find the Government pledged, their amount exceeded the probable amount of the whole ordinary revenue of the Country by no less a sum than £75,791 1s. 4d., exclusive altogether of the Land fund or of the charges which it has to bear.

Transmission of  
appropriation  
act and finance  
papers.

Excess of  
expenditure  
over ordinary  
revenue.

\* Note 118.

1833.  
12 Oct.

Expenditure  
increased by  
council.

Surplus revenue  
from previous  
years.

Increase of  
salaries for  
assistant  
colonial  
secretary and  
for architect ;

and for clerk  
to clerk of  
councils.

Separate  
reports to be  
transmitted.

Your Lordship will further perceive that, during the progress of these Estimates through the Council, instead of a reduction being effected in them, an increase was made to the amount of £4,401 15s., raising the total of them from £321,911 1s. 4d. to £326,312 16s. 4d., and thereby increasing the deficit from £75,791 1s. 4d. to £80,192 16s. 4d. The circumstance of our having a large balance in hand from the savings of former years will enable us to cover this deficiency; but it is evident that, unless our revenue increase or our expenditure be diminished, the state of our finances must soon become embarrassed. I beg to assure your Lordship that no exertion will be wanting on my part to enforce the strictest economy in the expenditure of the public funds, but justice to myself compels me to add that the knowledge of there being a large sum of money in the Public Chest (the savings of former years) has led to demands upon the Government from every quarter, which it is almost impossible to withstand. I beg respectfully to draw your Lordship's attention to the fact, as mentioned in page 4 of my printed Minute, that the only officers of a rank superior to that of a Clerk, whose applications for an increase of salary I have not resisted, were the Assistant Colonial Secretary and the Colonial Architect. The increase, which I recommended for each of these officers, was £100 per annum, raising their salaries respectively from £450 and £500 per annum to £550 and £600; but, at the unanimous request of the Council, I was induced to consent that the salary of the former officer should (subject to confirmation by Your Lordship) be set down also at £600 per annum. During the progress of the estimates through the Council, it was also proposed that the salary of the second Clerk of the Council, or rather of the Clerk to the Clerk of the Council, should be raised from £155 to £200 per annum; and, as the services of the gentleman who holds this situation were better known to the Members of the Council than to myself, from the circumstances of his being constantly in attendance on Committees, I did not think it right to oppose the wishes very unanimously expressed by the Council in his favor.

On the subject of the Establishments of Police and Gaols, it will be my duty to address myself to your Lordship in a separate Despatch, having promised that I would do so, whilst the subject was under consideration in the Council.

I also shall have the honor to address your Lordship separately on each of the cases in which I was directed to propose to the Council the granting of a Pension.

Your Lordship will perceive that one of the Members of Council (Mr. Blaxland) entered a Protest (as he has done annually for several years past) against some items in the Act of Appropriation, but that no other Member joined in it.

1833.  
12 Oct.

Protest by  
J. Blaxland.

I have, &c.,

GEO. GIPPS.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 161, per ship Dryade.)

My Lord, Government House, 12th October, 1838.

With my Despatch of this day's date No. 160, I had the honor to transmit to your Lordship the Act of Appropriation recently passed by the Legislative Council of this Colony, as well as other Financial Papers for the year in the shape in which they are usually transmitted to your Lordship; and, in the concluding paragraph of that Despatch, I stated that I should have occasion to address your Lordship separately on the subject of the expenditure on Police and Gaols. I now accordingly have the honor to inform your Lordship that I was unanimously requested by the unofficial Members of the Council to represent to Your Lordship the very great reluctance with which they voted for the expenditure of the large sum of £68,056 6s. 8d. for the maintenance of the Police and Gaols of the Country; and I have to inform your Lordship that, if I had not obtained their votes by promising to lay their representation before your Lordship, I should have had to carry this item in the Estimates by the votes of the Official Members alone, and by my own casting Vote. The arguments adduced by the Members opposed to the item were: first, that this Gaol and Police Establishment, so disproportioned to that of any other Colony or Country in the world, is rendered necessary solely and entirely by the nature of the population which has been poured into New South Wales by the Mother Country, and that therefore some portion at least of the expense of it should be borne by the Home Government; secondly, that, when this burthen was first imposed on the Country in 1835, the Council did not suppose it was to be followed up by throwing other charges upon the Colony of the nature of those, which it has been called upon this year to defray; and thirdly, that if, as it appears from your Lordship's Despatches of the 26th Jany., 1838, No. 67, and 31st Oct., 1837, No. 18, a distinction is rigidly to be drawn between the expense incurred on account of Convicts serving under sentences, and of those whose sentences have expired, the one being charged on the Home and the other on the Colonial Government, the principle ought to be applied as well in Prisons as in Hospitals and Lunatic asylums;

Expenditure  
on police  
and gaols.

Objections  
by unofficial  
members to  
expenditure.

Arguments  
against  
expenditure.

1838.  
12 Oct.  
Arguments  
against  
expenditure.

Estimates  
for services  
transferred  
to colony.

and that, in such case, a very large proportion of the charge for Police and Gaols should be defrayed by the Mother Country, inasmuch as a large proportion of the crimes, which render Gaols and a Police force necessary, are committed by Convicts under sentence, and the Gaols are filled with men of the same class.

I was also requested by the same Members of the Council to exhibit to your Lordship the amount of items in the Estimates for 1839 for services, which, in the course of little more than three years, have been transferred from the Crown to the Colony. These items are:

	£	s.	d.
Police and Gaols .....	68,056	6	8
Do. (Port Phillip) .....	6,097	7	6
Harbour Master's Department .....	493	16	8
Free Paupers and Lunatics .....	3,500	0	0
Do. (Port Phillip) .	216	17	6
	<hr/>		
	78,364	8	4
Sums voted for Building New Gaols or Court-houses in 1839 .....	12,500	0	0
	<hr/>		
	£90,864	8	4

According to the division of expense in use before the 1st July, 1835, the whole of the above would have been defrayed by the Mother Country, and of it £21,897 14s. is charged upon the Colony, in consequence of orders received during the last year (Vizt.):

	£	s.	d.	
Mounted Police .....	15,137	0	0	} 14th Oct., 1837, No. 4.
Do. (Port Phillip) ...	2,550	0	0	
Paupers and Lunatics .....	3,500	0	0	} 26th Jan., 1838, No. 67.
Do. (Port Phillip) ...	216	17	6	
Harbour Master's Department ..	493	16	8	} 31st Oct., 1837, No. 18. 6th June, 1837, No. 325.
	<hr/>			
	£21,897	14	2	

In submitting this statement to your Lordship at the request of the unofficial Members of the Legislative Council, I would only further beg permission to draw your Lordship's attention to the statement on the subject of Police and Gaols contained in Sir Richard Bourke's Despatch of the 12th Augt., 1835, No. 79, and more particularly to his Despatch of the 8th Sept., 1837, No. 85, in which Sir Richard Bourke expressly pointed out that, without assistance either from the Home Government or the Land fund, it would be impossible to keep the expenditure of the Colony within its income.

I have, &c.,  
GEO. GIPPS.

Inability  
to meet  
expenditure  
from ordinary  
revenue.

SIR GEORGE GIPPS TO LORD GLENELG.

1838.  
13 Oct.(Despatch No. 162, per ship *Dryade*; acknowledged by  
marquess of Normanby, 20th June, 1839.)

My Lord, Government House, 13th October, 1838.

With reference to your Lordship's Despatch, of the 12th June, 1837, No. 328, authorising me to propose to the Legislative Council of this Colony a Pension of £700 a year to Sir F. Forbes (late Chief Justice of New South Wales), I have the honor to report to your Lordship that I included a Pension to this amount in the Estimates, which I laid before the Council during the late Session, and that it has, though only after very considerable opposition, been voted for the current year and to the end of 1839.

Pension for  
Sir F. Forbes.

It is my duty to report to your Lordship that on this occasion a very marked disinclination was manifested very generally by the Members of Council to the granting of Pensions, though by some an exception was made in favor of the Judges and by others a willingness was expressed to give, in lieu of a Pension, a gratuity of one or two years' salary to an officer on his retirement, provided his services had been such as to merit it.

Objections by  
council to  
grant of  
pensions.

Pensions, which are required to be voted annually, never fail to excite irritation in the public mind; and I therefore respectfully beg to say that I concur entirely with the Members of the Council, who were in favor of granting gratuities instead of them. In the case of Sir Francis Forbes however, a gratuity of two years' pay (or £4,000) would not have been equal to the value of his proposed Pension, and I therefore did not think it right to accept it.

Gratuities  
proposed  
in lieu of  
pensions.

I have, &amp;c.,

GEO. GIPPS.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 163, per ship *Dryade*; acknowledged by  
marquess of Normanby, 25th June, 1839.)

My Lord, Government House, 13th October, 1838.

With reference to your Lordship's Despatch of the 17th June, 1837, No. 331, authorising me to propose to the Legislative Council of this Colony a Pension of £250 a year to Mr. McLeay, late Secretary to the Colony, I have the honor to report to your Lordship that I included this Pension in the Estimates, which were laid before the Council during its late Session. Although a very considerable degree of discussion was excited in the Council by the large addition to the Pension List, proposed in the cases of Sir F. Forbes and Dr. Kinchela, comparatively little objection was raised against the Pension to

Pension for  
A. Macleay.

1838.  
13 Oct.

Opinion of  
council re  
pension for  
A. Macleay.

Mr. McLeay. One Member only, Mr. Blaxland, has entered a Protest against it, whilst your Lordship will perceive by the Resolution,\* which I have the honor to enclose, that the majority of the Council considered the proposed Pension of £250 a year to be too small a compensation for his loss of office. Mr. McLeay has always maintained that, as he was not removed from office at his own request, he is entitled to a gratuity of two years' pay under the Despatch of Secretary Lord Goderich of the 29th Septt., 1831, No. 27; and, though I explained in Council that I considered that Despatch to apply to cases only where an office was abolished, a majority of the Council were disposed to vote to Mr. McLeay the sum which he claimed, partly because they considered his resignation to have been a forced one, and partly because an immediate saving of £500 a year was effected by his retirement, the salary of his successor being reduced from £2,000 to £1,500, and a larger contemporaneous saving effected by the abolition of the office of Collector of Internal Revenue, the arrangement by which that office was abolished being facilitated, though not caused, by Mr. McLeay's removal from office.

Commutation  
of pension for  
A. Macleay.

During the course of these discussions, a very general disinclination being manifested by the Council to the granting of Pensions, which require to be annually brought before the Public and never fail to excite irritation, it was arranged that the computed value of an annuity of £250 commencing from the day on which Mr. McLeay left office, vizt., the 1st Jany., 1837, and continued for the term of his natural life, should be given at once to Mr. McLeay, and accepted by him in full commutation of the Pension of £250, but without prejudice to the claim for further compensation put forward by him and recommended for favorable consideration by the Council; I have accordingly to report that the sum of £1,750 was inserted in the Appropriation Act for that purpose, and has been already paid to Mr. McLeay. This sum however, it is clearly understood (and so expressed in the Appropriation Act) is to be considered as part of the large sum of £4,000, should Your Lordship be pleased to accede to the wishes of the Council, as expressed in the Resolution which I have now the honor to forward. This Resolution having been brought forward by Mr. McLeay's friends, and not officially by me, is of course to be considered as a spontaneous expression of opinion by the Council. It will afford me pleasure to be able to convey to the Council your Lordship's sanction to this act of their liberality; but, as it did not originate with me, it will be looked on, I trust, only as a permissive Act of my Government.

Compensation  
proposed for  
A. Macleay.

I have, &c.,  
GEO. GIPPS.

\* Note 119.



SIR GEORGE GIPPS TO LORD GLENELG.

1838.  
13 Oct.(Despatch No. 164, per ship Dryade; acknowledged by  
marquess of Normanby, 21st May, 1839.)

My Lord,

Government House, 13th October, 1838.

My Despatches of this day's date, Nos. 162 and 163, will have informed your Lordship of what was done in the late Session of the Legislative Council of this Colony in respect to the Pensions, which I was authorized by your Lordship to propose for Sir F. Forbes and Mr. McLeay; it remains for me now to report to your Lordship on the case of Dr. Kinchela, for whom also I was authorised, by your Lordship's Despatch of the 10th June, 1837, No. 327, to propose a Pension of £500 a year, or rather an allowance of that sum per annum, until some other employment could be found for him.

Allowance  
proposed for  
J. Kinchela.

In order to explain my reasons for the course which I have adopted in respect to Dr. Kinchela, it is very necessary for me to state explicitly to your Lordship that, when I assumed this Government, I found the Law business of the Crown in a state of arrear, not to say confusion, that was highly detrimental to the Government and to some of the best interests of the Colony. The subject was brought under the consideration of the Council by a complaint from the Bishop of Australia, when the Estimates for the Law Department were under consideration; but I am forced to acknowledge, as was also the Attorney General, that His Lordship was not the only person who had cause to complain. It was under these circumstances, My Lord, I proposed that, as Dr. Kinchela was to receive £500 a year from the Colony, he should perform some service for it; and, as he very handsomely professed himself ready to do so, he has been appointed for the present Advising Counsel to the Government, and a salary of £500 a year voted to him in that capacity by the Legislative Council. His appointment will, I hope, relieve the Attorney General from some part of his burthensome duties, particularly in drawing Bills to be presented to the Legislative Council, in giving opinions on cases referred to him, and in the examination of Deeds submitted for his approval. As Dr. Kinchela has not however undertaken to do Attorney's business, his appointment will not very materially relieve the Crown Solicitor, in whose office the principal delay occurs, I shall therefore shortly have to submit to your Lordship a more full report on the state of the Law Department, and of the remedies which are proposed for it, the object of my present Despatch being merely to bring under your Lordship's notice so much of the subject as is necessary to justify the measures which I have adopted in respect to Dr. Kinchela.

Arrears in  
law business  
of crown.Appointment  
of J. Kinchela  
as advising  
counsel for  
government.Reorganisation  
required in  
office of  
crown solicitor.

1838.  
13 Oct.

Effect of  
abolition  
of office of  
solicitor-  
general.

The Law business of the Colony is enormous, and particularly (as your Lordship will readily believe) that part of it which is connected with the administration of Criminal Justice. The measure, which was adopted in 1836, of abolishing the office of Solicitor General has, I believe, produced in part the evils of which I now complain; but I am not in a condition as yet to enter on this subject, not having received a Report which has been promised me on the subject by the Attorney General.

I have, &c.,

GEO. GIPPS.

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LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 219, per ship Planter.)

15 Oct.

Sir,

Downing Street, 15th October, 1838.

Transmission of  
correspondence  
re expenditure  
on police and  
gaols.

With reference to former correspondence on the subject of the charge for the Police and Gaols in New South Wales and particularly to Sir Richard Bourke's dispatch No. 85 of the 8th September, 1837, I have the honor to transmit to you a copy of a letter from my Under Secretary to the Secretary to the Treasury, forwarding for the consideration of the Lords Commissioners the dispatch above referred to. I also enclose for your information and guidance a copy of the reply, which has been returned to that communication, intimating that their Lordships, having adverted to the state of the Revenue of New South Wales and to the estimated amount of the Colonial Expenditure for the present and preceding years, have not seen reason to apprehend that it will be necessary to make any appropriation from the Land Fund for defraying the general expenditure of the Government, or that there will be any deficiency of means for carrying on public works properly chargeable on the general revenues of the Colony, after the existing accumulation in the Treasury shall have been disposed of; and that they therefore have not considered it advisable that any alteration should be made in the arrangements, which have already been directed by Her Majesty's Government in regard to the charges for Police and Gaols.

I have, &c.,

GLENELG.

[Enclosure No. 1.]

UNDER SECRETARY STEPHEN TO MR. A. Y. SPEARMAN.

Sir,

Downing Street, 5th March, 1838.

With reference to your letter of 30th of September last, stating the opinion of the Lords Commissrs. of the Treasury that it would be proper to press upon the local Government of New South Wales and Van Diemen's Land the whole charge of the Police and Gaols in those respective Colonies, and with reference also

to my letter of 31st of January last, enclosing the annual statement of the ways and means of the Colony of New South Wales for the present year, I am directed by Lord Glenelg to transmit to you the enclosed Copy of a Despatch from Governor Sir Richd. Bourke, containing a full Report with regard to the amount of the Revenues applicable to defray the charges of Emigration on the plan adopted by Her Majesty's Government; and I am to request that you will bring this Despatch under their Lordship's consideration, and that you will request them to acquaint Lord Glenelg whether the Statements contained in this Despatch would lead them to consider any alteration necessary in the decision, which they have already adopted in regard to the charge of the Police and Gaols in that Colony; as it appears from this Report that the effect of such decision must be very greatly to abridge the extent of the Funds which have been hitherto destined to the introduction of Emigrants into the Colony from Great Britain.

1838.  
15 Oct.

Transmission of despatch re expenditure on police and gaols.

Lord Glenelg regards Emigration to New South Wales and Van Diemen's Land of so much importance both to the interests of this country and of the Colonies, especially of the latter, that he earnestly hopes that no part of the Revenue arising from the Sale of Land will be diverted from the object of Emigration. Lord Glenelg is therefore anxious to invite their Lordships' serious attention to the Statements contained in the enclosed Despatch.

Necessity for funds for emigration.

In order to enable their Lordships more fully to consider this question, I enclose by Lord Glenelg's direction a copy of a Report from the Agent General for Emigration, shewing the extent to which Emigration has been carried on since the period of his appointment; and I am to add that there is every reason to expect from statements received, both from various quarters in this country and from New South Wales, that Emigration to that Colony may be carried on for the future on a still more extended scale, provided adequate funds exist for defraying the expenses.

I have, &c.,  
JAS. STEPHEN.

[Enclosure No. 2.]

MR. F. BARING TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 9th October, 1838.

With reference to your letter of 5th March last, further on the subject of charging the whole expenses of the Police and Gaols at New South Wales and Van Diemen's Land on the colonial funds, I have it in command from the Lords Commissioners of Her Majesty's Treasury to request you will observe to Lord Glenelg that my Lords, having adverted to the state of the revenue of New South Wales and to the estimated amount of the Colonial Expenditure for the present and preceding years, have not seen reason to apprehend that it will be necessary to make any appropriation from the Land Fund for defraying the General Expenditure of the Government, or that there will be any deficiency of means for carrying on Public Works properly chargeable on the General Revenue of the Colony after the existing accumulation in the Treasury shall have been disposed of; and have not considered it advisable that any alteration should be made in the arrangements the Governor was instructed to adopt in regard to the charges for Police and Gaols.

Anticipations re revenue available for expenditure.

I am, &c.,  
F. BARING

1838.  
15 Oct.

SIR GEORGE GIPPS TO LORD GLENELG.  
(Despatch No. 165, per ship Dryade.)

My Lord, Government House, 15th October, 1838.

Proposal *re*  
maintenance  
of convicts  
assigned to  
town surveyor  
at Sydney.

I beg leave to report to your Lordship that, on the 12th March last, not many days after I arrived in the Colony, I received from Mr. Miller, Deputy Commissary General, a copy of a letter, which he had addressed on the 23rd Novr., 1837, to the Colonial Secretary, and with it the renewal of an application which he had at that time made for transferring to the Colony the expense of maintaining a number of Convicts, employed under the Town Surveyor of Sydney, which transfer of expence however Sir Richard Bourke refused to sanction.

I have now the honor to transmit Copies of the whole correspondence, which has taken place on this subject for your Lordship's consideration, in connection with the general subject of Finance, treated of in my Despatches of the 12th instt., numbered respectively 160 and 161; and I also beg leave to submit to your Lordship the reasons why I did not think it right to depart from the decision given by Sir Richard Bourke in this case.

Your Lordship will observe that Mr. Miller founds his application on the admitted fact that, if the men were not employed by the Town Surveyor, they might be assigned into private service, and the expence of their maintenance saved to the Government. Sir Richard Bourke on the other hand refuses to comply with his demand on the equally acknowledged fact that men, employed in making roads or in levelling streets, whether fit for private service or not, have always up to the present time been clothed, fed, and lodged at the expence of the Home Government, the expence of Tools and of the Superintendence of their labor being defrayed by the Colony. I am aware that the simple fact of this expence having hitherto been borne by the Crown is an insufficient reason for saying that it should be continued; but I will first submit that, if it is to be discontinued, it should be done upon some other grounds than those put forward by Mr. Miller; and then shew my reasons for only thinking it fair to continue it.

Expected  
abolition of  
system of  
assignment.

The system of assignment has been, I believe, condemned in England as the worst part of Transportation, and will in all probability be shortly abolished; if therefore we now lay down a general rule that all Convicts, not in assignment or not fit for assignment, are to be supported by the Mother Country, the effect may, and in all probability will be, to throw upon the Military Chest the cost of maintaining every Convict in New South Wales, who is not the holder of a Ticket of Leave. If the

system of Assignment were intended to be perpetuated, I do not think the Colony would object to the rule proposed by Mr. Miller of making fitness for assignment the test whether the maintenance of a Convict with all its incidental expenses should be borne by the Crown or the Colony; provided only that it were applied universally, as well in Gaols as on the Roads or in the Streets, and that a due proportion of the expense of Police Establishments and Courts of Justice, required for the apprehension and trial of Convicts unfit for assignment, were transferred to the Mother Country. At a time however when assignment is expected speedily to be abandoned, the introduction of such a new principle of division is hardly I think to be deemed expedient.

As the agitation of subjects of this nature never fails to produce, in a greater or less degree, irritation and illhumour in the Colony, I need scarcely state to your Lordship how desirable it is that a principle of division, as broad and comprehensive as possible, should be established and steadily acted upon. The principle, on which up to the present moment the division has been made, is that (with some few exceptions either way) all expenses incidental to Convicts under sentence are to be defrayed by the Home Government, all expenses incidental to those whose sentences have expired by the Colony. Under this division, the Colony has and always has had the labor of a considerable number of Convicts, who are lodged, fed and clothed by the Home Government; but of them, by far the greater part are in Irons, and it is very doubtful whether the labor of men in Irons is worth more than what it costs for Tools and Superintendence. The labor of those out of Irons is valuable in Sydney, but would speedily cease to be so, if Mr. Miller's proposal were acted upon. The cases quoted by Mr. Miller of the men employed in distant parts of the Colony in the Surveyor General's Department, or by the Colonial Engineer or architect, do not form the rule but the exceptions to the rule; and they are all in favor of the Home Government. The men in the Botanic Garden or the Government Domain also form exceptions, the propriety of which is I think obvious.

It is doubtless a part of Mr. Miller's duty to see that no improper charge is cast upon the British Treasury, whose officer he immediately is; but there are Colonial officers, whose duty it is equally to guard the Local funds; and, if encouraged by me, they would, I am convinced, be equally prompt to bring forward cases, in which charges are borne by the Colony, though in their opinion they should be defrayed out of Home funds. There is

1838.  
15 Oct.

Problems *re*  
principle for  
expenditure  
on convicts.

Necessity for  
adoption of  
general  
principle.

Duties of  
officers *re*  
distribution of  
expenditure.

1838.  
15 Oct.

indeed hardly any Department of Government in which a considerable portion of expense is not incurred on account of Convicts under sentence.

I am myself almost the only person in New South Wales, whose duty it is equally to protect the interests of the Mother Country and the Colony. Without however pronouncing any further opinion on the fairness or unfairness of Mr. Miller's proposal, I will conclude by expressing to your Lordship my very great doubt, whether the Colony can long bear the charges already transferred to it, if the whole expence of Gaols and Police is to be continued on it and the Land Revenue entirely appropriated to Immigration.

I have, &c.,

GEO. GIPPS.

Doubt *re*  
revenue  
available for  
expenditure.

[Enclosure No. 1.]

DEP. COMMISSARY-GENL. MILLER TO COLONIAL SECRETARY.

Sir, Commissariat Office, Sydney, 23rd November, 1837.

I have the honor to State, for the information of His Excellency the Governor, that the convicts assigned to the Department of the Town Surveyor and employed as Mechanics, Boatmen, Watchmen, and Carters in Sydney Streets, etc., about 50 in number, still continue to be supplied with Rations at the charge of the Military Chest; and, as these men are not wrought in Irons, nor for punishment, but rather in the Character of assigned Servants for the benefit of the Colony, there does not appear to be any reason why their Rations should not be transferred to the charge of the Colonial Treasury, in the same manner as those of Convicts assigned to other Colonial Establishments and which I beg to propose for His Excellency's Consideration.

I have, &c.,

WM. MILLER, D.C.G.

Proposal *re*  
maintenance  
of convicts  
employed by  
town surveyor.

[Enclosure No. 2.]

COLONIAL SECRETARY THOMSON TO DEP. COMMISSARY-GENL. MILLER.

Colonial Secretary's Office,

Sydney, 4th December, 1837.

Sir,

I have the honor to acknowledge the receipt of your Letter of the 23rd November, suggesting that the Men under the Town Surveyor should be victualled by the Colony; and in reply I am directed by His Excellency the Governor to inform you that the convicts, alluded to in your Communication being employed on the Streets, are to continue as in other similar Cases to be rationed at the expense of the Military Chest.

I have, &c.,

E. DEAS THOMSON.

Decision by  
Sir R. Bourke  
*re* maintenance  
of convicts.

[Enclosure No. 3.]

DEP. COMMISSARY-GENL. MILLER TO COLONIAL SECRETARY.

(No. 448.)

Sir, Commissariat Office, Sydney, 12th March, 1838.

For the information of His Excellency the Governor, I have the honor to transmit herewith a copy of a Letter, which I addressed to you on the 23rd of November last, suggesting that the maintenance

of the Convicts employed under the Town Surveyor as Carters, Mechanics, Watchmen, Boatmen, etc., should be transferred from the Military Chest to the Colonial Treasury, and also a copy of your answer dated 4th December, Conveying the decision of the late Governor Sir Richard Bourke that they should continue to be maintained at the charge of the Military Chest "*as in other similar cases.*"

1838.  
15 Oct.

Renewal of  
proposal re  
maintenance  
of convicts.

That answer being dated on the day preceding Sir Richard's departure for England, I am induced to think that time did not admit of his referring to the tendency of the reason given for continuing the charge on the Military Chest, as in all other similar cases the expense is actually defrayed from the Colonial Treasury.

These cases are the Convicts employed in Surveying Parties, and on all the various works under the Surveyor General; Those employed under the Colonial Architect, the Colonial Engineer, and the Colonial Botanist in the Government Domain at Sydney and Parramatta; Those employed by the Department of Customs as Boatmen, Labourers, Messengers, etc., and in many other Colonial objects, all of which are maintained and clothed at the charge of the Colony.

The principle, on which the allotment of such expenses has hitherto been made, is that the Military Chest should be charged with the expense of Clothing, maintenance and Lodging, of all Convicts, who are kept to forced Labour in Ironed Gangs, or road Parties, in pursuance of either their original Sentence in England, or for crimes subsequently committed in the Colony, and that the Superintendence of all such Convicts with the Tools and implements used by them in working should be borne by the Colonial Treasury, together with the expense of Clothing and Maintaining all such assignable convicts as may be found necessary to carry into effect the said Superintendence or for such subsidiary work as they can better perform.

The Object of my application was that the Assignable Convicts employed under the Town Surveyor might be made chargeable to the Colonial Treasury; the Colony has the benefit of their Labour, and, if they were not so employed, they would be assigned to Private Individuals, and the Military Chest would be relieved of their Maintenance and Clothing. I therefore beg to Submit the case to the consideration of His Excellency the Governor.

I have, &c.,

WM. MILLER, D.C.G.

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SIR GEORGE GIPPS TO LORD GLENELG.  
(Despatch No. 166, per ship Dryade.)

My Lord, Government House, 16th October, 1838.

16 Oct.

In my Despatch of yesterday's date No. 165, I had the honor to bring under your Lordship's notice an application from the Deputy Commissary General, made first to my Predecessor and afterwards to myself, on the subject of Convicts employed by the Town Surveyor of Sydney, and proposing as a general rule that all Convicts assignable, though not assigned, should be

Reference  
to former  
despatch.

1838.  
16 Oct.

Proposal *re*  
payment for  
clothing of  
convicts.

maintained at the expence of the Colonial Government. I now transmit a copy of another letter from the same officer, proposing that the Clothing, which is issued to these same Convicts when they are landed, should be also paid for by the Colonial Government; and, if the one proposal is to be acted on, the other may perhaps be considered to follow it as of course.

It is not however correct to say that these men are assigned to the Colonial Government; they are not assigned at all, but kept at the disposal of Government; The word *Assigned*, in the sense in which it is used in New South Wales, being applicable only to men who are removed from the immediate control of the Government.

I have, &c.,  
GEO. GIPPS.

[Enclosure.]

DEP. COMMISSARY-GENL. MILLER TO COLONIAL SECRETARY.

Sir, Commissariat Office, Sydney, 14th June, 1838.

For the information of His Excellency the Governor, I have the honor to state that the Clothing, which is furnished to Convicts when assigned on their arrival from England, is the property of the Board of Admiralty; and, in consequence of directions from the Lords of the Treasury, it is my duty to account for it, and to provide for the Sums received being repaid in England to the Admiralty.

I have lately observed that the Sums received for the Clothing by each Ship is considerably diminished by a Number of the Convicts being assigned to the different Departments of the Colonial Government; and I therefore beg to suggest for the consideration of His Excellency whether the regulated Sum of Twenty Shillings for each Suit should not in all such cases be issued from the Colonial Treasury in order to its being repaid to the Admiralty.

The reason of my not having made this application before the present time is that no intimation was given to me of any order to assign these Convicts to the Service of the Colony; and, even in the case of those assigned to the Department of the Town Surveyor who are still maintained at the charge of the Military Chest, I had no knowledge of the transaction, until I happened to discover it by the Accounts, whereas I should have been made acquainted with it, to include the expense in my Annual Estimate which has not been done.

I have, &c.,  
WM. MILLER, D.C.G.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 167, per ship *Dryade*; acknowledged by marquess of Normanby, 22nd May, 1839.)

18 Oct.

My Lord, Government House, 18th October, 1838.

Memorial  
transmitted  
from W. Henry.

On the 21st Novr., 1835, a Memorial was transmitted to your Lordship by Sir Richard Bourke from a person named Willm. Henry, formerly a Private in the Marines, complaining



of having been put out of possession of some land at Lane Cove, a place situated on the Parramatta River about eight miles from Sydney; and, on the 18th Augt., 1836, your Lordship, in a Despatch No. 90, was pleased to call for further information in the case; I cannot find that this information was ever forwarded by my Predecessor, and I therefore think it right now to report upon the subject.

1838.  
18 Oct.

Report  
required.

I have minutely examined a large mass of papers connected with Henry's claim, and have collected from them the following facts:—

Report *re*  
claims of  
W. Henry.

That the Grant, which William Henry had from General Macquarie, was one of 40 acres only; and that he was in possession of these 40 acres in 1829, but sold them before 1832;

That, in 1829, he obtained a Lease of 1,000 acres of land in the neighbourhood of his grant of 40 acres, and that, before he applied for this Lease, he neither had nor claimed to have authorized possession of any land, save his own 40 acres. He first applied in 1829 for a lease of 50 acres only; and, on being asked why he wanted so small a quantity, he replied that he did not know there was more vacant, but that he should like to have 1,000 acres; and accordingly he got 1,000 acres on the conditions on which lands were then usually leased, vizt., that he should use them for the purpose of grazing only, that he should not cut timber, and that he should give up the whole or any part of them on one month's notice, the rent being 2s. 6d. per 100 acres per annum, or £1 5s. for the whole. Mr. Henry, having thus got possession of these 1,000 acres of land, and having I presume about the same time sold or bargained to sell his own 40 acres, built a Bark Hut on a part of the 1,000 acres, and removed his family into it. In the month of May, 1831, a person named Robert Ball obtained (in satisfaction of a former promise from General Darling) a grant of 100 acres of the land, which Henry thus held as a Tenant at will, regular notice being given to Henry that he must quit possession; but Henry then claimed a prior right to the land, on the ground that he had built a hut on it and otherwise improved it. In consequence of this claim, Robert Ball was kept out of his land until 1835, a minute and anxious enquiry being instituted to do justice to William Henry in respect to his improvements, it being the custom of the time to give every man the value of his improvements, if not the land on which they were made. These improvements were said by Henry to consist of the Hut already mentioned, the cleared

1838.  
18 Oct.

Report *re*  
claims of  
W. Henry.

Documents  
transmitted.

land, and a Vineyard. The Hut, called by Henry a house, was a common Bark one, too insignificant in value to be taken into any serious consideration. The expense of clearing the land was considered by the Surveyor, who was specially sent to report on it, amply to have been repaid by the sale of the timber, there being for that article always a ready sale in Sydney, which is indeed principally supplied with timber from Lane Cove; and the Vineyard was found to consist only of a few Vines, planted on half an Acre of land not included in the grant to Ball.

From a great mass of documents which exist on this troublesome though trifling matter, I have selected the following, and send Copies of them to your Lordship.

1. A copy of William Henry's first application for fifty acres of land on Lease;

2. His second application, in which he asked for 1,000 acres;

3. His first Memorial to Sir Richard Bourke.

(In not one of these three documents does he set forth any right or claim to more than the 40 acres, granted to him by General Macquarie.)

4. The Report of the Surveyor, who was sent to enquire into the value of his improvements;

5. A letter from the Surveyor General, denying that he had ever said, "if he had known the value of those improvements, he would have reported more favorably of Henry's claim."

I have, &c.,

GEO. GIPPS.

[Enclosure No. 1.]

MR. W. HENRY TO COLONIAL SECRETARY MACLEAY.

Lane Cove, District of Hunter's Hill,

Sir,

19th December, 1828.

Application  
by W. Henry  
to lease land.

In Conformity with the Government Notice of the 16th of last October, I hereby propose to Rent, on the conditions therein stipulated, about Fifty Acres of the Crown Land adjoining my Farm in this District, Situate between my Grant of 40 Acres (which I received from Governor Macquarie) and the Lane Cove river.

I am, &c.,

W. HENRY.

[Enclosure No. 2.]

MR. W. HENRY TO COLONIAL SECRETARY MACLEAY.

Sir,

Lane Cove, 30th June, 1829.

I have been duly honored with your Letter of the 6th instant, requesting that I would state my object in Applying to rent so small a quantity as Fifty Acres of Land adjoining my Farm in this Neighbourhood. In compliance therewith, I beg to state that

I had no particular Motive in Applying for that quantity, other than my not being aware that there was any greater quantity unlocated; but, as I am informed by your Communication that there is a considerable quantity vacant, I now propose to rent One thousand Acres, bounded on the South by my Farm and running in an Easterly direction, on the Terms Specified in my Letter of the 19th of last December.

1838.  
18 Oct.

Application  
by W. Henry  
to lease land.

I am, &c.,

W. HENRY.

[Enclosure No. 3.]

THE Humble Petition of William Henry,

To His Excellency General Richard Bourke, Captain General and Governor and Commander in Chief, in and over His Majesty's Colony of New South Wales and its Dependencies, etc., etc., etc.,  
Most Respectfully Sheweth,

Petition of  
W. Henry  
claiming  
relief *re* land  
occupied.

That your Petitioner formerly served in H.M. 3d as Plymouth Division of Royal Marines.

That your Petitioner received, under the Administration of His Late Excellency Governor Macquarie, Forty Acres of Land by Grant Situate at Lane Cove, and took possession by Cropping the Ground in proper Seasons with such Articles of Gardening and otherwise as directed by the Agriculturist.

That your Petitioner also erected on same sufficient Buildings, etc., for the residence of his Wife, children and servant.

That your Petitioner was unsuccessful in such Labours, by reason of the badness of the Crops, particularly during three Years' perpetual drought; added to this, Your Petitioner incurred various heavy Debts for the purpose of Supporting his Family, this, coupled with the affliction of a sick wife and children, compelled him to sell his Farm to pay off his just debts.

That your Petitioner then removed to a piece of Ground in the same Neighbourhood, which had Cost him Sixteen years' Labor in clearing, and cut a road through and over a stupendous Rock for the purpose Chiefly of planting a Vineyard, orchard, etc., thereon, such Road running parallel from Penant Hills to Sydney Road, and has erected suitable buildings for himself and family, and has maintained two Prisoners of the Crown, one more than Seven Years, and the other more than Five.

That one Mr. Robert Ball has got measured to him a part of the cleared Land and improvements to the severe distress of your Petitioner's helpless Wife and Family.

Your Petitioner begs to state that the Land last named was cleared by the manual Labour of Your Petitioner and his son (who is now coxswain at Norfolk Island) and your Petitioner's Servants chiefly at a time when almost starving, and in a state of nakedness.

Your Petitioner, under the foregoing truly Stated circumstances, prays your Excellency will be pleased to take his case into your Excellency's benign consideration and will be pleased to grant him relief in the Premises or such further relief as to your Excellency shall seem meet, and his Case in your Excellency's Wisdom requires.

WILLIAM HENRY.

Lane Cove, 21st May, 1832.

1833.  
18 Oct.

[Enclosure No. 4.]

MR. S. A. PERRY TO COLONIAL SECRETARY.

Sir,

Surveyor General's Office, 4th July, 1831.

Report by  
S. A. Perry re  
improvements  
of W. Henry.

Having, in Compliance with the Governor's wishes (as intimated to me by your Letter of the 22nd ultimo No. 31/512) sent a Surveyor to the North Shore for the purpose of ascertaining the extent and nature of the improvements stated to have been made by William Henry on the Land, recently granted to Mr. Robert Ball, as well as other particulars relative to the Land in question, I have the honor to subjoin for His Excellency's information the following report:—

Upon the Grant of One hundred acres Measured to Mr. Robert Ball, William Henry has erected a hut. He has also made a narrow bush Road from Lane Cove, and through his Grant of (40) forty acres to the road leading to Pennant Hills; this road is the North East boundary of his Grant, and from this Robert Ball's grant of (100) One hundred Acres bears about South West and distant one mile. Henry has cultivated no part of the one Hundred Acres measured to Robert Ball, but has cleared a large Portion of it, and the profits from the Sale of Timber are considered to have fully compensated him for the Trouble and expense he was put to. He states that he has Occupied this Land since 1815, but I am not informed that he resided upon it until he erected a Bark Hut in the year 1829.

I have, &c.,

S. A. PERRY, Depy. Sur. General.

[Enclosure No. 5.]

MR. S. A. PERRY TO COLONIAL SECRETARY.

(No. 35/512.)

Sir,

Surveyor General's Office, 4th August, 1835.

Denial by  
S. A. Perry of  
allegations by  
W. Henry.

In returning to you the accompanying Memorial of William Henry, transmitted by your Letter of the 15th Ultimo No. 35/534, for my report upon the alleged permission of Governor Macquarie to Occupy the Land in question, upon the assertion that I have acknowledged that, had I been aware of his improvements, I should have made a report different from that continued in my Letter of the 4th July, 1831, And upon any other Land or orders for Land which Henry may at any time have received, I have the honor to report for the information of His Excellency the Governor that only one order in favor of William Henry, Viz., that for *Forty* Acres, dated 30th October, 1813, appears recorded in this office, and I am not aware of any permission for him to occupy any other Land.

With respect to the assertion that I acknowledged that I would have made a report different from that contained in my Letter of the 4th July, 1831, had I been aware of his improvements, I have to state that I have no recollection of the conversation to which Henry alludes; but I have to observe that my report was made upon the best information that could be obtained. Mr. Harmer reported, on the 1st July, 1831, "that Henry has cultivated no part of the One hundred acres measured to Robert Ball, but has cleared a large portion of it, and the profits from the Sale of the Timber, I consider, fully compensated him for the trouble and expense he was put to. He states that he has occupied this Land since 1815, but I am not aware that he resided upon it, until he erected a Bark Hut in the year 1829."

If I had been aware that Henry had retained possession of the Land ever since 1814 and made *very considerable and expensive improvements thereon in forming and Planting a Vineyard*, I certainly Should have so reported, and Should have recommended the confirmation of it to him, as I did in some other Cases; but my information is "that Henry cultivated a small flat of about half an acre in the Valley, on the West bank of the Stream which is the Boundary of Ball's one Hundred acres, and not included in Ball's Grant; upon this flat he has planted a few Vines; these however are small, and of little value."

I have, &c.,

S. A. PERRY, Depy. Sr. Genl.

1838.  
18 Oct.

Denial by  
S. A. Perry of  
allegations by  
W. Henry.

SIR GEORGE GIPPS TO LORD GLENELG.  
(Despatch No. 168, per ship Dryade.)

My Lord,

Government House, 19th Oct., 1838.

19 Oct.

In obedience to the Instructions contained in your Lordship's Despatch of the 19th Feby., 1838, No. 76, I have caused enquiry to be made respecting a Trunk, the property of a person named Eliza Foley, which came to New South Wales on board the "Lady McNaghten," Emigrant Ship; and I have the honor to transmit herewith a Copy of a letter from Mr. Bingham, Commissioner of Crown Lands for the District of Cassilis, by which your Lordship will perceive that the Trunk in question was entrusted to his care by Eliza Foley, when she left the "Lady McNaghten" at Cork, and that it was sold (with its contents) on his arrival in Sydney, the proceeds of the sale (£7 10s.) being remitted to Eliza Foley by Dr. Inches.

Report re  
trunk of  
E. Foley.

I have ascertained from the Auditor General of the Colony that no compensation was made to Eliza Foley, as nothing belonging to her was destroyed to prevent infection. If compensation has been made to her by the Agent of Emigration in England, it is not in consequence of her claim to it being acknowledged in the Colony.

I have, &c.,

GEO. GIPPS.

[Enclosure.]

MR. H. BINGHAM TO COLONIAL SECRETARY THOMSON.

Sir, Head Quarters, Cassillis, 2nd October, 1838.

I have had the honor of receiving your Letter of the 24th last Month relative to a Trunk, put on Board the "Lady Maonaughton" Ship at the Cove of Cork by Eliza Foley, then intending to become an Emigrant; And in reply beg to state that the said Trunk was committed by particular request to my care, by the person in question, to do the best I could with it on her suddenly quitting the Ship, when about to weigh Anchor. And, from the long and arduous quarantine that we had to undergo and the Articles lying so long *without being able to be examined*, till that eventful period, the goods were damaged, and, on being offered for Sale in Sydney,

1833.  
19 Oct.

Report *re*  
trunk of  
E. Foley.

the Sum they brought was Seven pounds ten Shillings. I sent an order by Doctor Inches, R.N., for the payment of the sum, which I have heard by recent Letters, the party had declined until they heard again from the Colony, *having received Ten pounds* I believe from the Emigration Agent as compensation. I should say the Articles were worth fifteen pounds when first put on board.

I have, &c.,  
HENRY BINGHAM.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 220, per ship John Barry; acknowledged by Sir George Gipps, 12th April, 1839.)

20 Oct.

Sir, Downing Street, 20th October, 1838.

Referring to former communications from the Board of Treasury which accompanied my dispatches of the numbers and dates specified in the Margin\* relative to the appointment of a Colonial Storekeeper in New South Wales, I now transmit to you for your information a copy of a further communication from the Secretary to that Board, expressing the expectation of the Lords Commissioners that, on the receipt of the instructions contained in the letter from the Secretary to the Ordnance to their officers in New South Wales of the 6th of November, 1837, such arrangements will have been made for the custody of the Colonial Stores as may preclude the necessity of employing a separate Colonial Storekeeper and Department for that purpose.

Arrangements  
for custody of  
colonial stores.

I have, &c.,  
GLENELG.

[Enclosure.]

MR. F. BARING TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 9th October, 1838.

I am commanded by the Lords Commissioners of H.M. Treasury to transmit Copies of a Letter from the Secretary of the Ordnance, dated 13th August last, and of its enclosures, further on the subject of the transfer to the Ordnance Officers of certain Colonial duties at New South Wales, in order that these papers may be submitted for the further information of Lord Glenelg with reference to that part of the communication from this Board of 13th August last, which related to the appointment of a Colonial Storekeeper at New South Wales, and to the previous communication of 20th October last on the same subject; and I am directed to request you will observe to his Lordship that my Lords trust that, upon the receipt of the Instructions contained in the Letter from the Secretary of the Ordnance to the Officers in New South Wales of 6 Novr. last, such arrangements will have been made for the custody of the Colonial Stores as may preclude the necessity for the employment of a separate storekeeper and Department for this purpose.

Absence of  
necessity for  
separate  
storekeeper and  
department.

I am, &c.,  
F. BARING.

\* *Marginal note.*—No. 8, 21 Oct., 1837; No. 47, 15 Dec., 1837; No. 195, 28 Aug., 1838.

[Sub-enclosure No. 1.]

1838.  
20 Oct.

MR. G. BUTLER TO MR. A. Y. SPEARMAN.

Sir, Office of Ordnance, 13 August, 1838.

I have the honor, by command of the Master General and Board of Ordnance, to acknowledge the receipt of your Letter dated the 8th Inst., adverting to the communication made to them by the Lords Commissioners of H.M. Treasury on the 18th March, 1835, relative to the employment of Ordnance Establishments in the Australian Colonies, and stating that their Lordships have observed, from the estimates of the expenditure of the Colonial Government of N. S. Wales, that the Governor had found it necessary to have recourse to the employment of a Colonial Storekeeper and Establishment, in consequence as alleged of difficulty experienced in supplying the Colonial Departments with stores since their custody had been transferred from the Commissariat to the Ordnance.

Letter  
acknowledged.

The Board command me to transmit to you for their Lordships' information the enclosed copies of correspondence received from the Ordnance Officers at Sydney with a Letter, dated 7th April last, upon the subject, to which, however, the Board have not deemed it necessary to make a reply, inasmuch as, on the 6th Novr., 1837, a letter (of which a Copy is enclosed) was addressed to the respective officers, notifying the instructions of the Master General and Board upon your communication of the 19th Oct. preceding. That Letter, which could not have been received when the respective Governors wrote theirs of 7th April, will, the Board hope, have conveyed a proper intimation of the assistance to be rendered by the Ordnance Storekeeper's Department in the execution of the duties now referred to.

Transmission of  
corresponder ce.

I have, &c.,

G. BUTLER, for the Secy.

[Sub-enclosure No. 2.]

THE respective Officers at Sydney to the Secretary to the Board, enclosing copies of correspondence between the Colonial Secretary and the Storekeeper, upon the subject of the transfer of certain Colonial duties to the latter,

Sir, Office of Ordnance, Sydney, 7th April, 1838.

We feel it our duty to submit, for the information of the Master General and Honble. Board, the Copy of a Correspondence, which has passed between the Colonial Secretary and the Storekeeper, relative to the transfer of certain Colonial Duties to the latter; but, as it appears that a communication was made to you on the subject by the Lords of the Treasury on the 19th Octr., 1837, we think it unnecessary at present to make any further observation thereon, under the impression that the Master General and Board will have decided the question, and that, if approved, the necessary instructions for our guidance will most probably arrive by the next Mail.

Transfer of  
duties to  
ordnance  
storekeeper.

We have, &c.,

GEO. BARNEY,

Capt. and Majr., Royal Engr. Comm'dg.

RICHARD ROGERS, Storekeeper.

PERCIVAL WILKINSON, Depy. Storekeeper.

1838.  
20 Oct.

[Sub-enclosure No. 3.]

COLONIAL SECRETARY THOMSON TO MR. R. ROGERS.

Colonial Secretary's Office,

Sydney, 28 March, 1838.

Sir,

Transmission  
of instructions.

I am directed by the Governor to transmit to you the copy of a Despatch from the Secretary of State, dated 21 Oct., 1837, with the enclosures from the Treasury, and to request that you will report when you will be prepared, in conformity with the instructions of the Lords Commissrs. of the Treasury, to take over the entire charge of the Colonial Stores. I have, &c.,

J. DEAS THOMPSON.

[Sub-enclosures Nos. 4, 5 and 6.]

[These were copies of lord Glenelg's despatch, dated 21st October, 1837, with its enclosures.]

[Sub-enclosure No. 7.]

MR. R. ROGERS TO COLONIAL SECRETARY THOMSON.

Sir,

Office of Ordnance, Sydney, 2 April, 1838.

Letter  
acknowledged.

I have the honor to acknowledge the receipt of your letter of the 28th Ult. (received on the 31st), transmitting by direction of His Excellency the Governor the copy of a Despatch from the Secretary of State, dated 21st Oct., 1837, with enclosures from the Treasury, and requesting "I would report when I should be prepared in conformity with the Instructions from the Lords Commissrs. of the Treasury to take over the entire charge of the Colonial Stores."

Instructions  
not received.

In reply thereto, I beg you will be pleased to draw the attention of His Excellency to that part of the Letter, addressed to the Secretary to the Board of Ordnance on the subject by the Treasury on the 19th Oct., 1837, which requests "that he would move the Master General and Board of Ordnance to cause instructions to be conveyed to the Ordnance Storekeeper in New S. Wales to afford the co-operation and assistance required by the Colonial Govt. in this respect," and to inform His Excellency that such instructions have not yet been received by me.

Staff required  
for duties  
proposed to be  
transferred.

I beg leave further to state for the information of His Excellency that the duties, proposed to be transferred to me, now afford employment to a Storekeeper and four Clerks at this station,

Storekeeper for Survey Department at Parramatta;

Do. in charge of Lumber yard Do.

together with a Carpenter, Labourers and other persons, the expense of which it appears amounts to upwards of £1,500 per annum; and, as such transfer would cause a very considerable increase of business to this Department in addition to the Military and Convict duties, especially directed to be placed in the charge of the Ordnance, by the Treasury Minute dated 18 March, 1835, now occupying the whole of my time and attention, and will require a proportionate increase of Clerks and expenses. I feel it my duty respectfully to submit, for the consideration of His Excellency, the necessity of awaiting the receipt of Instructions from the Board of Ordnance, before I undertake the responsibility of conducting Duties of such magnitude as those contemplated.

I have, &c.,

RICHARD ROGERS, Storekeeper.



LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 222, per ship Planter.)

1838.  
22 Oct.

Sir, Downing Street, 22nd October, 1838.

The Commissioners for auditing the public accounts have represented it as necessary that the Surgeons Superintendent of Emigrant Ships should bring home with them certified copies of the Accounts they pass in New South Wales, exhibiting the whole settlement made with them; I have therefore to request that you will direct the proper Departments in the Colony under your Government to furnish the Surgeons with such certified accounts accordingly.

Surgeons on  
emigrant ships  
to submit  
certified  
accounts.

I have, &c.,

GLENELG.

LORD GLENELG TO SIR GEORGE GIPPS.  
(A circular despatch per ship Planter.)

Sir, Downing Street, 22nd October, 1838.

The Court of Directors of the Bank of Australasia have requested me to inform you that they have appointed Mr. George Griffiths to be the Inspector of all their Establishments in the Australian Colonies in the room of Mr. George Kinnear, who has resigned.

Appointment  
of inspector  
for bank of  
Australasia.

I have, &c.,

GLENELG.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 170, per ship Dryade; acknowledged by  
marquess of Normanby, 21st May, 1839.)

My Lord, Government House, 22nd October, 1838.

I have had the honor to receive your Lordship's Despatch of the 14th March last, No. 90, on the subject of a reserve of 10,000 acres of land directed by Lord Bathurst in 1826 to be made for Sir Thos. Macdougall Brisbane, in addition to a Primary Grant of the same amount; and requiring me to adopt, with the advice of the Executive Council of the Colony, such measures as may meet the justice of the case, without losing sight of the conditions on which the original or primary Grant was made.

Despatch  
acknowledged.

I have now the honor to report to your Lordship that the original order from Lord Bathurst was, first for an immediate grant of 10,000 acres of land subject to the condition of sending out resident Agents to take care of it, and of employing on it a certain amount of Capital according to the existing Regulations of April, 1826; and secondly, for a reserve or contingent grant of a like quantity of 10,000 acres, whenever the first grant

Orders received  
for land for Sir  
T. M. Brisbane.

1838.  
22 Oct.

Selection of  
land by agent.

Opinion of  
R. Darling  
*re* claim.

Sale of land  
to W. C.  
Wentworth.

Opinion adverse  
to claim for  
additional  
grant.

should be brought into "full and successful cultivation." Lord Bathurst's order was duly received in the Colony in the early part of 1827, and from the date of its arrival Sir T. Brisbane's Agents had full authority to select the land whenever they chose. No selection however was made until the 3rd April, 1833, nearly seven years after the original order was obtained from Lord Bathurst. In 1831, General Darling indeed appears, by the Minute of which I enclose a Copy, to have considered that the claim was forfeited for nonselection; nevertheless he renewed the permission to select, and that permission was again renewed by Sir Richard Bourke, but it was not until the 3rd April, 1833 (as above stated) that the selection was actually made. In 1833, the selection being at length made, possession of 10,000 acres was given to Sir Thos. Brisbane's agents; but, instead of complying with the conditions, on which they were granted, the same agent sold the same 10,000 acres on the 15th July, 1836, to Mr. W. C. Wentworth, in whose name the grant from the Crown has been issued. Your Lordship is aware that, under the Land Regulations of April, 1826, the proof of possession for seven years was indispensably required to entitle a person to an Additional Grant. This condition was not even fulfilled by Sir Thos. Brisbane, and far less was the obligation fulfilled of bringing the land into full and successful cultivation, it being, if I am rightly informed, up to this hour in a state of nature.

I therefore, My Lord, cannot come to any other conclusion than that the claim to the reserve or additional Grant is altogether inadmissible. I am sorry, My Lord, to be obliged to report thus unfavorably on a claim put forward by one of my Predecessors in this Government, but justice to the People of the Colony, as well as to your Lordship and myself, compel me so to do.

I have, &c.,

GEO. GIPPS.

[Enclosure.]

[A copy of this minute is not available.]

SIR GEORGE GIPPS TO LORD GLENELG.  
(Despatch No. 173. per ship Dryade.)

25 Oct.

My Lord,

Government House, 25th October, 1838.

Requisition  
for arms and  
equipment for  
mounted police.

I have the honor to forward herewith, a Demand for Arms, Clothing and Accoutrements for the Mounted Police of this Colony for the year commencing the 1st April, 1839; and I have to request that these Articles may be supplied by the Board of

Ordnance. The cost of them must be repaid by the Local Government in the usual manner, as the expence of maintaining the Mounted Police has been transferred from the Crown to the Colony.

1838.  
25 Oct.

I have, &c.,  
GEO. GIPPS

[Enclosure.]

[*This requisition has been omitted.*]

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 223. per ship Planter.)

Sir, Downing Street, 26th October, 1838. 26 Oct.

I have received Sir Richard Bourke's dispatch, No. 66 of the 24th of July, 1837, transmitting a Resolution\* of the Legislative Council of your Government on the Prisoners' Counsel Bill. Despatch acknowledged.

I should be glad to have been able to communicate to you at an earlier period my views on this important question, but some delay has been occasioned by a reference of the subject to the Secretary of State for the Home Department. Delay in reply.

I have no doubt of the discretion exercised by your Predecessor in declining to urge this question to a division, and in postponing it until the establishment of the proposed Circuit Courts.

The interposition of Advocates for the defence of persons charged with crimes has been sanctioned in this Country on principles, which, if well founded, would seem to involve the consequence that all distinctions, which would exclude any accused person or class of persons from this advantage, are indefensible and that it ought to be exercised alike at summary prosecutions and on regular trials. Reasons for prisoners' counsel bill.

I cannot, however, hesitate to admit that the local Legislature are far more competent than any remote authority to form a sound judgment on the question stated by Sir R. Bourke. If they shall think it right to connect the system of admitting Prisoners to be heard by Counsel with considerable exceptions, it will be proper, in deference to their judgment, to acquiesce in the trial of the experiment in that limited form. Approval of opinion of legislative council.

Without debating or designing to controvert the abstract justice of admitting every accused party in every Court to the privilege of defending himself by an Advocate, it must be admitted that, if from peculiar circumstances (and none can be more so than those in New South Wales) the peace of Society demands a promptitude of decision incompatible with the exercise of this right, that motive ought to prevail.

\* Note 6.

1838.  
26 Oct.

The question is unavoidably so much mixed up with local details that I am persuaded I shall best consult the public interest by leaving the local Authorities entirely unfettered as to the course which they ought to pursue.

I have, &c.,  
GLENELG.

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LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 224, per ship Planter.)

Sir, Downing Street, 26th October, 1838.

Despatches  
acknowledged.

I have received your dispatches Nos. 77 and 91 of the 16th of May and 21st of June last respecting Mr. Nind.

Refusal of  
applications  
from I. S. Nind.

I have to request that you will acquaint that Gentleman that, on enquiry into the circumstances of his case, I find no cause to justify my further interference.

I have, &c.,  
GLENELG.

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LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 225, per ship Planter.)

Sir, Downing Street, 26th October, 1838.

Despatch  
acknowledged.

I have received and laid before the Queen your dispatch No. 88 of the 20th of June, transmitting for Her Majesty's allowance certain Rules and Regulations made by the Judges of the Supreme Court of New South Wales.

Decision  
withheld  
re rules of  
supreme court.

These Rules of Court will continue in force so long as they are not disallowed by Her Majesty, and their usefulness will be best ascertained by experience. Her Majesty, therefore, will abstain for the present from making any Order on the subject.

Judges to  
submit report.

After the lapse of twelve months from the time when the Rules came into operation, you will request the Judges to report for Her Majesty's information how far they have been found conducive to method, economy, and expedition in the dispatch of Judicial business.

I have, &c.,  
GLENELG.

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SIR GEORGE GIPPS TO LORD GLENELG.  
(Despatch No. 174, per ship Dryade; acknowledged by marquess of Normanby, 17th May, 1839.)

My Lord, Government House, 26th October, 1838.

Transmission  
of letter from  
C. Marshall.

The enclosed letter addressed to Sir George Grey having been sent to me by a Mr. Charles Marshall, I do myself the honor of forwarding it to your Lordship.

Of Mr. Chas. Marshall I have no personal knowledge, but he is favorably spoken of by gentlemen in whose judgment I can place reliance. His object is to obtain employment in New Zealand.

I have, &c.,

GEO. GIPPS.

1838.  
26 Oct.

[Enclosure.]

[A copy of this letter is not available.]

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 175, per ship *Dryade*; acknowledged by marquess of Normanby, 18th May, 1839.)

My Lord, Government House, 27th October, 1838.

I have the honor herewith to forward to your Lordship a Duplicate of a letter from Mr. Walter Rotton, appealing to your Lordship against my decision in a case, in which he claimed compensation, and of which the following are the circumstances.

27 Oct.  
Transmission  
of letter from  
W. Rotton.

In 1829, a Private soldier of the Staff Corps named Stephen Robinson, obtained a Grant of 50 acres of land on the Hunter River on the conditions on which it was then usual to grant land to discharged soldiers, one of which was that he should reside on it for seven years. In 1831, it was found that, instead of fulfilling the condition of residence, Robinson had quitted the land, and that Mr. Walter Rotton was in possession of it; the order for the land was therefore cancelled on the 31st July in that year; an Action of Intrusion was brought against Rotton, who was thereupon legally and formally ejected and the land was sold to another person.

Report re  
claims of  
W. Rotton for  
compensation.

Mr. Rotton founds his claim for compensation upon two grounds: the first is that the original letter of possession obliged Robinson to reside on the land six months only, and not seven years; but this letter (of which Mr. Rotton gives a Copy) will itself shew that the period of six months had reference only to the Title to a Grant, and not to the terms of the Grant, which were to be the usual ones. The promise made to Robinson was that, if at the end of six months he were in actual occupation of the land, he was to be entitled (but not otherwise) to his Grant, which Grant was of course to be the usual one, binding Settlers of that description to a residence of seven years. If Mr. Rotton felt that he had really anything to urge upon this point, we may conclude that he would have done so before the Supreme Court, instead of suffering, as he says he did, the Action of Intrusion to go against him undefended.

The second point on which Mr. Rotton relies is that, after Robinson was dispossessed of the land, it was given to one

1838.  
27 Oct.  
Report *re*  
claims of  
W. Rotton for  
compensation.

Grimston, but that, when Grimston reported that Rotton was in possession, another piece of land was allotted to him elsewhere. Nothing can be plainer than that this was done in order that Grimston might not have to wait the issue of the Action of Intrusion, and that it did not carry with it in the smallest degree a recognition of Rotton's title.

Mr. Rotton has brought his claim repeatedly before the Local Government, and has always been refused. The answer, which I caused to be conveyed to him, was that, as he had been formally and legally put out of possession, I could not reopen the case or entertain any claim for compensation. It is quite true that very recently all the restrictions, imposed upon settlers of the class to which Robinson belonged, have been removed; but this removal has not operated to revive claims, which were cancelled in form and disposed of long ago. In the cases cited by Mr. Rotton, the land originally granted had never been resumed; in no case where the grant was cancelled has any claim for compensation been entertained.

I have, &c.,  
GEO. GIPPS.

[Enclosure.]

MR. W. ROTTON TO LORD GLENELG.

My Lord,

Claim by  
W. Rotton for  
compensation  
for ejectment  
from land  
grant.

The following statement is addressed to your Lordship with a conviction that your Lordship will see the justice of my prayer to be remunerated for my loss, when all the circumstances of the case, divested of its legal points and with reference only to its equitable character, shall have been laid before you; at the same time that I am sorry I should be obliged to trespass on your Lordship's time for the consideration of a claim I considered might have been arranged in the Colony.

In 1829, a number of the New South Wales Royal Veteran Company received from this Government Grants of Land, conditioned that they should become Settlers in the Colony, together with other assistance in the way of Buildings and rations to enable them to commence their operations. A few of the Royal Staff Corps also received their discharges and, in lieu of their passage home, small grants were given them without any other assistance than a Six Months' ration. Amongst these was a man named Stephen Robinson, who received a grant in the parish of Maitland, Hunter's River, New South Wales, of Forty Acres, of which he took possession as authorised by the Colonial Secretary's letter of which the following is a Copy:—

“(No. 29/1,072.)

“Colonial Secretary's Office, Sydney, 30th June, 1829.

“His EXCELLENCY the Governor having been pleased to command that you shall receive a grant of Land near Hunter's River, I am directed to inform you that, on your presenting this letter to Capt. Aubin at Wallis' Plains, that Gentleman will point out to you a piece of land accordingly, of which you will be allowed to retain possession under the existing regulations untill a regular deed of grant can be prepared in your favor. But you will understand

that this order is to be null and void, if it shall be found at the end of Six Months from this date that you are not actually residing upon the land herein alluded to.

"ALEX. MCLEAY.

1838.  
27 Oct.

Claim by  
W. Rotton for  
compensation  
for ejection  
from land  
grant.

"Private Stephen Robinson, late of the Royal Staff Corps."

On presenting this letter, he was put in possession of allotment No. 27, a piece of Land of which 25 Acres were under water and the greater part of the remainder a thick brush, without a house to cover himself, a wife, child and servant.

Towards the end of 1829, he applied to me for assistance to enable him to support his family until he could obtain a crop, on which I supplied him with ration and clothing; and he placed in my hands the original of the above letter as a security for the accommodation, and, as he had nearly fulfilled the only condition annexed to it, I could not but consider it as such. In consequence of a flood in May, 1830, the whole of his first crop was destroyed, and he continued to depend on me for the support of his family; but the following Season his wheat crop failed, and, after remaining on it until Feb., 1831, being completely destitute and unwilling to increase his obligation, he tendered me his land as the only means of liquidating the debt, and I became the purchaser. Previous to this, bearing date the 29th Sept., 1830, fifteen months after his first taking possession, he received a letter authorising the possession, but imposing a number of conditions, amongst which was one requiring a residence of 7 years, which was considered by many similarly situated as a virtual imprisonment; and, as the grant had been made in lieu of a passage, had they been aware of such a condition, they would not have accepted them, but would have returned home.

Relying on the tenor of the original letter and knowing that many similar grants had changed hands, I commenced fencing, clearing and draining, when, at the latter end of July, 1831, I received a letter from Robinson, which had been addressed to him by the Honorable the Colonial Secretary as follows:—

"Colonial Secretary's Office, 6 July, 1831.

"It appearing that you have ceased to reside on the allotment of land given you at Maitland, the order for the same has been Cancelled.

"By Command of His Excellency the

"Governor for the Coll. Secretary.

"T. C. HARRINGTON.

"Stephen Robinson, late of the Royal Staff Corps."

A few months after a man named Grimstone produced a letter from the Honorable the Colonial Secretary, authorising him to take possession of the same allotment, which when demanded from me I refused to give up. He returned to Sydney and was advised to choose another grant which he did and instantly sold it. At this time, I addressed his Excellency the Governor in a Memorial Stating the Circumstances, and received for answer that "he could not interfere in it." On this, I completed draining and fencing and placed the whole under a crop, remaining in quiet possession upwards of 2 years longer, when, in Feby., 1834, I was summoned by the Attorney General to quit possession on a plea of Intrusion. To this Summons, I was advised to Succumb rather than undertake a suit with the Government; but I again addressed His Excellency the Governor and offered to pay a fine, as referred to by an extract

1838.  
27 Oct.

Claim by  
W. Rotton for  
compensation  
for ejection  
from land  
grant.

from a Dispatch from the Right Honorable Lord Goderich, then Secretary of State for the Colonies, addressed to His Excellency Governor Darling, a copy of which was published in the Sydney Gazette in the month of April, 1832, and in which it is suggested by that noble Lord that "a moderate fine should be levied on Lands once alienated from the Crown to prevent the appearance of invidious prosecution to reobtain possession of grants, the conditions of which had been so irregularly performed"; but I received for answer "that it would be contrary to the regulations of His Majesty's Government." I was ejected from the land, and it was subsequently sold by the Government at a price which did not cover one half of the expence of the improvements.

At that time, I considered it useless to make further remonstrances, but determined to allow it to remain until the time had expired when the deeds would be claimed for grants made at the same period; but, having learnt that the Government here had decided that the conditions under which such grants had been restricted should be rescinded, I considered myself justly entitled to a compensation for my loss and accordingly addressed His Excellency Sir George Gipps stating the Circumstances and praying him to remark. That the original grantee fulfilled the only Condition annexed to the original letter of possession, namely "that the same should be null and void, if at the end of six months from the date of the letter he was not actually residing upon the land therein alluded to, as he resided on it from the beginning of July, 1829, to the end of Feby., 1831, 20 Months." That, altho. the land was subsequently granted to Grimstone, on my refusing to give up possession, a new grant was given him and that His Excellency "refused to interfere in it"; and that I was afterwards allowed to remain undisturbed until Feby., 1834, a period of 3 years, before any attempt was made to eject me; to which his Excellency was pleased to reply "that, as I had been legally and formally put out of possession of the land in question, His Excellency considers the matter to have ended and cannot therefore reopen the case to entertain any claim for compensation."

Having explained the reason that induced me to withhold the case until the present time, while I acknowledge that I am perhaps not legally entitled, Yet I respectfully submit that I have a strong equitable claim, when the number of grants under similar conditions, and which yet remain in the hands of the purchasers, are considered; and I trust I shall be excused when I take the liberty of pointing out a few in my own immediate neighbourhood; first a grant to a Veteran named Burr, since deceased, who sold to Solicitor Rodd, who sold to Major Mitchell, Surveyor General, and which was passed thro. the court of Claims in which the Major was a Commissioner and passed the Great Seal; add to this Turby to Jones; Daley to J. T. Hughes; Baulcot to Nicholas; Cornish to Sparkes; Deville to Pawsey; all in this neighbourhood, and either of the N.S.W. R.V. Co. or of the Staff Corps, and one in particular of Nixon to Bartley, the circumstances of which were brought before the Supreme Court here in consequence of Bartley's Bill, a part of the consideration money, being refused payment on account of the conditions referred to, and in which Nixon the plaintiff and original grantee recovered, their Honors holding that the consideration was good, the land was sold by the Sheriff and the title remains unquestioned.



About the same time, a number of small grants were made under the same conditions as the Veterans; and of these grants I can safely say that one half were sold, the original grantees not having even seen these lands. Whilst of grants made from the year 1822, I can prove that not one Grantee in five fulfilled the conditions annexed to the grants made them.

I cannot but consider it a hardship that I should be the only party deprived of a small spot of land, on which I had expended upwards of £250, and which is at the present moment without any further improvements valued at upwards of £400; and I trust that, in Submitting this my case thro. Your Lordship to the consideration of Her Majesty's Government, I may be allowed to hope that some compensation, in land, may be made for my loss.

I have, &c.,

WALTER ROTTON.

Maitland, Hunter's River, New South Wales, 25th Sept., 1838.

1838.  
27 Oct.

Claim by  
W. Rotton for  
compensation  
for ejectment  
from land  
grant.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 176, per ship Dryade; acknowledged by  
marquess of Normanby, 16th May, 1839.)

My Lord,

Government House, 29th October, 1838.

29 Oct.

I have the honor to transmit herewith a Petition from Mr. Geo. Wyndham, a settler on Hunter's River, praying for an additional Grant of land under the Regulations of 1826 and 1827.

Transmission of  
petition from  
G. Wyndham.

Mr. Wyndham's case is simply this: he arrived in the Colony under the Regulations of 1827, and obtained a Primary grant of 2,560 acres, but, either at the same time or soon afterwards, he purchased 2,000 acres of land at a distance of about 80 miles from his Grant. He has resided and expended Capital on his purchased land, but has neither resided nor expended money on his Grant, using it only as a Sheepwalk.

Report *re*  
claims of  
G. Wyndham.

The Regulations, under which Additional Grants are allowed, require that a certain amount of Capital shall have been expended on the Primary Grant, and, as I am directed by your Lordship's Despatch of the 31st July, 1836, No. 180, to ascertain in every case that the Regulations have been strictly fulfilled, I have not felt myself at liberty to give a Secondary Grant to Mr. Wyndham.

I have, &c.,

GEO. GIPPS.

[Enclosure.]

THE humble Petition of George Wyndham of Dalwood, Hunter's River, N. S. Wales,

Petition of  
G. Wyndham  
soliciting  
secondary  
land grant.

To the Right Honorable Lord Glenelg, Her Majesty's Principal Secretary of State for the Colonies.

Sheweth,

That your petitioner emigrated to this Colony in August, 1827, and received a Grant of 2,560 acres of land; that your petitioner being obliged to select his land far in the interior purchased

1838.  
29 Oct.

Petition of  
G. Wyndham  
soliciting  
secondary  
land grant.

this farm Dalwood, where he has cultivated largely, and made permanent improvements to the amount of £6,000 and upwards.

That, by the Regulations of 27 June, 1827, your petitioner was promised an additional Grant on condition of his making improvements to the amount of £2,133 6s. 8d. on his primary Grant; but, upon making application for the additional grant, the objection was taken that the said improvements were not on his grant, but upon purchased land.

That your petitioner, considering this objection to be merely verbal that he has fully complied with the spirit and intentions of the Regulations, having always resided on his farm with his family (of now seven children), humbly prays that your Lordship will take his case into your favorable consideration and give directions to the Colonial Government to waive the verbal objection under which the additional Grant is withheld.

And your petition will ever pray.

[*Unsigned.*]

Dalwood, Hunter's River, 26 October, 1838.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 226, per ship John Barry.)

30 Oct.

Sir,

Downing Street, 30th October, 1838.

Despatch  
acknowledged.

I have received your despatch No. 74 of the 9th of May last, transmitting a Memorial from Mr. F. Beddek, praying for a grant of land on the grounds which he has stated for consideration.

Refusal of  
land grant for  
F. Beddek.

I have to request that you will inform the Memorialist that I regret my inability to accede to his application.

I have, &c.,

GLENELG.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 227, per ship John Barry.)

Sir,

Downing Street, 30th October, 1838.

Despatch  
acknowledged.

I have received your despatch, No. 75 of the 1st of May last, transmitting a memorial from Mr. James Reid, formerly a Lieutenant in the army, praying for an additional Grant of Land on the grounds which he has stated for consideration.

Refusal of  
land grant  
for J. Reid.

I have to request that you will inform him that I am unable to accede to his request.

I have, &c.,

GLENELG.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 177, per ship Dryade; acknowledged by marquess of Normanby, 28th May, 1839.)

31 Oct.

My Lord,

Government House, 31st October, 1838.

In my Despatch on the subject of Emigration, dated the 3rd October instant, No. 155, I had the honor to inform your

Lordship that I expected shortly to receive the Report of a Committee of the Legislative Council which had been appointed to consider the subject. This Report having been made on the 12th instt., I have now the honor to enclose a Copy of it to your Lordship.

1838.  
31 Oct.

Report from  
committee on  
immigration.

The observations, which I feel it my duty to make on the Report and on the subject generally of Emigration, may be divided into three heads:

- 1st. The extent to which Immigration is required;
- 2ndly. The best way of conducting it;
- 3rdly. The funds from which the expense of it is to be defrayed.

1st. Upon the extent to which Immigrants are required.

Extent of  
immigration  
required.

I have no reason to suppose that the wants of the Country are exaggerated in the Report, or that, in ordinary seasons, employment might not be found for Emigrants arriving as fast as they have come into the Colony during the last six months; at the present moment it is true that we have more than we can dispose of, but the Country has long been suffering under a most oppressive drought, and communication throughout it is rendered so difficult (horses and cattle dying everywhere on the road) that few persons can come to Sydney to engage servants, nor can the Emigrants themselves find means of proceeding to the interior. The demand therefore for labor, during the last three or four months, is not to be taken as a fair measure of the wants of the Colony.

2ndly. As to the best means of conducting Emigration.

Best system for  
encouraging  
immigration.

The opinion throughout the Colony is decidedly (and I am bound to acknowledge not altogether without reason) in favor of the Bounty system on account of its superior cheapness, and of fewer children being introduced in proportion to Adults under it than by Government Immigration. It may however be doubted whether, if the Government Immigration were to be given up, a sufficient supply for the wants of the Country could be procured without raising the Bounties. The Committee in the 2nd and 3rd pages of their Report recommended that persons, who may be disposed to fit out vessels on the Bounty System, should be enabled to obtain in England an authority so to do without waiting for the permission of this Government; and, in this recommendation I am disposed to concur, provided only that a limited time be specified within which the Emigrants should be embarked. The principal reasons, which I am able to assign for Government Emigration being dearer than that conducted on the Bounty system, are that the Government vessels take neither freight nor

1838.  
31 Oct.

Best system for  
encouraging  
immigration.

Cabin Passengers, and that the allowances made to Naval Surgeons are higher than those usually paid in other ships to Surgeons who themselves are Emigrants. Cases too do occur, in which Emigrants by private ships pay a portion of the expense of their passage themselves; but I have no reason to believe that this is universally or even generally the case. I am not prepared to recommend that Government vessels should take freight, or merchandize not the property of Government; but, when stores, which are to be sent from England for the use of the Colony, can be put conveniently on board them, I think it should be done; also that persons, whose passages are to be defrayed out of Colonial funds, should be ordered to embark in them; but, even if this were done, I still should not expect to see Government Emigration conducted so economically, as that by private enterprise; nor, by a reference to Sir Richard Bourke's Despatch of the 14th Oct., 1835, No. 102, do I find that he ever expected it would be. Its adoption was recommended by him, because he thought the Immigration conducted by private enterprise would be insufficient for the wants of the Colony; and it is upon the same grounds that I would now recommend a continuance of it at any rate 'till the end of the year 1839.

It might reasonably perhaps have been expected that the sickness and mortality on board Government ships would have been less than on board private ships, and the risk also of expence in the performance of Quarantine after arrival in New South Wales; but I regret to say there has been no marked difference in this respect and certainly none in favor of Government vessels.

Funds for  
purposes of  
immigration.

3rdly. As to the funds out of which the expences of Immigration are to be defrayed.

Appropriation  
of territorial  
revenue.

It is very generally asserted in the Colony, and as generally perhaps believed in England, that the whole produce of the Territorial Revenue of the Country is to be spent exclusively on Immigration; but I cannot find that any positive orders have been given to this effect, nor do I think it desirable that they should. There are at least two charges, which I would submit should take precedence of it: the first is, the charge for collecting the revenue; the second is that which we annually incur for the protection, civilization and improvement of the Aborigines, the first possessors of the soil from which the wealth of the Colony has been derived. Up also to the close of the year 1836, the whole unexpended balance of the land fund has been transferred to the general fund of the Colony, under the authority of the Treasury letter of the 23rd Septt., 1834 (transmitted to my Predecessor with Mr. Spring Rice's Despatch of the 15th Novr., 1834),

1838.  
31 Oct.Appropriation  
of territorial  
revenue.

in which it was stated that, in order to enable the Colony to take upon itself the maintenance of the Police and Gaols, "the Lords of the Treasury were prepared to acquiesce in the Local Treasury's continuing in the receipt of any surplus of the Land Revenue, beyond the sums appropriated to the assistance of Emigrants, and of the other casual Revenues of the Crown." This arrangement respecting the surplus of the Land fund was not altered by your Lordship's Despatch of the 18th Sept., 1836, for, though Emigration was therein declared to be the primary charge on the Land fund, it was expressly stated, in the Treasury letter of the 2nd Sept., 1836, transmitted with that Despatch, that the Lords of the Treasury "were not aware of any engagement or understanding that the whole proceeds of the sale of Crown Lands in the Australian Colonies should be devoted to the furtherance of Emigration." By your Lordship's despatch however of the 23rd March, 1837, it was directed that thenceforth the surplus of the funds *applicable to Emigration* in any one year should be carried forward in aid of the Emigration of the next, thus leaving (if rigidly interpreted) nothing transferable to the General Revenue, nor even anything to bear the expence of collecting the Revenue itself, or of the expences incurred on account of the Aborigines. I am certainly in some doubt whether this was your Lordship's intention, and perhaps I am wrong in supposing that it will bear such a construction; it is moreover not perhaps sufficiently understood what funds are applicable to Emigration, whether the whole of the Territorial Revenue of the Colony, or only the funds derived from the sale of wild lands, leaving the Revenue derived from Quit rents, Leases, Depasturing Licences and the sale of improved lands to other purposes. The original intention of Lord Ripon, expressed in Lord Howick's letter to the Secretary of the Treasury of the 16th Feby., 1831, extended only, I think, to the money derived from the sale of wild lands, or of those lands which it had theretofore been the custom to grant gratuitously; and the same distinction is I think to be observed in many other though perhaps not in all official documents on the subject. I hope I may be excused for further remarking to your Lordship that, though a Committee of the Legislative Council of this Colony in 1835 (as noticed in your Lordship's Despatch of the 16th Sept., 1836) recommended that the proceeds of the funds arising from the sale of land should be appropriated exclusively to the purposes of Immigration, it may be surmised that one object, which the Council had in view in making this recommendation, was to induce the Home Government to take back upon itself the charge for maintaining the Police Establishments and Gaols, which charge was in that year first thrown on the

1838.  
31 Oct.

Colony, and made partly payable out of the Land fund, a measure against which every unofficial and two official Members entered Protests on the proceedings of the Council.

Necessity for  
instructions re  
immigration.

As the subject of Emigration and the appropriation to it of the proper funds is one of intense interest in the Colony, I shall be happy to receive from your Lordship explicit instructions in respect to it.

Proposal to  
raise loan for  
purposes of  
immigration.

Your Lordship will perceive that the question has been raised of providing funds for carrying on Emigration on a large scale by means of a loan, and that the Committee is not disposed to view the proposal with disfavor. I must confess it would be with regret that I should see anything like a perpetual debt entailed on the Colony; and, although the Committee has proposed to redeem the amount of it in a certain number of years, experience has I think taught us not to put much faith in calculations of that sort or in the contrivances of sinking funds. I cannot also but apprehend that it would be extremely difficult to administer the Government of this Colony with proper economy in the midst of the factitious wealth, which would be produced by a Loan; already the reputation of having a well-filled Treasury has caused demands upon the Government, which it is extremely difficult to withstand, but which, if not checked, will lead us to Bankruptcy.

Continuance of  
immigration.

All I can myself undertake at present to recommend is that Immigration should be kept up for another year or two at its present rate; and that, if our funds prove insufficient to meet it, we should rather have recourse to a loan than put a stop to it. I am disposed however to think that we should, even in that case, measure the sum to be borrowed by the demand for Immigration, rather than fix the amount of the Loan (which it has been proposed to do at Two Millions) and regulate our importation of Immigrants in such a manner as to spend the amount of it in a given number of years.

I have, &c.,

GEO. GIPPS.

[Enclosure.]

[A copy of this report will be found in the "Votes and Proceedings" of the legislative council.]

SIR GEORGE GIPPS TO LORD GLENELG.  
(Despatch No. 178, per ship Dryade.)

2 Nov.

My Lord,

Government House, 2nd November, 1838.

Apprehension  
re French  
settlement in  
New Zealand.

Herewith I have the honor to transmit to your Lordship a copy of a letter from Mr. Busby, dated the 24th Septt. last, in which he expresses an apprehension that the formation of a Settlement in New Zealand is meditated by the French.

I must confess that Mr. Busby does not appear to me to have any very distinct grounds for the apprehension he entertains, but I nevertheless think it right to bring his letter before your Lordship.

1838.  
2 Nov.

I have, &c..

GEO. GIPPS.

[Enclosure.]

[A copy of this letter will be found in a volume in series III.]

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch marked "Separate and Confidential," per ship Dryade.)

My Lord,

Parramatta, 3rd Novr., 1838.

3 Nov.

When I had the honor to receive my present appointment from your Lordship, the finances of New South Wales were considered to be in so flourishing a condition that your Lordship will very probably be surprised to learn that the greatest difficulties, which I anticipate in carrying on my Government, are those of a financial nature. Various Despatches however, which I have recently written, will have informed your Lordship how greatly I found on my arrival the expences of Government to exceed the Income of the Colony, and that, although we have yet a considerable fund in hand, the savings of former years, the time is rapidly approaching when it will be exhausted. Also in my Despatch on Emigration (No. 177), I have touched on some of the difficulties which are likely to arise in the appropriation of the Land Revenue to the purposes to which it is destined. It is on this latter subject of the Appropriation of the Land Revenue that I now propose to address myself unreservedly to your Lordship.

Expected  
financial  
difficulties. 1

Income  
exceeded by  
expenditure.

It is asserted in the Colony that the right to appropriate this Revenue was conceded to the Governor and Council by a Despatch from Mr. Spring Rice of the 15th Novr., 1834, and by the Treasury letter of the 24th Septt. in the same year, which accompanied it; also that this right was recognised by Sir Richard Bourke in the following passages which are extracted from a communication made by him to the Council on the 24th June, 1835.

Claim by  
council to  
appropriation  
of land revenue.

"Another charge (said Sir Richard) appears on this Estimate, that for Immigration, the revenue of the Crown Lands, from which it is to be defrayed, being now left to the Appropriation of the Council."

And again, in another part of the same communication, "The Income of the Crown Lands now placed by His Majesty under the control of the Council."

1838.  
3 Nov.

Maintenance  
of rights of  
crown.

Transfer of  
expenditure on  
aborigines to  
land revenue.

Expenditure on  
Port Phillip  
from land  
revenue.

Notwithstanding however the strength of these expressions, I must say that I very much doubt whether, by the Treasury letter of the 24th Septt., 1834, it was intended to give up unreservedly and for ever the right to select the objects on which the Crown Revenue should be expended; and I therefore, whenever occasion required, maintained during the late Session of the Council that the Crown has still the power to do so, feeling that, if wrong in this opinion, I could easily set myself right with the Council, but that, if I committed an error the other way, I might involve myself in difficulties from which there would be no escape. I wish your Lordship distinctly to understand that it is on account of the Aborigines, and the Protectors recently appointed by your Lordship, that I feel most anxious that the Crown Revenue should not have been entirely given up. Your Lordship will perceive by the Estimates for 1839, transmitted with my Despatch No. 160, that, acting on the recommendation of the Parliamentary Committee of 1837, I transferred to the Crown Revenue the charge for the Aborigines which had theretofore been borne on the general Estimates of the Colony; though in so doing I expressly stated to the Council (in my official Minute) that I acted only on the recommendation of the Committee and not in obedience to any express orders from your Lordship; there will be no difficulty therefore in restoring the charge to its former place, should your Lordship desire it. I have not overlooked the passage in your Lordship's Despatch of the 8th January, 1838, in which, speaking of the salaries of the Protectors, your Lordship says, "in fixing this expenditure, Her Majesty's Government have anticipated the concurrence of the Legislative Council of your Government in voting the necessary sum for this charge," but I feel bound to state to your Lordship that I have great reason to doubt whether the Council will vote the necessary sum; fortunately, as the Protectors are all nominated for Port Phillip, the whole expenses of which are as yet paid out of the Crown Revenue, it was not necessary in the late Session to bring the question before them. I may here be permitted, I hope, to observe that the simple fact of the expence of the Settlement of Port Phillip being defrayed out of the Territorial revenue (without any reference to the Council) would seem to imply that the right to appropriate this revenue had not passed away entirely from the Crown. Sir Richard Bourke, in his Despatches of the 10th Octr., 1835, and 15th Sept., 1836, appears to have proposed this arrangement without any doubt of your Lordship's competency to sanction it; in various other Despatches,\* written within the two last years of his Government,

\* *Marginal note.*—See Despatches 10th Augt., 1836; 6th June, 1837; 7th Sept., 1837.



he proposed that the remuneration to several Individuals should be made out of the Land fund, instead of bringing their claims before the Council, particularly in the cases of Mr. Lewis, Colonel Snodgrass, and Mr. Moore; in two instances, reported to your Lordship in my despatches Nos. 151 and 152, I have had to pay large sums out of the Land fund to complete arrangements entered into by Sir Richard; and lastly I find that the Crown Commissioners, first appointed in 1837, have been paid out of the Land fund without any vote of the Council; all these circumstances forbid me to suppose that Sir Richard Bourke even considered the entire control over the land fund to be vested in the Council.

1838.  
3 Nov.

Special  
payments from  
land revenue.

I feel it necessary here to offer an explanation of one of the causes at least of the great desire manifested by the Council of New South Wales that the whole of the Land revenue should be spent on Immigration. In 1835, the expense of maintaining the Police Establishments and Gaols was made a Colonial charge; and, in order to enable the Colony to bear it, the surplus of the Land fund was allowed to be taken in aid of it. Against the placing of this charge on the Colony, every Unofficial and two Official Members of the Council protested; and, in the same year, a Committee of the Council recommended for the first time that the whole of the Land fund should be spent on Immigration; there can be no doubt that they did this partly with a view of forcing the Home Government to take back upon itself a portion at least of the charge for Police and Gaols. Sir Richard Bourke, in his Despatch of the 12th August, 1835, expressed his opinion that the Colony, even with the assistance of the Land fund, would not be able to bear the charge, unless an aid of £20,000 per annum were granted from home; and, in a later Despatch of the 8th Sept., 1837, he says that the difficulty is not in the smallest degree diminished by the circumstance of the appropriation of the Land fund to Immigration being generally asked for by the Colonists, "since in taking this view of the subject, the consequence of being compelled to provide by new imposts for the necessary annual expenditure of the Colony does not appear to have engaged their attention."

Reasons for  
claim by  
Council to  
appropriation  
of land  
revenues.

Subsidy  
proposed  
towards police  
and gaols.

I have never ceased, since the day of my arrival, to declare that I will introduce economy into the Government; but nevertheless I fear that either to new Taxes or to Bankruptcy we must come, if the ordinary revenue of the Colony is to be charged not only with all the expences (amounting to £90,000 per annum), which have been transferred to it within the last few years, but with all expences of protecting the Aborigines, and with the

Necessity for  
new taxes.

1838.  
3 Nov.  
Cost of  
collecting  
land revenue.

expence also of collecting a revenue, that is to be spent on other purposes; the expence of collecting and managing the Crown Revenue, including the expence of the Surveying Department, which is fairly a part of it, will amount in the year 1839 to not less than £30,000, without taking into account the making of roads or any other expences which are incidental to the opening of New Districts of the Territory.

I have, &c.,  
GEO. GIPPS.

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LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 229, per ship John Barry.)

5 Nov.  
Approval of  
admission of  
public to  
debates of  
council.

Sir, Downing Street, 5th November, 1838.  
I have received your Dispatch No. 83 of the 5th of June last, transmitting a Copy of your Address on opening the Legislative Council of your Government, and reporting that it had been resolved to admit strangers to its Debates.

I have much pleasure in conveying to you the approval of Her Majesty's Government of your proceedings on that occasion.

I have, &c.,  
GLENELG.

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LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 230, per ship John Barry.)

Despatch  
acknowledged.

Sir, Downing Street, 5th November, 1838.  
I have received your Dispatch of the 20th of June last, No. 89, transmitting a Minute of the Executive Council of New South Wales on the Application of Mr. Andrew Murray for a reconsideration of Sir Richard Bourke's decision, refusing him the gratuity usually allowed on the reduction of an Establishment, on the grounds of his having declined to accept an Appointment at Norfolk Island.

Refusal of  
gratuity for  
A. Murray.

I entirely concur with you in opinion that there is no sufficient ground for reversing the decision of Sir Rd. Bourke in Mr. Murray's Case.

I have, &c.,  
GLENELG.

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LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 231, per ship John Barry.)

Despatch  
acknowledged.

Sir, Downing Street, 5th November, 1838.  
I have received your dispatch, No. 76 of the 14th of May last, with various documents stating the endeavours which you had made to induce Mr. Cunningham to continue in charge of the Botanic Garden at Sydney.

I entirely approve of your proceedings on this occasion, and, should the occasion arise, I will not fail to avail myself of the means which your dispatch supplies of meeting any misrepresentation as to the causes of Mr. Cunningham's retirement from the office of Superintendent of the Botanic Garden.

1838.  
5 Nov.

Approval of  
action re  
A. Cunningham.

I have, &c..

GLENELG.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 179, per ship Dryade; acknowledged by marquess of Normanby, 3rd June, 1839.)

My Lord,

Government House, 5th Novr., 1838.

It having accidentally come to my knowledge that the acts of Council, passed in this Colony in the year 1837, have never been transmitted to your Lordship, as required by the 28th Sect. of the 9th Geo. IV, Ch. 83, I have caused the copies on Parchment, which were prepared for Sir Richard Bourke's signature, to be authenticated in the best way I could, and I have had the whole of them shipped on board the vessel (the "Dryade") by which this Despatch will be conveyed.

Transmission of  
acts of council  
for 1837.

Each Parchment Copy has been collated with the Original, which was signed by Sir Richard Bourke at the time of its being passed, and the Certificate of its being a true Copy is signed by the Registrar of the Supreme Court, who is the Custos of the Original.

Certified copies.

As all the Public Acts of the Session take force in the Colony from the time of their passing, I am not aware of any inconvenience that will ensue from the loss of a year in their transmission to England; but there is one Private Act, with respect to which inconvenience may arise, as it cannot come into force until allowed by Her Majesty. I have therefore respectfully to request that this act, which is to authorize the Establishment of a Gas Light Company, may be submitted with as little delay as possible for the gracious approval of the Queen, and Her Majesty's decision on it communicated to this Government.

Request for  
decision re Gas  
company's act.

There was another Private act passed in the Session, "To facilitate proceedings by and against the Royal Exchange Company," but it was sent home on the 20th Sept., 1837, with Sir Richard Bourke's Despatch No. 94, of that date, and has already received the Royal Assent.

Royal exchange  
company's act.

I enclose the Bill of Lading of the Box containing the Acts, in which also are the Acts, which have been passed in the Session of 1838. With the present Despatch your Lordship will receive two printed Copies of the Acts of 1837; but, as those of 1838 are

Bill of lading  
and printed  
copies of acts.

1838.  
5 Nov.

not yet completed by the Printer, I must defer the transmission of them, as well as the usual explanatory Despatch, until the next opportunity.

I have, &amp;c.,

GEO. GIPPS.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 232, per ship John Barry.)

7 Nov.

Sir,

Downing Street, 7th November, 1838.

Despatch  
acknowledged.

I have received the Duplicate of your despatch No. 61 of the 16 April last, transmitting a Memorial from Mr. Edwin Park soliciting a grant of Land on the Grounds which he has stated for consideration.

I have to request that you will inform the Memorialist that I regret my inability to accede to his application.

I have, &amp;c.,

GLENELG.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 233, per ship John Barry.)

Sir,

Downing Street, 7th November, 1838.

Advance to  
agent general.

With reference to my despatch of the 9th Ult. No. 216, I have the honor to acquaint you that the Lords Commissioners of the Treasury have apprized me that they have authorised the issue to Mr. Barnard, the Agent General for New South Wales, of the further issue of the Sum of ten thousand two Hundred Pounds in full of the Warrant for Twenty thousand two Hundred Pounds, and I have to request that you will take measures for causing the repayment of that Sum into the Military Chest of the Colony without delay.

I have, &amp;c.,

GLENELG.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 234, per ship John Barry.)

Sir,

Downing Street, 7th November, 1838.

Despatch  
acknowledged.

I have received your Dispatch No. 85 of the 12th June, transmitting a further Minute of the Executive Council relative to the dissensions which have unhappily arisen among the Presbyterian Ministers in New South Wales, together with several other documents on the same subject.

I regret to learn that your endeavours to bring these dissensions to an amicable issue had not been attended with success; but, such being the case, I can only refer you to my Dispatch of the 3rd September, No. 207, as to the course to be taken by the Governmt. with reference to those proceedings.

I have, &amp;c.,

GLENELG.

Regret *re*  
schism in  
Presbyterian  
church.

LORD GLENELG TO SIR GEORGE GIPPS.

1838.  
7 Nov.

(Despatch No. 235, per ship John Barry.)

Sir,

Downing Street, 7th November, 1838.

I have received the Duplicate of your Despatch No. 70 of the 3d of May last, in which you report that, in consequence of the continued disagreement between Mr. Clapham and Mrs. Leach, you had deemed it your duty to remove Mr. Clapham from his Situation in the Female Factory at Parramatta.

Despatch  
acknowledged.

Much as I regret the failure in this instance of the means which were adopted to secure an efficient and experienced Superintendence of the Factory, the circumstances, which you state, appear to leave no doubt of the necessity of the step which you have taken. I trust that Mrs. Leach will prove fully adequate to the duties with which she is charged, and that such arrangements may be made as will remedy the great defects and evils which have hitherto attached to this Institution.

Management  
of female  
factory.

I have, &amp;c.,

GLENELG.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 180, per ship Dryade; acknowledged by marquess of Normanby, 17th May, 1839.)

My Lord,

Government House, 7th Novr., 1838.

I have the honor herewith to transmit to your Lordship an Act, which was passed by the Legislative Council of this Colony on the 2nd Octt. last, intituled "an Act to continue and amend an Act intituled 'an Act to restrain the unauthorized occupation of Crown Lands,'" and I further enclose to your Lordship a remonstrance against this act, dated the 11th Octt., drawn up by Mr. Justice Burton and concurred in by Mr. Justice Willis, in which remonstrance the learned Judges declare, for reasons therein set forth, that the Act is in their opinion repugnant to the laws of England, and that they feel it their duty, in conformity with the 22nd Sect. of the 9th Geo. IV, Ch. 83, to make to me a representation to that effect.

Transmission  
of act *re*  
unauthorised  
occupation of  
crown lands.Remonstrance  
*re* act by  
puisne judges.

As it appeared to me, on the receipt of this document, that the arguments of the learned Judges went to impugn the right of the Crown to its Territorial Revenue, and to proclaim broadly that such Territorial revenue is a tax on the Inhabitants, contrary to what I knew to have been uniformly maintained in other Colonies by many successive Governments of Great Britain, I deemed it right to take the opinion of my legal advisers before I laid their Honors' remonstrance before the Council; and I have

Effect of  
argument  
of judges.

1838.  
7 Nov.

Counsels' opinions adverse to judges.

Proposal by judges to substitute new remonstrance.

Conditional withdrawal of remonstrance.

Difficulty created by and effect of remonstrance.

Possibilities at next session of council.

now further the honor to enclose to your Lordship the opinions given on the subject by the Attorney General and Dr. Kinchela, who, your Lordship will perceive, both take the same view of it that I had done, and dissent from the opinion of the learned Judges. I have further to report, My Lord, that, on my making known to Mr. Justice Burton and Mr. Justice Willis the opinions of the Attorney General and Dr. Kinchela, both the learned Judges expressed their readiness to withdraw their original remonstrance and to substitute one, which, leaving untouched the question of Prerogative, should go only to the minor objections, which they had urged against the act or against those parts of it, which the Attorney General himself admitted to be faulty; but the fourteen days,\* allowed by the 22nd Sect. of the 9th Geo. IV, Ch. 83, having in the mean time elapsed, I thought it would not be proper to allow such a substitution to be made, as I considered myself not authorized to bring before the Council any letter or remonstrance, which was not actually written and received within the fourteen days; the consequence of which was that the remonstrance was withdrawn altogether, though on the understanding that I am to introduce early in the next Session a Bill to amend the Act in the minor points of which I have spoken. I trust your Lordship will approve of the line of conduct which I adopted on this embarrassing occasion, the difficulty of which was increased by the circumstance of my having received the Judges' remonstrance only on the eve of the day (the 12th Oct.), which had been fixed for the close of the Session. I was thus forced to keep the Members of Council together several days after their arrangements had been made to return to their homes; and I could not do this without letting them know the reason of it. Your Lordship will therefore perceive that, though the Judges' remonstrance was not laid before the Council, nor the exact contents of it made known, yet the fact of a remonstrance having been made is matter of notoriety in the Colony. To this I would respectfully ask to draw Your Lordship's attention, as I fear it is calculated to act prejudicially on the Government at a time when the Public mind is so intensely directed to the way in which the Crown Revenue is to be appropriated, as I have had the honor to explain to your Lordship it now is, in my Despatch on the subject of Emigration, No. 177 of the 31st ulto.

I trust I may be excused for adding that, if I am enabled to lay before the Legislative Council at its next meeting a clear exposition of the views of Her Majesty's Government on the subject of the Levy and appropriation of the Territorial Revenue, I have little doubt of a ready acquiescence in those views both by the Council and the People of the Colony; but, if any delay occur

\* Note 120.

in making them known or hesitation in maintaining them, consequences of an embarrassing nature may I think not improbably ensue.

I have, &c.,

[Enclosures.]

GEO. GIPPS.

[*These were a copy of the act of council, 2 Vict., No. 19, and the legal opinions, of which copies will be found in a volume in series IV.*]

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch marked "Separate and Confidential," per ship Dryade.)

My Lord,

Parramatta, 7th Novr., 1838.

With my Public Despatch of this day's date, I have transmitted to your Lordship Copies of all the documents which are officially connected with the remonstrance of the Judges against the Crown Lands occupation Act; in a matter however of so unexpected and unusual a nature as a remonstrance from two Judges against the exercise of a long acknowledged right of the Crown, I feel your Lordship may very probably expect from me some explanation of a more minute and confidential nature than can be conveyed in a Public Despatch; and I therefore think it right to offer them in the present shape.

Necessity for confidential report re crown lands occupation act.

Mr. Justice Burton is a person, whose character both public and private stands too high to allow for a moment the supposition of his having acted with any view to embarrass the Government or from any but the purest motives; he is however known to have long entertained some peculiar notions respecting the right of the Crown to dispose of lands in the Colonies; and it is perhaps not unreasonable to suppose that he looked for an occasion to bring them forward.

Motives of W. W. Burton.

Mr. Justice Burton has now given way upon the principal point urged in his remonstrance, and has declared himself satisfied that the £10, exacted as the price of a licence to depasture Cattle beyond the Boundaries of Location, is to be regarded as Territorial Revenue, and not as a Tax upon the People. Mr. Justice Willis has also withdrawn his remonstrance, though he has not so unequivocally acknowledged his change of opinion.

Change in opinion of W. W. Burton.

But, though this matter is thus disposed of for the present, there is another and no less serious one that is likely to be brought forward. Both these Judges are known to entertain the opinion that the sale of Crown Lands, without the consent of Parliament, is illegal; and a case is, I understand, shortly to be brought forward in the Supreme Court to try the question. Mr. Justice Burton finds his opinion on the 1st Anne, Stat. 1, Ch. 7, which he asserts to be in force no less in New South Wales than in England; but Mr. Justice Willis relies upon the Civil List Acts

Opinion of judges re illegality of sale of lands without consent of parliament.

1838.  
7 Nov.

of the late and the present Reigns, by which (as he contends) His late and Her present Majesty gave up to Parliament all control over their Territorial Revenues, as well in the Colonies as in Great Britain. The Chief Justice does not, I believe, concur in any of these views, but in the Supreme Court the opinions of the two Puisne Judges would prevail against his; and it is unnecessary for me to state that a judicial decision, according to their view of the law, would invalidate every Title in the Country; and, though this might be of little consequence to the Holders as far as disturbance from the Crown is concerned, it would disable any man from going into Court, in cases in which he would be required to stand on the strength of his own Title as in Ejectments, and (I believe) in the foreclosing of Mortgages.

Effect of  
judicial  
decision *re*  
illegality.

Question raised  
in Tasmania.

Your Lordship may remember that something of this kind occurred a few years ago in Van Diemen's Land, to which there is an allusion in a petition, which was drawn up, as I have reason to believe, by Mr. Justice Burton himself in 1836, and which is to be found at Page 3 of the Appendix\* to Mr. James Macarthur's Book upon New South Wales.

Relations of  
governor with  
judges.

I am happy to be able to inform your Lordship that the discussion of these very delicate subjects has not produced any ill-feeling between myself and the Judges; in proof of which, I think it right to enclose to Your Lordship a Copy of the last letter, which I received from each of them on the subject of their remonstrance.

Your Lordship will understand that the Act, against which the Judges remonstrated, is only the renewal, with slight alterations, of one (7 Gul. IV, No. 4) passed in 1836; and, for information respecting the objects which Sir Richard Bourke had in view when he first introduced it, I would beg to refer your Lordship to his Despatch of the 14th Sept., 1836, No. 100.

I have, &c.,

[Enclosure.]

GEO. GIPPS.

[A copy of this letter will be found in a volume in series IV.]

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 237, per ship John Barry.)

8 Nov.

Sir,

Downing Street, 8th November, 1838.

Despatch  
acknowledged.

I have received your Despatch No. 60 of the 14th of April last respecting Mr. James Bowman, late Inspector of Colonial Hospitals at New South Wales.

Instructions  
*re* salary of  
J. Bowman.

My Despatch No. 25 of the 15th of November, 1837, has conveyed to you the necessary directions in regard to the payment of that Officer's Salary.

I have, &c.,

GLENELG.

\* Note 121.



SIR GEORGE GIPPS TO LORD GLENELG.  
(Despatch No. 181. per ship Dryade.)

1838.  
8 Nov.

My Lord,

Government House, 8th Novr., 1838.

I have the honor to forward herewith the Return called for by Your Lordship's Despatch of the 21st July, 1837, No. 345, being in compliance with an Order of the House of Commons, dated the 30th June, 1837, for "a Return of the number of cases in which the punishment of Flogging had been inflicted on persons serving under sentence of Transportation to the Colony of New South Wales, in each year from 1830 to 1837."

Transmission of returns re punishment of flogging.

The Return is made in two parts, the one having reference to Summary Convictions before Magistrates, the other to Punishments inflicted by order of the Supreme Court or Courts of Quarter Sessions.

The former part, or the Return of Summary punishments, has caused a great deal of labor in the office of the Principal Superintendent of Convicts. It has been prepared by Clerks in his office at extra hours, in the way recommended by the Principal Superintendent in a letter of which I forward a Copy, and the expence of preparing it has been about £50.

Expenditure on return.

I have, &c.,

GEO. GIPPS.

[Enclosure No. 1.]

RETURN to an Order of the House of Commons of the 30th June, 1837, calling for the number of cases in which the Punishment of Flogging had been inflicted on persons serving under Sentence of Transportation to the Colony of New South Wales in each year from 1830 to 1837 both inclusive.

*Supreme Court and Quarter Sessions.*

Return of punishments ordered by supreme court and quarter sessions.

Offences.	Number of Floggings.								Number of Lashes.							
	1830.	1831.	1832.	1833.	1834.	1835.	1836.	1837.	1830.	1831.	1832.	1833.	1834.	1835.	1836.	1837.
Assault .....				3	1							150	50			
Being at large without leave						1								50		
Contempt of Court.																
Embezzlement	1								Unknown.							
Insubordination.					1								50			
Highway Robbery.																
Larceny .....				2	5	3		2				200	400	125		150
Misdemeanour						1								50		
Total.....	1			5	7	5		2				350	500	225		150

T. MACQUOID, Sheriff.

Sheriff's Office, 6 November, 1838.

1838.  
8 Nov.

Return of punishments ordered by magistrates.

RETURN to an order of the House of Commons of the 30th June, 1837, Calling for the number of Cases in which the Punishment of Flogging had been inflicted on persons serving under sentence of Transportation to the Colony of New South Wales each year from 1830 to 1837, both inclusive.

	Number of Floggings in each year.												Number of Lashes in each year.			Remarks.
	1830.	1831.	1832.	1833.	1834.	1835.	1836.	1837.	1830.	1831.	1832.	1833.	1834.	1835.	1836.	
Absconding ...	737	296	1,007	1,149	1,368	827	830	750	37,763	56,218	49,503	53,088	47,111	50,737	42,441	37,735
Absenting ...	443	478	408	732	1,019	1,043	830	830	13,295	15,801	13,552	26,552	34,833	39,572	38,536	36,464
Disobedience of orders.	338	555	459	738	766	805	635	635	13,058	22,463	18,395	30,730	30,751	35,848	33,969	27,601
Drunkennes.	177	225	297	386	414	670	878	934	7,252	8,938	7,279	14,256	15,738	26,809	35,082	42,643
Mutinous or Insubordinate Conduct.	58	155	117	193	104	82	81	75	2,853	14,575	6,792	9,088	4,622	5,123	5,922	6,065
Theft .....	240	289	212	236	254	248	185	142	11,160	17,137	10,585	11,726	11,518	12,768	9,476	6,629
Neglect or idleness.	388	559	229	921	842	1,588	1,517	1,037	14,808	22,841	9,408	37,822	35,964	72,659	69,334	43,808
Assault .....	62	78	529	123	119	121	102	72	3,575	4,942	22,766	6,131	5,983	6,359	5,566	5,903
Disorderly Conduct.	298	158	80	605	577	863	648	702	9,483	7,203	4,585	24,885	20,552	37,114	26,313	29,703
Insolence .....	117	132	108	407	438	510	392	477	4,658	5,112	4,823	16,341	17,469	32,111	18,409	20,023
Fraud or Impostion.	85	166	257	173	226	192	195	112	3,127	7,107	10,728	5,552	9,177	6,125	8,205	4,398
Dishonest Conduct.	72	72	110	161	201	184	173	150	3,301	3,680	5,585	6,774	9,574	7,585	8,534	7,041
Total in each year.	2,985	3,163	3,816	5,824	6,328	7,103	6,904	5,916	124,333	186,017	164,001	242,865	243,292	332,810	304,327	268,013
Average number of lashes inflicted at each flogging.	41	58	43	41	38	46	44	45								
Number of Male Convicts in Colony.	18,571	21,825	24,154	23,357	25,200	27,340	29,406	32,102								

The following are the Acts of the Government and Council under which these Summary Punishments have been inflicted: 6 Geo. IV, No. 9; 7 Geo. IV, No. 5; 11 Geo. IV, 12 and 13; 3 Will. IV, No. 3, which last Act came into force on the 1st October, 1832. The Returns include punishments at the Penal Settlements of Norfolk Island and Moreton Bay.

Principal Superintendent of Convicts Office, Sydney, 22nd October, 1838.

J. McLEAN.

[Enclosure No. 2.]

1838.  
8 Nov.

CAPTAIN MACLEAN TO COLONIAL SECRETARY.

Principal Superintendent of Convicts' Office,

23rd January, 1838.

Sir,

With reference to your Letter of the 15th instant (No. 38/61) Calling for a return in the form transmitted by you of the number of cases in which the punishment of Flogging has been inflicted throughout the Colony in Criminal Cases, since the 1st of January, 1830, and of the Acts under which authority was given for the infliction of that punishment, for transmission to the Secretary of State, and also that, unless this could be done without interference with the Current business of my Office, that an assistant Clerk would be allowed at Six Shillings per diem, I have the honor to acquaint you that, from the daily increase of the duties in my Office, I find that the current business would be materially retarded by the employment in office hours of any Clerk in my department to prepare this report; as it is however a duty which particularly requires that a Clerk should be employed, who is efficient, and has been in the habit of referring to the Books which contain the information Called for, I beg to suggest, for the consideration and approval of His Excellency the Acting Governor, that two Efficient Clerks in my office, who have a knowledge of the records, may be employed to perform this duty, and in the event of my Suggestion being acceded to, I beg to propose that Mr. Dumas and Mr. Horsey be nominated to prepare this return at extra hours, and that they should be called upon to produce to Mr. Ryan my Chief Clerk Weekly, the work performed by them during that time, and that the Sum of Three Shillings per diem may be authorised to be paid to each of them so long as they are employed on this duty to commence from the day of their being so employed.

Proposal by  
J. McLean re  
preparation  
of return.

In conclusion, I beg to request that, as this return is required to be furnished without delay, that I may be favored with an early reply.

I have, &amp;c.,

J. McLEAN.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 182, per ship Dryade; acknowledged by marquess of Normanby, 13th June, 1839.)

My Lord,

Government House, 8th Novr., 1838.

With my Despatch of this day's date No. 181, I had the honor to forward to your Lordship Returns of the number of cases, in which the punishment of flogging was inflicted on Convicts in New South Wales in the several years from 1830 to 1837, as called for by an order of the House of Commons, dated the 30th June, 1837; and, as other Returns, requiring much more labor in preparation, were called for by a subsequent order, dated the 29th Novr. communicated to me by your Lordship's despatch of the 30th Decr., 1837, No. 58, I think the present a proper opportunity to inform your Lordship of the measures, which have been taken to furnish them, as also of the expence that will be

Preparation  
of returns  
for house of  
commons.

1833.  
8 Nov.

necessarily incurred in so doing. I accordingly transmit to your Lordship a Copy of a letter on the subject from the Principal Superintendent of Convicts to the Colonial Secretary, with a Minute of my own thereupon.

Estimated  
expenditure  
on returns.

Your Lordship will perceive, by the Superintendent's letter, that these Returns will not be yet ready for many months, and that the expence of preparing them will be £500.

I have, &c.,

GEO. GIPPS.

[Enclosures.]

[Copies of these papers are not available.]

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 239, per ship John Barry.)

9 Nov.

Sir,

Downing Street, 9th November, 1838.

Despatch  
acknowledged.

I have received your Dispatch No. 62 of the 17th April last on the subject of an application from Mr. George Mackillop and others in Van Diemen's Land for compensation for losses or disappointments which they state they incurred in settling at Port Philip.

Decision *re*  
compensation  
to first settlers  
at Port Phillip.

You are right in assuming that the whole question of compensation to the Original Settlers at Port Philip was set at rest by my Dispatch No. 341 of the 10th July, 1837, and I have to request that you will answer the parties concerned to that effect.

I have, &c.,

GLENELG.

SIR GEORGE GIPPS TO LORD GLENELG.  
(Despatch No. 183, per ship Dryade: acknowledged by  
marquess of Normanby, 18th June, 1839.)

My Lord,

Government House, 9th Novr., 1838.

Appointment  
of chaplain to  
convicts at  
Sydney.

I have the honor to report to your Lordship that, at the very earnest request of the Lord Bishop of Australia, I have appointed the Revd. Hart Sparling to the exclusive duty of affording religious Instruction to the Convicts in Sydney, with a salary of £200 a year payable out of the Military Chest, which I trust your Lordship and Her Majesty's Government will approve and confirm.

I transmit a Copy of the letter, which I received on this subject from the Bishop of Australia, as well as of the answer which I caused to be returned to it, by which your Lordship will perceive that, although the Bishop proposed that in addition to his salary Mr. Sparling should receive allowances to the amount of

£130 per annum. I have not thought it proper to guarantee them, though I would, on account of the heavy expence of living in Sydney, recommend Mr. Sparling's claim to them to the favorable consideration of Your Lordship.

1838.  
9 Nov.  
Proposed allowance for chaplain.

Your Lordship is aware that it is the great want of Clergymen alone, which has hitherto been our excuse for not affording to the unhappy men, who are under punishment in Sydney, religious instruction and consolation in a greater degree than they have hitherto received it from the Parochial Clergy, whose numerous other calls of duty prevent their allotting to this purpose more than a very small portion of their time. There is now, I am happy to say, no want in the Colony of Clergymen of any denomination, and your Lordship will have perceived by the Act of Appropriation, transmitted with my Despatch of the 12th Oct. last, No. 160, that the Legislative Council has in consequence increased the Annual sum voted to secure religious Instruction to Prisoners in the Gaols of Sydney from £75 to £400; and I should inform your Lordship that this was done on the application of the Judges, who earnestly recommended that Chaplains should be appointed expressly for the Gaols, and with no other duties to attend to.

Inability to detail chaplain for convicts previously.

Clergy available.

Appropriation for chaplains for gaols.

The number of Convicts, who will be placed under the Spiritual care of the Revd. Mr. Sparling, may be taken on the average at about 500, including all in Sydney or the immediate neighbourhood with the exception of Goat Island, the establishment at which place will shortly be broken up.

Number of convicts at Sydney.

I annex a Memorandum of all sums paid out of the Military Chest to Clergymen of every description in the Colony, and when it is borne in mind that, for the three Regiments who are doing duty in the Colony, there is no Army Chaplain, neither a Naval Chaplain in any of Her Majesty's Ships on the station, I do not doubt your Lordship will consider the amount very moderate, even when increased by the allowance to the Revd. Mr. Sparling.

Payments from military chest to clergy.

I have, &c.,

GEO. GIPPS.

[Enclosures.]

[Copies of these letters will be found in a volume in series VII.]

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 236. per ship John Barry; acknowledged by Sir George Gipps, 10th December, 1839.)

Sir, Downing Street, 10th November, 1838.

10 Nov.

I transmit for your information the Copy of a letter addressed to this Department by Mr. Dennistoun, M.P. for

Transmission of correspondence.

1838.  
10 Nov.

Glasgow, and by other Parties resident there, and interested in the new Settlement at Port Philip in New South Wales.

I also enclose a Copy of the reply which has been addressed to those Gentlemen by my direction.

Land sales to  
be held at  
Port Phillip.

I think it obviously desirable that arrangements should be made for effecting the sales of land within the settlements at Port Philip; and, altho' it might be inconvenient to separate the accounts of receipt and expenditure of the Revenue in different Districts of the Colony, it is but reasonable that a fair proportion of the revenue derived from the Sale of Land should be applied in facilitating Emigration to Port Philip.

Land revenue  
to be appro-  
priated for  
immigration to  
Port Phillip.

Return required  
of land revenue  
at Port Phillip.

I have, therefore, to request that you will from time to time inform me of the amount derived from the Sale of Lands at Port Philip.

I have, &c.,

GLENELG.

[Enclosure No. 1.]

MR. J. DENISTOUN AND OTHERS TO LORD GLENELG.

My Lord.

Glasgow, 23d Oct., 1838.

Objections to  
sales at Sydney  
of land at  
Port Phillip.

We, the undersigned proprietors of stock and intended purchasers of Land at Port Phillip, in the South part of the Colony of New South Wales, take the liberty of addressing Your Lordship respecting the regulations now in force with regard to the Sale of the Public Land at that Place, which at present is disposed of at Sidney to the very great detriment of the greater part of the Settlers, who have gone there either direct from this Country or from the Neighbouring Colony of Van Diemen's Land.

These Settlers have neither their funds at Sidney nor any Confidential Agent at that Place to make the necessary purchases for them, and they would probably incur certain ruin by absents themselves from their Establishments during the time that would be required for their Voyage or Journey to Sidney, and for attendance at the Land Sales.

The overland journey from Port Philip to Sidney is almost impracticable, at all events subject to great difficulty and danger; the Sea Voyage is tedious and uncertain.

Request for  
land sales at  
Port Phillip  
and appro-  
priation of  
revenue to  
immigration.

We would therefore humbly suggest to your Lordship that, if you do not deem it necessary to appoint a resident Commissioner for the Administration of the local affairs at Port Philip, you will direct the Sales of Land to be made there according to the prescribed regulations of the Government, under the directions of Captain Lonsdale the resident Magistrate, the Collector of Customs, and the Commissariat Officer, and that they should remit the Funds arising from this source to Mr. Elliot, the Government's General Agent for Emigration; who, so soon as the Amount was sufficient, should, we humbly suggest, send out a Ship with Emigrants direct to Port Phillip. The expense of removing Emigrants from this Country to Port Phillip would be less than in removing them to Sidney, which is two or three Weeks longer Voyage.

Demand for  
labour at  
Port Phillip.

We are aware that at Port Philip the greatest demand for labour exists, and that many Gentlemen of Capital have been prevented

from removing thither, both from this Country and from Van Diemen's Land, in consequence of the impossibility of procuring Men to erect habitations for their Families.

1838.  
10 Nov.

The undersigned are strictly Proprietors of Stock at Port Phillip at the present moment; but they take the liberty of mentioning to your Lordship that, had they required to this Memorial the Signatures of the Friends and Relatives of Persons, who have already Emigrated from this part of the Country to Port Phillip, Hundreds, we may indeed say Thousands, of names would have been added. The urgency of the Case, and its vast importance to those who have already emigrated to Port Phillip, carrying with them small capitals of from £500 to £5,000, have induced us to lay before you the present Memorial without delay, and We trust that it may receive your early Consideration and Attention.

Signatures available for memorial.

Urgency of proposal.

We are, &c.,

JOHN DENISTOUN. JOHN CROSS BUCHANAN.  
PATRICK WOOD. WILLM. CROSS.  
FREDERICK ADAMSON.

[Enclosure No. 2.]

SIR GEORGE GREY TO MR. WILLIAM CROSS.

Sir, Downing Street, 10th November, 1838.

I am directed by Lord Glenelg to acknowledge the receipt of your letter of the 24th Inst., transmitting a letter signed by Mr. Dennistoun, M.P., for Glasgow, and by other parties resident there and interested in the New Settlement at Port Phillip in New South Wales.

Letter acknowledged.

I am to request that you will acquaint those Gentlemen that his Lordship has called the attention of the Governor of New South Wales to the expediency of effecting at Port Phillip and not at Sydney the Sales of the Land in the vicinity of the former settlement. Lord Glenelg also hopes that arrangements may be made at an early period for meeting the other object, which you had in view by facilitating Emigration direct from this Country to Port Phillip.

Requests granted.

I am, &c.,

GEO. GREY.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 240, per ship John Barry: acknowledged by Sir George Gipps, 7th May, 1840.)

Sir, Downing Street, 10th November, 1838.

I transmit for your information the copy of a letter addressed to this Department by the Secretary to the Church Missionary Society, bringing to my notice the present circumstances of the Mission to the Aborigines of New South Wales.

Transmission of correspondence re aborigines.

I also enclose the Copy of the reply, which has been made to this Communication by my directions.

The Circumstances, under which this Mission was established, are stated in a Dispatch addressed, with its enclosures, by Viscount Goderich to your Predecessor on the 31st of December, 1831, No. 49, to which I beg to direct your attention.

From my Communication to your Predecessor, you will perceive the importance, which I attach to the Civilization and moral improvement of the Aborigines, and I am persuaded you would yourself be most unwilling, except in a Case of the most urgent exigency, to run the risk of marring one of the few efforts that are in operation to atone to that injured race for the wrongs which we have inflicted on them.

I have to request that you will prepare and transmit to this Department, with the least possible delay, a Report on the whole subject connected with the Mission.

I have, &c.,

GLENELG.

[Enclosure No. 1.]

REV. DANDESON COATES TO LORD GLENELG.

My Lord, Church Missionary House, 31 October, 1838.

I am directed by the Committee of the Church Missionary Society to beg your Lordship's attention to the present circumstances of the Mission to the Aborigines of New Holland.

This Mission, as your Lordship is aware, was undertaken at the instance of your Lordship's Predecessor in the Colonial office, Sir George Murray. At the period when this matter was in negotiation with Sir George Murray, the Committee inquired whether they might expect the aid of His Majesty's Government in the extension of the Mission, should its progress prove satisfactory. And they were informed in reply, in a letter from Mr. Horace Twiss, Feb. 18/30, "that the conversion of the Aborigines of New Holland to Christianity, and the introduction of civilisation among them was regarded by His Majesty's Government as an object of so much importance, that there was no probability that any undertaking, which held out a fair prospect of success, would be permitted to languish from the want of addition pecuniary aid." Under this arrangement, the Committee entered on the undertaking. Two Missionaries were engaged for the Mission and sent out. Wellington Valley was fixed upon for their location, and they entered on their labours there in October, 1832. Five annual reports have been successively made by the Missionaries to His Excellency the Governor of New South Wales, detailing the progress of the Mission. That for 1834 exhibited such favorable results that the Committee submitted its then state to your Lordship's consideration, in a letter under date of Decr. 17/35, and solicited additional assistance in order to its extension and increased efficiency. This application embraced two points, 1, the grant to the society, on behalf of the Aborigines, of a tract of land around the station in Wellington Valley, on terms to secure it in perpetuity to the promotion of the moral and religious improvement of the Aboriginal population; and 2, an addition to the pecuniary grant. Your Lordship's reply was communicated by Mr. James Stephen, June 30/36, in which he stated that "your Lordship would forthwith communicate with the Governor of New South Wales and instruct him to secure to the society for the purposes of the Mission the portion of land applied for, unless there should be any objection, which you did not anticipate, to the alienation of such Land by the Crown; in which event the Governor would be directed to assign some other portion suitable

1838.  
10 Nov.

Necessity for  
civilisation  
of aborigines.

Report  
required.

Foundation of  
mission to  
aborigines at  
Wellington  
valley.

Progress  
of mission.

Request for  
land and  
pecuniary  
grants.



to the purpose"; and that, with regard to the application for an increase to the pecuniary grant, you could only promise that you would direct the Governor to bring the subject under the favorable consideration of the Legislative Council. Your Lordship was pleased at the same time to convey thro' Mr. Stephen "the expression of your satisfaction at the favorable report contained in my letter of the success of the Mission."

1838,  
10 Nov.

In consequence of these communications, an additional Missionary, the Rev. James Gunther, was sent out, and he arrived at Wellington Valley in Augst., 1837.

Appointment  
of Revd.  
J. Gunther.

The view of the Committee being to derive the means of the gradual extension of the Mission from the cultivation of the tract of land, which your Lordship had agreed to assign to the Society in behalf of the Aborigines, an intelligent farmer, Mr. William Porter, was engaged by the Committee in prosecution of this design, and he sailed to his destination in Febry. of the present year. An extract from the Instructions of the Committee to Mr. Porter, fully detailing their views as to the course of his proceeding was communicated to your Lordship in my letter of Feb. 14/38.

Engagement  
of W. Porter.

Your Lordship will thus perceive that the Committee have on their part taken effectual measures for the extension of the Mission, in pursuance of the arrangement sanctioned by your Lordship in Mr. Stephen's letter of June 30/36, above referred to. It is therefore with much concern that they have learned from their correspondents in New South Wales not only that no additional pecuniary grant has been made to the Mission by the Colonial Government, but that the tract of land at Wellington Valley intended to form the basis of the extension of the Mission to the Aborigines has not been assigned to the Society for that object in conformity with your Lordship's directions. The Committee therefore earnestly solicit your Lordship's interposition to give complete effect to an arrangement not less due to the Aborigines of New Holland, demoralised and injured as they have been by the Colonial Population which we have introduced into their country, on grounds of justice than of humanity and religion.

Refusal of  
land and  
pecuniary  
grants.

The Committee are also impelled strongly to press the claims of this Mission on your Lordship's notice on the grounds of the favorable views of its progress, contained in the Fifth Annual Report of the Missionaries for 1837, which has just reached them. The Committee request your Lordship's attention to the following passages extracted from that Report:—

"The Missionaries, in presenting this their fifth Annual Report, are happy to state that their prospects of success among the Aboriginal Natives are gradually becoming brighter, and that the progress, made by the Natives during the past year in the respective departments of instructions, civilisation, etc., afford abundant encouragement for perseverance."

Prospects of  
success of  
mission.

Six children have been added to the Mission family during the past year, given by their parents wild from the Bush; three of whom, averaging about seven years of age, have in the course of nine months become able to read the Holy Scriptures as well as the Book of Common Prayer; and to find the Lessons, Psalms, Hymns, etc. The order and regularity with which they respond, their singing, and indeed their whole behaviour at Divine Service presents a most pleasing and interesting spectacle, especially when contrasted with their early wild heathen habits. It is a circumstance

Religious  
education of  
children.

1838,  
10 Nov.

Experience in  
education of  
children.

as pleasing as it is remarkable that all the children taught to read at the Mission House are much attached to books, consider it a severe punishment to be deprived of them, and esteem the present of a new one to almost any thing else. While they are learning the Alphabet and to spell, they feel no interest, and the work of instruction is tedious to both Teacher and Pupil; but, when they have overcome these preliminary difficulties and are able to read so as to understand, their attention becomes excited, they begin to feel a pleasure in the employment, and appear to be never wearied with it. The Aboriginal Natives are indeed capable of attaining to the knowledge of any thing in which they may be instructed. Several respectable Gentlemen, who have at various times visited the Mission, have expressed their gratification and surprise at what has already been effected amongst these heathen children.

Difficulty in  
education  
of female  
aborigines.

There is perhaps amongst no Aboriginal females a more general willingness to be instructed than is found amongst these; and it is a most affecting circumstance that, on account of the inefficiency of the means forthcoming for the support of the Mission, a more eligible system than the present one could not hitherto be adopted for bringing them into a closer and a more intimate connexion with the female members of the Mission, by whose constant care and instruction, under the Divine Blessing, there is no doubt they would become faithful wives, tender mothers, and useful members of society. It is however a lamentable fact that those, who are under instruction but sleep at the camp, can scarcely go a short distance to fish, &c., without being drawn into evil by Europeans, who sometimes prevail upon them to accompany them to their huts, and remain with them for the night. The following morning the females have been so ashamed as on that account to absent themselves from the means and place of instruction.

Use of native  
language by  
missionaries.

As no extensive good could be expected to result from instruction unless communicated through the medium of the Natives' own language, the Missionary has ever considered the attainment of it as one of the first and most important duties, and to which he has endeavoured to devote as much of his time and attention as his circumstances would allow. Accordingly there have been, during the past year (including the . . . of former attempts) translated into the Aboriginal language the first nine chapters of the book of Genesis, the whole of St. John's Gospel, the first nine chapters of the Acts of the Apostles, and most of the Liturgy of the Church of England. A portion of these translations is regularly read with the Natives in Divine Service, and which they all profess to understand.

Employment  
of aborigines.

During the past year, many of the Natives have been usefully employed in various departments of labour, as threshing, tending sheep and cattle, fetching wood and water with the dray, ploughing, working in the garden, &c. In the harvest season, more than twenty were employed in reaping, loading, stacking, &c.

Number of  
aborigines at  
mission station.

There are generally on the Mission not fewer than fifty or sixty, frequently eighty, and occasionally upwards of a hundred Aboriginal natives. A disposition to locate themselves and to reside with the Missionaries is becoming prevalent among them; several are engaged in building two substantial huts for themselves, each containing a sleeping room, and a room for cooking. One of the huts measures twenty-seven feet by twelve, and the other twenty-five feet by twelve, without the chimnies, which are erected outside

the buildings. The cutting the wood, splitting the slabs, and the whole erection of them is done by by themselves, except a little assistance in fixing the roof.

1838.  
10 Nov.

The injurious and devastating effects on the Aborigines by the progress of European Colonization developed in the following passage of the Report, will, the Committee are confident, deeply impress your Lordship's mind.

Effects of  
European  
colonisation  
on aborigines.

Had the Missionaries to labour among the Aborigines apart from the influence of such an European population, as is every where in the Interior planted among them, or had the Aboriginal Natives those resources which they possessed when they were the sole proprietors of the soil, the Mission would have few difficulties to encounter and the annual expenditure would be comparatively trifling. But it is a well known fact that, wherever Europeans have been located for any length of time, the natural resources of the Aborigines for food are in a great measure cut off; hence these houseless wanderers are seldom found living in the Bush except when on a fighting expedition, etca., but generally in the immediate neighbourhood of Europeans. The dialect spoken by the Aborigines at Wellington Valley is spoken by Natives over a tract of country not less than two hundred miles by one hundred and fifty miles. The Natives, scattered over this wide range, constitute the spiritual charge of the Missionaries at Wellington Valley. Mingling with these Natives, there are perhaps not fewer than two thousand Europeans. Every Overseer must know, and few Gentlemen, who either live on their establishment in the interior or occasionally visit them so situated, cannot but know how very generally the Europeans take the Native Females in their places of abode, and make them the partners of their vicious conduct. To what indeed but to such a "system of iniquity and to the, it is believed, pregnant murders of half cast infants, is to be attributed the gradual diminution of the Aborigines where-ever Europeans have been located."

It hence appears that the progress of Colonisation operates with disastrous potency on the Aborigines by exhausting the supply of native poor previously to be found in the Bush and by Drawing them in consequence into that contact with the Colonial population which is their bane.

The claims therefore of this wretched people on the British Government for the adoption of every practicable means for their moral and social melioration rest on the strongest grounds of humanity and justice.

The Missionaries add:—

"It must appear clearly to all, who seriously consider it, that there is nothing but Missionary Effort to save these wretched corrupted natives from becoming extinct; but Missionary effort if duly supported and properly directed is capable of doing this, and more; it will, under the Divine Blessing, raise them to a level with civilized nations, and elivate (them) to the standard and enjoyment of true believers in Jesus Christ."

Necessity for  
missionary  
enterprise.

The Committee therefore earnestly appeal to your Lordship for that authoritative interposition in furtherance of the Mission, which may under the divine Blessing render it as extensively influential as possible in bringing Aborigines under the influence of Christianity, and of thus repairing, so far as reparation is in our power, the wrongs inflicted by the course of our new Colonial policy.

1838.  
10 Nov.

Objections to  
police-station  
and post-office  
at Wellington  
valley.

There is another proceeding on the part of the Colonial Government affecting the mission to the aborigines, which I am directed by the Committee to bring under your Lordship's notice.

It is the formation of a police and post office Establishment at Wellington Valley, in the very centre of the mission. The Local Government were probably led to fix on Wellington Valley for the police Establishment in question in consequence of the Buildings there being the property of Government. The committee however are persuaded that neither this consideration, nor even graver ones if such there be, will in your Lordship's Judgement sanction a proceeding, which the Committee are led to believe would most seriously interfere with, if not wholly frustrate the Object of the Mission, The religious and social improvement of the aborigines. In saying this however, the Committee do not suppose that anything injurious to the interests of the Mission was intended by this arrangement. On the contrary, they have reason to believe that His Excellency the Governor is anxious to carry it into effect with every practicable regard to the advancement of the Mission.

The Committee however are convinced, from the information before them, that a Police establishment, however guarded in its arrangement, is incompatible with the beneficial working of the Mission.

In confirmation of this view of the case, the Committee enclose for your Lordship's information a copy of a letter from the Reverend Wm. Watson, one of the Missionaries, to the Reverend Wm. Cowper, Secretary of the Corresponding Committee of the Church Missionary Society in New South Wales, explaining their reasons for anticipating the most disastrous effect to the Mission from the Police Establishment. In that Letter, Mr. Watson States:—

From the most painful experience, the Missionaries are led to believe that, in the event of a plan proposed becoming established, the Mission will be eventually broken up, and the Aboriginal Natives, left as an easy prey to wicked Europeans, must soon become extinct.

The evening before the Court day at Wellington Valley, a number of mounted police brought in a man to be tried, and had not been more than three or four hours on the settlement before one of them was detected by the Reverend Wm. Watson attempting to decoy one of the Aboriginal females from the camp.

On a Court day, Mrs. Watson happened to look out from her room window when she beheld a man stript to his shirt, bound to a post and the scourger just about to commence punishing the prisoner.

The sight was too much for her feelings, she fainted, and it was a considerable time before she was restored. On the first Sunday that the Mail left Wellington Valley, as soon as service at the church was closed, the Aboriginal Natives pointed to the Post Office Clerk (who had his fowling piece shooting ducks) opposite the Mission house saying, "there is White fellow, white fellow shoot on Sunday."

The facts occurring at the very commencement of the location in the Mission of a Police and Post Office Establishment, occurring too when the operations of those Establishments were of a limited extent and carried on under the present influence of recent Orders

to shape their proceedings with due regard to the Welfare of the Mission, renders their ultimate effects on the Mission too clear to admit of doubt or question.

So deeply convinced are the Missionaries of the necessarily injurious effects on the Mission of the Police Establishment especially that, in a letter to Mr. Cowper, 3rd March, 1838, written immediately after they were informed of what was in contemplation, they thus expressed themselves, "if the Colonial Government persevere in forming a Court Establishment on the Mission and the British Government confirm that procedure, this Mission at once will be destroyed."

The Missionaries also thus express themselves in a letter to the Colonial Secretary, under date of March 12th, 1838.

"That the Missionaries feel it their duty to submit to His Excellency, the Acting Governor, that, should the proposed plan be consummated and confirmed by the British Government, they would no longer remain in their connexion with Government as Missionaries, when, after having been located not by their own individual choice but by his Excellency the Governor, and having faithfully discharged their arduous duties for five years, means are adopted, calculated in their nature and consequences to destroy all hopes of evangelization of the Aboriginal natives, for which specific purpose the Missionaries were appointed to this Country and the land was given; it cannot but be presumed with the express design and intention that, undisturbed by European influence, a fair opportunity might be afforded for training the Aboriginal Natives to habits of industry and teaching them the great truths of Christian Religion."

The Committee therefore most earnestly importune your Lordship to adopt measures for the speedy removal from the Mission land of the Establishments in question, and forseeing the Mission against being hereafter interrupted or retarded in its proceedings by having them broken in upon by measures of General Colonial Administration.

I have, &c.

D. COATES, Sec., C. M. Society.

[Sub-enclosure.]

REV. W. WATSON TO REV. W. COWPER.

Rev. Sir,

Sidney, 28th April, 1838.

In accordance with your request, I endeavour to state the reasons which influence the Missionaries in expostulating on the formation of a Police Station and Post Office on the Mission Land at Wellington Valley. It cannot but be remembered by you that, in the year 1829 or 1830, the Honble. the Secretary for the Colonies applied to the Church Missionary Society in England for two Clergymen to officiate as Missionaries to the Aboriginal Natives of New Holland, for which purpose an annual grant of £500 would be supplied from the Colonial Revenue of New South Wales and a portion of land afforded for the location of the Missionaries on which they should endeavour to train the Aboriginal natives in the Art of Agriculture, etc. as well as to make them acquainted with the truths of our Holy Religion.

For the purpose of being employed in this undertaking the Revd. William Watson, a Clergyman in English Orders, and the Revd. J. S. C. Handt, a Clergyman in Lutheran Orders, were specifically engaged by the Committee of the Church Missionary

1838.  
10 Nov.

Objections to police-station and post-office at Wellington valley.

Protest by Revd. W. Watson against police-station and post-office at Wellington valley.

1838.  
10 Nov.

Protest  
by Revd.  
W. Watson  
against police-  
station and  
post-office at  
Wellington  
valley.

Society in London. On the arrival of the Missionaries in New South Wales, they learnt that Wellington Valley, formerly a penal Settlement, had been reserved, by order of His Excellency Sir Ralph Darling, as the scene of their Missionary labours; to that place they were accordingly directed to proceed by His Excellency Sir Richard Bourke, who, to prevent the Missionaries from being annoyed by any of the Settlers in the neighbourhood of the Mission, directed that Boundaries of the Mission Land should be published in the Government Gazette. Indeed such appears to have been the assurance in the mind of his late Excellency that the ten thousand acres of land devoted to Missionary purposes (by Order of the Honble. the Secretary for the Colonies) should not be otherwise disposed of, that, when application was made by Messrs. Raymond and Macatto for a detachment of mounted Police to be stationed in the neighbourhood, Sir Richard Bourke gave express direction that they must not be stationed on the Mission land, or be permitted to interfere in the least with the Mission.

That Sir Richard Bourke considered the land at Wellington Valley sacred to Missionary purposes appears by the accompanying letter, forwarded by order of His Excellency from the Colonial Secretary's Office, Feb. 27th, 1837. The Committee of the Church Missionary Society, it is presumed, never anticipated or requested that the land at Wellington Valley should be granted for any other purpose than as a field of Missionary effort among the Aboriginal Natives, and as affording facilities for supporting them on the Mission. The Missionaries entered on their confessedly arduous duties, taking without any promise, prospect or desire of becoming possessors of the land otherwise than using it for Missionary purposes. In the prosecution of the work assigned them, the Missionaries have laboured indefatigably for five years, devoting their whole time, talents and strength to the improvement of the Aboriginal Natives; and, amidst unparalleled difficulties arising from the depraved habits of Europeans, there are not wanting evidences of success. Many of the Aboriginal Natives have been taught to read the Holy Scriptures, to cultivate the ground, to erect houses for themselves, etc., and indeed, notwithstanding the obstacles which have been in the way of its improvement, it has advanced and prospered beyond the experience of any other Christian Mission among savage tribes in the same space of time.

It is humbly submitted that the land at Wellington Valley was afforded for Missionary purposes on the same tenure as the land at Lake Macquarie was to the London Missionary Society in 1825 or 1826, that is, so long as Missionary occupations are being prosecuted with zeal and diligence, and those operations accompanied with a proportionable measure of success, the land is sacred to Missionary purposes; and that to convert it or any part of it to the formation of a Post Office, or a Police Establishment is at variance with the design of the Honble. the Secretary for the Colonies, as well as with all the proceedings of His Excellency the late Governor in reference to the land in connexion with the Mission. From the most painful experience, the Missionaries are led to believe that, in the event of the plan proposed becoming established, the Mission will be eventually broken up, and the Aboriginal Natives, left as an easy prey to wicked Europeans, must soon become extinct. The evening before the first court day at Wellington Valley, a number of the mounted Police brought in a man to be tried, and had not

been more than three or four hours on the settlement before one of them was detected by the Revd. Mr. Watson attempting to decoy one of the Aboriginal Females from the Camp. On a Court day, Mrs. Watson happened to look out from her room window, when she beheld a man stript of his shirt bound to a post, and the scourger just about to commence punishing the prisoner. The sight was too much for her feelings; she fainted, and it was a considerable time before she was restored. On the first Sunday, that the Mail left Wellington Valley, as soon as Service at the Church was closed, the Aboriginal Natives pointed to the Post office Clerk, who had his fowling piece shooting ducks opposite the Mission House saying "There is white fellow, white fellow shoot on Sunday." As the Missionaries have but one object and aim in the prosecution of their labours, namely, the civilization and evangelization of the Aboriginal Natives, and as they were induced to believe that, in the prosecution of this their work, they would be afforded every facility, support and encouragement from the Colonial Government of New South Wales, they consider that they would not be performing their duty to the British Government, to the Colonial Government or to the Aboriginal Natives, were they to omit a full and candid statement of their reasons for not acquiescing in the plan of forming an Establishment on the site of the Mission, which would tend to destroy what the Missionaries at considerable anxiety and labour have for five years been striving to effect, whilst they would humbly and respectfully state that they have reason to believe that His Excellency, the Acting Governor, was led to form those plans on representations neither fair nor candid.

1838,  
10 Nov.

Protest  
by Revd.  
W. Watson  
against police-  
station and  
post-office at  
Wellington  
valley.

Hoping that these remarks will be favourably received, and not doubting that they will meet with the candid consideration of His Excellency the Governor,

I am, &c.,  
W. WATSON.

[Enclosure No. 2.]

SIR GEORGE GREY TO REV. DANDESON COATES.

Sir, Downing Str., 10 November, 1838.

I am directed by Lord Glenelg to acknowledge the receipt of your letter of the 31st Ult., bringing to his Lordship's attention the present circumstances of the Mission to the Aborigines of New Holland.

Letter  
acknowledged.

I am to request that you will express to the Committee of the Church Missionary Society Lord Glenelg's regret that their Missionaries in New South Wales did not take the precaution of placing in the hands of the Governor of the Colony a copy of the Representations, which they have transmitted to the Society in this country. Had that course been pursued, His Lordship would probably have been in possession by this time of the Governor's representations, which might have enabled him to adopt a final decision on the case, without the inconvenience and delay of referring to so very remote a quarter of the Globe for official information on the subject.

Inability to  
give decision  
pending report  
from governor.

Lord Glenelg has, however, directed the Governor to prepare and transmit with the least possible delay a Report on the whole subject, and has also directed his attention to the instructions which have already been addressed to his Predecessor in the Government of New South Wales.

Instructions  
to governor.

I have, &c.,  
GEO. GREY.

1838.  
10 Nov.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 241, per ship Asia.)

Sir, Downing Street, 10th November, 1838.

Despatch  
acknowledged.

I have received Your Despatch No. 82 of the 2nd of June last.

Approval of  
statement by  
Sir G. Gipps  
re disposal of  
land.

Having in my despatch No. 176 of the 9th of August fully stated the views of Her Majesty's Government as to the principle on which Land should be disposed of in New South Wales, it is scarcely necessary for me to express my entire concurrence in the objections which you have noticed to most of Dr. Fowles' suggestions. Should you think it expedient, you will consider yourself authorised to increase the amount of the deposit paid by purchasers at the time of Sale.

I have, &c.,  
GLENELG.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 184, per ship Dryade; acknowledged by marquess of Normanby, 20th May, 1839.)

My Lord, Government House, 10th Novr., 1838.

Despatch  
received re  
protectors of  
aborigines.

Your Lordship's Despatch of the 31st Jany., 1838, No. 72, announcing to me the appointments of Mr. Robinson and four other gentlemen as Protectors of Aborigines, and suggesting the removal to Port Phillip of the Aborigines, who were transferred some years ago from Van Diemen's Land to Flinders Island, reached me at a time when very great irritation existed in the Colony, in consequence of the collisions between the settlers and the Natives in distant parts of the Country, which I have had the honor to report to your Lordship in my Despatches of the 25th and 27th April last, and the 21st July, Nos. 67, 68 and 115.

Objections to  
removal of  
Tasmanian  
aborigines to  
Port Phillip.

Your Lordship will believe that the moment did not appear a favorable one for bringing forward a measure, in which your Lordship was pleased to say, it would be necessary to act with the utmost caution and circumspection. The project of removing these Blacks to Port Phillip was no sooner known, than it was met with the most decided opposition by all classes in the Colony, and even in the Council I could not find a single Member who would look on it favorably. Mr. Robinson in the mean time arrived in the Colony; feeling it necessary therefore that something should be done, I thought it best to cause him to be examined by a Committee of the Legislative Council in the hope that the account he might give them of his success with the Aborigines of Van Diemen's Land, and of the state of civilization to which those at Flinders Island had advanced under his



care, might induce a more favorable view of the subject. A Committee of the Council was accordingly appointed, of which the Bishop of Australia was Chairman, and of the Report, which was presented to the Council by His Lordship on the part of the Committee, I have now the honor to enclose a Copy. Your Lordship will I am sure read this document with regret and disappointment; but I hope nevertheless your Lordship will think I have acted discreetly in not carrying into effect the removal of the Blacks from Flinders Island in the face of it. Mr. Robinson has now returned to Van Diemen's Land in order to complete his private arrangements for removing to Port Phillip, to which place he will bring at present only a very small number (one Family) of the Flinders Island Blacks as his personal attendants. The four assistant Protectors, who arrived by different vessels from England, are as yet in Sydney, but they are to remove to Port Phillip as soon as a conveyance can be provided for themselves and families, and are there to await the arrival of Mr. Robinson.

1838.  
10 Nov.  
Committee  
of council re  
aborigines.

Protectors of  
aborigines at  
Port Phillip.

Your Lordship informed me that the salary of each of these four gentlemen has been fixed at £250 per annum; but, in addition to salary, they claim various allowances and advantages, which they say were promised them in your Lordship's name by Sir George Arthur; they will evidently require some equipment to enable them to enter upon their duties, but I am not able yet to report to your Lordship what the expence of it may be.

Salaries and  
allowances for  
protectors.

I have, &c.,

GEO. GIPPS.

[Enclosure.]

[*This was the printed report of the committee on the aborigines question, dated 12th October, 1838, from the "Votes and Proceedings" of the legislative council.*]

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 242, per ship Asia; acknowledged by Sir George Gipps, 11th November, 1839.)

Sir, Downing Street, 12th November, 1838.

12 Nov.

I have the honor to acquaint you that the Lords Commissioners of the Treasury have directed a further Advance of £8,000 to be made to the Agent General for New South Wales on account of the Emigration Service of that Colony; And I have to request that you will give the necessary directions for the immediate repayment of that Amount to the Military Chest.

Advance for  
emigration  
service.

I have, &c.,

GLENELG.

1833.  
13 Nov.

LORD GLENELG TO SIR GEORGE GIPPS.  
(A circular despatch, per ship John Barry.)

Sir, Downing Street, 13th November, 1833.

Correspondence  
re customs  
establishment.

I have the honor to transmit, for your information and guidance, copies of a correspondence between the Board of Treasury and this Department respecting appointments to vacant situations in the Customs Establishments in the Colonies.

I have, &c.,  
GLENELG.

[Enclosure No. 1.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 16 November, 1837.

Instructions re  
administration  
of customs  
department  
at Ceylon.

The Lords Commissioners of Her Majesty's Treasury having had under their consideration the Despatch from Governor Sir Robert Wilmot Horton, dated Ceylon, 7th April last, applying for information and Instructions upon various points connected with the transfer of the Customs Department in Ceylon to the superintendance of the Commissioners of Customs, together with the suggestions contained in your Letter of 26th September last forwarding the said Despatch to this Board. I am commanded by their Lordships to communicate to you, for the information of Lord Glenelg, my Lords' opinion with respect to the points adverted to in the Despatch and the arrangements that should be made with reference thereto.

My Lords consider it necessary, with a view to the due and uniform administration of the Navigation Laws and to the proper observance and enforcement of the Laws relating to the collection of the Customs Revenue of the Island of Ceylon, that the Collector and Comptroller at Colombo, as the principal officers of the Customs in Ceylon, should be charged with the supervision and direction of all Officers of the Department at other stations in the Island; and that all reports from or Instructions to the Officers at Out stations should be addressed to or communicated by those Principal Officers.

It is the duty of the Principal Officers to see that the Business of the Department throughout the Island is conducted in the manner prescribed by the Laws relating to the Trade and Navigation of the British Empire, or by the Local Laws of the Island, and in conformity with such regulations and Instructions as may be notified to them by the Commissioners of Customs acting under the direction of my Lords' Board.

But, altho' the principal Officers are thus placed in direct communication with, and under the immediate Orders of the Board of Customs in London, for whose decision it is their duty to refer all points on which they may require special Instructions, it is distinctly to be understood that, like all other public Officers in the Colony, the Officers of the Customs are subject to the general control and local authority of the Governor whose directions, in case he should see occasion, in the discretionary exercise of the powers with which he is invested, to interpose his authority in any matter connected with the duties of the department, are to be received with respectful deference and to be duly obeyed, the officers being guided in this respect by the Instructions contained in the General Order

of the Board of Customs of 5th July, 1814, issued in concurrence with a Circular addressed by the Secretary of state to the Governor of Colonies on the 14th January, 1814.

1833.  
13 Nov.

Instructions re  
administration  
of customs  
department  
at Ceylon.

It is also to be understood that, altho' it is not necessary that copies of the communications that may take place between the Principal officers at Colombo and the Board of Customs in London shall on all occasions be submitted to the Governor, it is the duty of those officers to keep the Governor fully apprized of their proceedings in relation to all matters connected with the Trade or other general interests of the Colony; and they are at all times to furnish such information, reports, or accounts, relating to the revenue under their charge, or to the Establishments or business of the Department, as the Governor may see fit to require.

Although my Lords did not deem it necessary to make any general alteration in the arrangements relating to the Customs Establishments in Ceylon, on the department being placed under the management of the Board of Customs, the Officers of Customs in that Island, as on all other stations under that management, will in future derive their Authority from my Lords' Board; and it is consequently to be understood that, whenever the Governor may have occasion, in case of a vacancy occurring in any branch of the department either at Colombo or the Out Ports, to nominate some party to execute the Duties of the vacant office, the appointment is only to be temporary and subject to such ulterior directions as my Lords in communication with the Board of Customs may see fit to give.

It is not my Lords' intention that any expenditure should be incurred from the Revenue of Ceylon, except under the Governor's Authority and Warrant; and, unless therefore in cases where the officers of the Customs are empowered and required by Law to make any specific allowance, Drawback, or other payment, the gross receipts of the Department are on all occasions to be paid over to the Colonial Treasury, or the District Chests, and to be accounted for to the Colonial Authorities.

My Lords are accordingly of opinion that the Governor has acted very correctly in directing the regulations heretofore established in these respects to remain in force and be observed, and it will be the duty of the Principal officers to apply, in such form as the regulations of the Colonial Government may provide, for the Governor's authority for the payment of the Salaries assigned to the Establishment, or of any incidental expence of the Department.

I am at the same time directed to request that you will move Lord Glenelg to convey the requisite Instructions and directions to the Governor of Ceylon on these subjects, apprizing his Lordship that my Lords have caused a corresponding communication to be made to the Commissioners of Customs, from whom the Officers of Ceylon will likewise receive such further directions as may appear from the statements in Sir Robert Wilmot Horton's Despatch to be requisite for their Guidance.

I am also desired to request that you will express to Lord Glenelg my Lords' satisfaction in observing that the conduct of the Officer deputed to fill the situation of Comptroller of the Customs at Ceylon have met with Sir Robert W. Horton's approbation.

I have, &c.,

A. Y. SPEARMAN,

[Enclosure No. 2.]

MR. A. Y. SPEARMAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 21st December, 1837.

The Lords Commissioners of Her Majesty's Treasury having had under their consideration the Letter, which you addressed, by direction of Her Majesty's Secretary of State for the Colonies, to this Board on the 18th Ulto. with the enclosed Despatch from the Lieutenant Governor of Nova Scotia, reporting the permission which he had given to Mr. Davies, of the Customs Establishment in that Colony, to return to this Country, and the nomination of Mr. Miller to perform the duties of the Office vacated by Mr. Davies, and also the Letter which you had previously addressed to this Board on the 9th August last with a Despatch from the Governor of Newfoundland relating to the supercession, by the appointment of an Officer from this Country, of a Native of that Colony, whom he had nominated to a vacant situation in the Customs Department at St. John's, I am commanded by their Lordships to request you will state to Lord Glenelg, with respect to the appointment of Mr. Miller, that, adverting to the recommendation of his Lordship and Lieutenant Governor Sir Colin Campbell, and to the testimony borne by that officer to Mr. Miller's meritorious conduct, my Lords will be prepared, in the event of the removal of Mr. Davies from his situation in Nova Scotia, to confirm Mr. Miller in the office that will be thereby vacated, subject to the report of the Board of Customs as to his being duly qualified to fill the same.

Referring at the same time to the observation in your letter of 18th Ulto. that "Lord Glenelg has reason to know that the practical exclusion of the Inhabitants of Nova Scotia" from this branch of the Public Service is regarded with very strong dissatisfaction; and to the statement in your previous communication of 9th August last, that, "it would be satisfactory to Lord Glenelg if his Lordship would be enabled to transmit to the Governor of Newfoundland any assurance that the Inhabitants of the Island would be admitted, in common with all other subjects of Her Majesty, to a full participation in the advantages connected with the receipt and management of the Customs," my Lords request you will recall his Lordship's attention to the communication addressed by their direction to you on the 14th May, 1836, in reply to your letter of 20th April, 1836, whereby his Lordship was apprized that the Natives of Her Majesty's Colonial Possessions are considered by my Lords to be equally eligible to situations in the Customs, or other Public Departments, with the Natives of the United Kingdom, and that my Lords would be prepared to pay every attention to any claims which may be submitted to them, and recommended by the Colonial Governors; and that you will state to his Lordship that my Lords cannot therefore object to the communication which his Lordship is desirous of making to the Governor of Newfoundland, neither are they aware of any practical exclusion of the Colonists from employment in the Customs Department.

But, with reference to the Letters now before my Lords, as well as to the previous communication of 20th April, 1836, they do not conceive that the Establishments of the Customs department in the Colonies are in any respect to be viewed as purely local; The Officers of the Customs are not attached to any particular station, the services of all Persons on that Establishment being available

1838.  
13 Nov.

Instructions  
re filling of  
vacancies  
in customs  
establishments.

1838.  
13 Nov.

Instructions  
re filling of  
vacancies  
in customs  
establishments.

in all parts of Her Majesty's Dominions, both at home and abroad; and the duties, which they have to perform, have reference not alone to the collection of local Revenues, or the regulations of local trade, but to the more important object of the enforcement of the Laws relating to Navigation and trade throughout the British Dominions.

The nature of those Duties and the prevention of the evasions of those Laws, which are so frequently attempted, have moreover been considered to render it so peculiarly essential in the appointment of Officers in that department to ensure, as far as possible, the "exemption from local connexions and prejudices," adverted to in your letter of 9th August last, as to have called for a specific recommendation on this point from the Commission of Inquiry, upon whose Reports the existing Regulations of the department were founded, and this object is always kept in view, even in appointments at the Out Ports of the United Kingdom.

On these considerations, it appears to my Lords that it is most expedient that the appointments to the Customs Establishments in the Colonies should not depend upon the local Authorities; altho' my Lords will be at all times ready to attend to such recommendations as the Governors may make with a view to meet the wishes and just expectations of the Inhabitants of the Colonies for employment in the Public Service.

It will also be proper that Mr. Miller, in the event of his appointment at Nova Scotia taking place, as well as other applicants for appointments in the Customs departments similarly situated, should be distinctly apprized that they are not by any means to consider themselves permanently attached to one station; but, while they are eligible for general promotion in the Customs Establishments, they are also liable to be removed, as the arrangements of the department may require, to any other station, either in the Colonies or in the United Kingdom.

It further appears to my Lords to be advisable, with reference to the same considerations, that the Governors of the Colonies, now more immediately in question, should be reminded that, on any vacancy occurring in the Customs Establishments, they are only to make such temporary appointments as may be necessary for the proper performance of the Duties of the department, and that they should be apprized that, if the confirmation of any temporary appointment, they may thus be called upon to make, is desirable on the grounds to which you have adverted in your Letters, they should lose no time in reporting the circumstances of the case, in order that it may be brought under the consideration of my Lords' Board.

I am, &c.,

A. Y. SPEARMAN.

[Enclosure No. 3.]

EXTRACT of letter from Mr. Stephen to Mr. Spearman, dated  
Downing Street, 29th January, 1838.

Sir,

"The general question of appointments of Officers in the Departments of Customs in the Colonies has been so recently and so fully discussed between the Lords Commissioners and Lord Glenelg that on the present occasion his Lordship would confine himself to a single suggestion. It is that the Governor of each

1838.  
13 Nov.  
—  
Instructions  
*re* filling of  
vacancies  
in customs  
establishments.

Colony should be in possession of Instructions for his guidance in the contingency of any such Vacancy, which Instructions should enable him to discriminate between appointments to which Resident Colonists are eligible, and those to which they cannot be admitted. In reference to the latter class of appointments, the Governor should, if possible, be relieved from the responsibility of making the provisional choice of a Successor by having in his possession precise Orders as to the Selection to be made in any such event. The effect would be to prevent the creation of fallacious hopes and the consequent disappointment of the candidate chosen by the Governor, with all the dissatisfaction on the part of that officer and the public discontent, which is at present provoked by the Governor's nomination being over-ruled."

[Enclosure No. 4.]

EXTRACT of Treasury Letter, dated 9th April, 1838.

"I AM directed further to request, with reference to the general observations in your letter relating to the appointments to vacant situations in the Customs Establishments in the Colonies, that you will state to Lord Glenelg that the communications addressed to you on the 21st December last relative to appointments in the North American Colonies, and on the 16th November last relating to the Customs department at Ceylon, will have put his Lordship in possession of the views of this Board on that subject, and that it only appears to my Lords to be necessary further to remark that the Governors of Colonies, on such vacancies occurring, should only provide for the temporary execution of the duties of the Office which should be vacant; and that the provision in question should as far as possible be made by the employment of persons already in the Department, and conversant with its peculiar duties and with the Enactments relating to the Trade of the British Empire, such temporary assistance as may be required being supplied in the subordinate branches of the Department."

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 243, per ship Asia.)

14 Nov.

Approval of  
action *re*  
female factory.

Sir,

Downing Street, 14th November, 1838.

I have the honor to transmit to you, with reference to the Correspondence which has passed on the subject of the Female Factory at Parramatta, the enclosed Copy of a letter from the Under Secretary of the Home Department, expressing Lord John Russell's satisfaction with the steps which you had taken for the improvement of that Institution. I have, &c.,

GLENELG.

[Enclosure.]

MR. F. MAULE TO UNDER SECRETARY STEPHEN.

Sir,

Whitehall, 12th Novr., 1838.

Having laid before Lord John Russell your letter of the 31st ultimo, with its enclosed copy of a despatch from the Governor of New South Wales respecting the Female Factory at Parramatta;

I am directed to request you to convey to Lord Glenelg Lord John Russell's satisfaction at learning the improvements that have been undertaken therein, together with his Lordship's opinion that Sir George Gipps has shewn praiseworthy alertness in what he has done.

1838.  
14 Nov.

I am, &c.,  
F. MAULE.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 186, per ship Dryade; acknowledged by marquess of Normanby, 5th July, 1839.)

My Lord, Government House, 14th Novr., 1838.

I have the honor to forward herewith an application from Captain McLean, Principal Superintendent of Convicts in this Colony, that the salary of his 1st Clerk, Mr. Ryan, may be raised to that which was fixed as the salary of a 1st Class Clerk for the different Departments of the Local Government by a document which was transmitted to your Lordship by my Predecessor, with his Despatch of the 5th Sept., 1837, No. 82, and of which I now enclose a Printed Copy. Mr. Ryan performs his duties, I believe, in a zealous and able manner, and I feel bound to acknowledge that, if the Convict Establishment were a Colonial one, its relative importance would entitle the Chief Clerk of it to be ranked in the 1st Class. At the same time I think it right to inform your Lordship that Mr. Ryan was once a Convict himself.

Proposed  
increase of  
salary for  
T. Ryan.

Testimony in  
favour of  
T. Ryan.

I enclose, for your Lordship's information, a Comparative Statement of the salaries of the Clerks in the Convict Establishment on the 1st July, 1837, and the 1st Novr., 1838. The general rise in the salaries has been occasioned by the application to them of the Colonial Regulations under the authority of Sir Richard Bourke, dated the 28th July, 1837. The increase in the number is occasioned by the increase of business, as reported in my Despatch of the 12th Sept. last, No. 142.

Statement *re*  
salaries of  
clerks in  
convict  
establishment.

Mr. Ryan's salary is now £280 per annum, rising to £300; the effect of a compliance with Capt. McLean's recommendation will be to make it at once £300 with an increase of £20 per annum, until it reaches £400.

Salary of  
T. Ryan.

I have, &c.,

GEO. GIPPS.

[Enclosure No. 1.]

CAPTAIN MCLEAN TO SIR GEORGE GIPPS.

Sir, Prinl. Supt. of Convicts' Office, 5th October, 1838.

In transmitting to your Excellency the accompanying letter from Mr. Ryan, Chief Clerk in my Office, soliciting to be placed on the list of first Class Clerks, I have the honor to State in justice to him that, during the thirteen months of my holding Office, I have on all occasions received from him the greatest assistance in

Testimony in  
favour of  
T. Ryan.

1838.  
14 Nov.

Testimony in  
favour of  
T. Ryan.

Claim by  
T. Ryan to re-  
classification.

Status of clerks  
in convict  
establishment.

Increased  
expenditure  
and duties in  
convict  
establishment.

the discharge of my duties, and that he has faithfully and zealously performed the arduous and multifarious duties allotted to him, which his long experience of nearly 11 years standing in this Office alone enabled him to do; and, as the Salaries of the Clerks in this Office have gradually increased by the recommendation of the Board appointed in the month of June, 1837, in the same ratio as those of the Civil Establishments of the Colony, I conceive I am bound to bring his claim to be placed in the class alluded to under your Excellency's favorable notice, the more particularly so as I have reason to believe that the Council at its present sittings have sanctioned nearly all, if not the whole, of the Chief Clerks in the Public Departments who are paid from the Colonial Funds being placed in the First Class, few of whom if any, I take leave to say, have a more reasonable claim to it than the individual in question.

It would indeed be a great hardship on the part of Mr. Ryan and the Clerks generally in my Office, if they were not to be placed on the same footing with the Clerks in the other Public Departments, because they happen to be paid from a different fund, namely, the Military Chest. It cannot be expected that Mr. Ryan (who has been I understand nearly 22 years in the employ of the Government, both in this Office and that of the Colonial Secretary) would content himself with receiving a less Salary than others of a fewer years standing, some of whom have I doubt the one third of the duties to perform that he has.

I am aware that the expense of this Establishment has increased within the last year or two; but, let it be borne in mind that the duties also have increased threefold at least, and that new duties have been imposed upon it, which occasioned the appointment of temporary Clerks; it is not therefore to be wondered at that additional expense should follow as a matter of course, and that those new duties must have thrown more labour and responsibility on my Chief Clerk. Under these circumstances, I most earnestly beg to recommend Mr. Ryan to your Excellency's favorable consideration for the promotion he solicits, and to which he is in my opinion in every respect fairly entitled, as the whole of his time is exclusively devoted to the Duties of his Office.

I have, &c.,

J. McLEAN, P.S.C.

[Sub-enclosure.]

MR. T. RYAN TO CAPTAIN McLEAN.

Sir, Prinl. Supt. of Convicts' Office, 4th October, 1838.

Request by  
T. Ryan for  
promotion to  
first class of  
clerks.

Having heard that the applications from all the Chief Clerks in the Colonial Departments to be placed in the First Class have been complied with, and approved of by the Council, and as no reply has yet been received to mine for promotion to that Class, except a verbal one by yourself in February last that Colonel Snodgrass then administering the Government had sanctioned my request, subject however to the confirmation of Sir George Gipps, I now take the liberty to request that you will be pleased to solicit His Excellency the Governor to grant the increase applied for by me; In thus urging my claim to this promotion, I take leave to say that, previous to this Office being placed on the same scale of Salaries with the Colonial Departments, Mr. Brennan, then Principal Superintendent of Convicts, intended from my length of Service and the great increase of my duties to recommend me for an



increase of pay more than equal to the maximum Salary of the second Class, and which I have reason to believe before now I should have received, were it not for the alteration alluded to. This however was put a stop to by the Regulations of the 26th June, 1837, coming into force, which placed the Clerks in this Office upon the same rate of Salaries with those of the Colonial Establishments, and as I conceive giving me thereby the benefit of any increase allowed by the Council to Chief Clerks paid from the Colonial Revenue. I have therefore suffered by the change, which I respectfully submit is a hardship that I should do so, when it is to be considered that I perform in my own person the duties performed by the Muster Master at Hobart Town, who receives a Salary of £300 per annum, in addition to which I do the duties of Chief Clerk in this Office which is there held by a Gentleman at a Salary of £200 a year, and also part of those done by the Chief Clerk under the Colonial Secretary's Office at that place, so that in the Sister Colony £500 is paid for the performance of duties which are allotted to me, and I only at present receive a Salary of £280 a year. It ought also to be borne in mind that there are not one fourth of the number of Convicts in V. D. Land that are in this Colony; besides which in the Sister Colony the assignment of Convicts is conducted by an Assignment Board, and no part of that duty devolved on the Office of the Principal Superintendent of Convicts there; nor is the responsibility of the Muster Master at all equal to that of my situation, inasmuch as I receive on account of the Government for the Clothing of newly arrived Convicts on their distribution a Sum not less than £3,000 throughout the year.

1838.  
14 Nov.

Comparison of salaries and duties in Tasmania and New South Wales.

In conclusion I beg to call your attention to the fact of my long and I trust faithful Service in this Office and that of the Colonial Secretary, now nearly 22 Years, as also my onerous and responsible duties; and I cherish the hope that upon consideration His Excellency will not consider me undeserving of being promoted to the First Class which has been extended, if I am rightly informed, to all the Chief Clerks in the Service of the Government in this Colony.

I have, &c.,

THOMAS RYAN, Chief Clerk.

[Enclosure No. 2.]

[This was a printed government notice, dated 26th June, 1837.]

[Enclosure No. 3.]

[A copy of this comparative statement of the salaries of clerks is not available.]

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 244, per ship Asia.)

Sir, Downing Street, 16th November, 1838.

16 Nov.

I have received your despatches, No. 67 of the 25th of April, and No. 68 of the 27th of April, in which you inform me of a collision which had taken place shortly before your arrival between a party of the mounted Police under Major Nunn and a

Despatches acknowledged.

1838.  
16 Nov.

tribe of the Natives, in which there was reason to suppose that several of the latter had been killed, and of the measures which you had taken in consequence.

As in accordance with the instructions contained in my despatch of the 26th of July, 1837, you had directed an investigation into the circumstances of this unfortunate transaction, I abstain from any comment upon it until the result of that enquiry has been ascertained. I will only observe that this event, and those which are mentioned in the Postscript of your despatch of the 27th of April, afford additional evidence of the necessity of every possible precaution on the part of the Government to prevent collision between the settlers and the native Tribes. No means occur to me more likely to check the natural desire for retaliation on the part of the natives than to impress them, if possible, with the conviction that the laws of the Colony will be equally administered for their protection from wrong and injury as for that of the European settlers, and that, in every case of injury to person or property, an examination equally rigid will be instituted from whatever quarter the complaint may proceed; and an equal degree of punishment will be inflicted on the delinquent, whatever be his race or origin or colour.

Prevention of collisions between settlers and aborigines.

I am far from assuming that blame attached to Major Nunn, or the party under his command, on the occasion of the collision with the natives, which you have reported; but the more searching and minute the enquiry into every such transaction and the more complete the publicity given to that enquiry, the greater will be the confidence in the vigorous and impartial protection afforded by the law to the unoffending inhabitants of whatever class, and the stronger will be the inducement to have recourse to the constitutional authorities for redress.

Necessity for thorough inquiries.

I approve of the notice which, with the advice of the Council, you proposed to issue on this subject, and of the intended republication of the notice of the 16th of September, 1837. I am not prepared to question the necessity, which in your opinion existed for some delay in their publication; but I trust that that delay will have been of very short duration, as it seems to me important that the views and intentions of the Government on this subject should be clearly and generally known.

Approval of notice *re* aborigines.

My despatch of the 31st of January last, which you will have probably received shortly after the date of your despatches to which I am now replying, will have conveyed to you full instructions and authority relative to the appointment and duties of Protectors of the Aborigines within the limits of your Government.

Despatch *re* protectors of aborigines.

I have, &c.,

GLENELG.

LORD GLENELG TO SIR GEORGE GIPPS.  
 (Despatch marked "Confidential," per ship Asia.)

1838.  
 16 Nov.

Sir, Downing Street, 16th November, 1838.

Despatch  
 acknowledged.

Reception of  
 Sir G. Gipps  
 in colony.

Demand for  
 labour.

Proposed  
 abolition of  
 assignment  
 of convicts.

I have received your Dispatch of the 1st May marked "Confidential," with reference to several points of general interest Connected with your Government. It has given me much pleasure to learn that your reception has been of so gratifying a nature, and I trust that further experience of your Administration will secure to you the esteem and confidence of the Great body of the Inhabitants. Of the topics to which you have particularly adverted, that of the means of obtaining labour is one of great importance. You are already to a certain extent in possession of the views of Her Majesty's Government on this subject; and I see no reason to doubt that Immigration will very soon supply the Current demand for labour in the Colony. If, by the sudden withdrawal of assigned Servants, you mean, as I presume, the withdrawal from Assignment of the great body of Convicts now giving their labour under that system, without adequate means having first been provided from which their place could be supplied, I can fully enter into the apprehensions which would reasonably be entertained at such a proposal. This, however, is not the plan in view, which involves the discontinuance of Assignments in future, and also the supply of fresh labourers. The reasons, urged against the discontinuance of future assignments, ought not, I think, to prevail after a change in a system, which is open to so many serious objections, and has so powerful a tendency to defeat the great end of punishment. I cannot, therefore, lead you to expect that any Consideration will induce the Government to adhere to it. Indeed measures are now in contemplation, founded on the Report of the Committee\* of the House of Commons on Transportation for the discontinuance at an early period of the Transportation of Convicts to New South Wales; but they are not yet sufficiently matured to enable me to communicate to you the final arrangements on this subject.

Indian  
 immigration.

Proposed  
 change in  
 system of  
 government.

I am happy to find that so entire a coincidence of opinion exists between us on the question of Indian Immigration. I shall be very glad if you have been able to send me your opinions on the future Government in New South Wales in time to assist us in the preparation of the Measure to be proposed to Parliament on this subject. It is attended with many and unusual difficulties.

On the other subjects to which you have referred, my Public Dispatches will already have communicated to you my sentiments.

I have, &c.,  
 GLENELG.

\* Note 20.

1838.  
16 Nov.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 245, per ship Asia.)

Sir, Downing Street, 16th November, 1838.

Allowance for  
R.C. teacher.

I have authorized the Agent General for New South Wales to issue to Mr. Stallard, who has been selected as one of the Roman Catholic Teachers for the Colony under your government, the sum of £60 for his passage and outfit. I have, &c.,

GLENELG.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 187, per ship Dryade; acknowledged by marquess of Normanby, 10th June, 1839.)

My Lord, Government House, 16th Novr., 1838.

Report *re*  
claims of  
K. Snodgrass  
to extra  
remuneration.

With reference to your Lordship's Despatch of the 22nd April, 1837, No. 299, and the Treasury letter transmitted with it of the 19th of the same month, on the subject of a Memorial from Colonel Snodgrass, praying for remuneration for extra duties performed by him in this Colony since the beginning of the year 1829, I have the honor to acquaint your Lordship that the claims of Colonel Snodgrass were submitted by me (at his request) to the Legislative Council on the 4th Oct. last, and taken into consideration by the Council on the 11th of the same month; and I have further the honor to enclose, for your Lordship's information, a copy of the Resolution, which was adopted by the Council on the occasion. Your Lordship will perceive by this Resolution that the Council is of opinion that remuneration for a greater part of these extra services should be made to Colonel Snodgrass by the Home Government, and not by the Council or out of Colonial funds; inasmuch as, if they had been paid for at the time they were rendered, the charge would have fallen on the Military Chest. That this would have been the case in respect to the command of the Mounted Police is very certain, for, though it has been since made a Colonial charge, it was, when Colonel Snodgrass commanded it, paid for entirely out of Home funds; and it is therefore obvious that, if Colonel Snodgrass had brought forward his claim at the time and it had been allowed, the remuneration for his extra duties would have been made out of the Extraordinaries of the Army. The same is the case with respect to the duties performed by Colonel Snodgrass for the Ordnance Department, except in regard to the custody of Merchants' Gunpowder, for which, as a Revenue was derived from it by the Colony, the Legislative Council has expressed a readiness to grant to Colonel Snodgrass an adequate remuneration.

Consideration  
by legislative  
council.

Opinion of  
council *re*  
claims.

I have, &c.,

GEO. GIPPS.

[Enclosure.]

RESOLUTION BY COUNCIL.

1838.  
16 Nov.

Resolved.

Thursday, 11th Oct., 1838.

Resolution by  
legislative  
council *re*  
claims of  
K. Snodgrass.

That this Council express to His Excellency the Governor their opinion that Colonel Snodgrass is entitled to special remuneration for duties not properly attaching to his appointment as Brigade Major in New South Wales, requesting at the same time it may be intimated to the Lords of Her Majesty's Treasury that those services were rendered at a time, when the remuneration, which was due to them, would chiefly have been chargeable upon the Military Chest; and that, according to this view, a due proportion of the remuneration recommended by Sir Richard Bourke should now be derived from that source, and the residue only from Colonial funds.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 246, per ship Asia.)

Sir,

Downing Street, 17th November, 1838.

17 Nov.

I transmit to you, for your information and guidance, the inclosed Copy of a Dispatch, which I have addressed to Sir John Franklin with respect to the cognizance of Ecclesiastical Offences by the Clergy of the respective Denominations in New South Wales and Van Diemen's Land.

I have, &c.,

GLENELG.

Transmission  
of despatch.

[Enclosure.]

LORD GLENELG TO SIR JOHN FRANKLIN.

Sir,

Downing Street, 17th November, 1838.

I have received your despatch No. 137 of the 23d of December last, on the subject of the controversy which had arisen respecting certain school returns from St. David's parish, of which the Revd. Mr. Bedford is the Minister. I have also received a letter, dated the 12th of December from the Bishop of Australia on the same subject, asserting the right of the clergy to be judged for ecclesiastical offences by their proper ecclesiastical superior. On this question of right as raised by the Bishop, I did not feel myself competent to offer a decided opinion, and I therefore referred the letter of the Bishop to the Queen's Advocate for his report on the claim which it preferred. I enclose for your information a copy of that report, and I have to request that you will communicate it to the Bishop. At the same time I am perfectly prepared in the case of Mr. Bedford to concur in the opinion, which you have expressed and in the recommendation of the Council, that the case should be left to the decision of the Bishop. I must however observe that the question appears to have been originally brought under the notice of the Lieutenant Governor and Council by the Rural Dean himself.

Instructions *re*  
cognizance of  
ecclesiastical  
offences of  
clergy.

Her Majesty's Government are anxious that the local Government should interfere as little as possible with the affairs of any church or denomination of Christians within the Colony, and one

1838.  
17 Nov.

Instructions re  
cognizance of  
ecclesiastical  
offences of  
clergy.

great advantage, which they contemplated in the erection of the see of Australia, was the existence of a competent authority on the spot, by whom all complaints against the clergy of the Church of England for breach of ecclesiastical discipline, or neglect of duty, might be promptly investigated and decided on.

I may take this opportunity of stating that the same practice ought to be observed with regard to the other denominations of Christians in the Colony, subject to a competent ecclesiastical authority besides on members of their own church.

It will of course be understood that this practice will not involve the admission of the right of the clergy of any denomination to an exemption from the ordinary temporal jurisdiction to which they are legally amenable.

I have, &c.,

GLENELG.

[Sub-enclosure.]

MR. J. DODSON TO LORD GLENELG.

My Lord,

Doctors' Commons, 9th November, 1838.

Legal opinion  
re jurisdiction  
over offences  
of clergy.

I am honored with your Lordship's commands, signified in your Lordship's letter of the 3rd of September last, transmitting a copy of a letter, which has been received from the Bishop of Australia on the subject of a claim, which he has advanced to exercise a jurisdiction over the clergy of his diocese in ecclesiastical matters to the exclusion of all interference on the part of the Executive Government; and requesting that I would report to your Lordship my opinion whether the claim set forth by the Bishop is consistent with the ecclesiastical law of England.

In obedience to your Lordship's commands, I have taken the subject into consideration, and have the honor to report that, by the Law of England, the clergy are amenable to the temporal Courts for offences of the kind mentioned by the Bishop of Australia in his Letter to your Lordship, and consequently that the claim preferred by him of exempting his clergy from such jurisdiction is untenable.

I have, &c.,

J. DODSON.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 247, per ship Asia.)

21 Nov.

Sir,

Downing Street, 21st November, 1838.

Allowance for  
passage of  
Presbyterian  
schoolmaster.

I have the honor to transmit to you the Copy of a letter, which was addressed by my directions to Principal Macfarlan on the 14th of August last, respecting the passage to New South Wales of Mr. Milligan, a Schoolmaster on board the "James Moran," Emigrant Ship.

As Mr. Milligan has not yet received any allowance to defray the expenses of his passage, I authorise you to issue to him the Sum of Sixty pounds for that purpose.

I have, &c.,

GLENELG.

[Enclosure.]

1838.  
21 Nov.

SIR GEORGE GREY TO REVD. PRINCIPAL MACFARLAN,

Sir, Downing Street, 14th August, 1838.

I am directed by Lord Glenelg to acknowledge the receipt of your letter of the 8th Instant, recommending Mr. Milligan for a passage to Australia as a schoolmaster to go with the first ship from Greenock with Emigrants.

Allowance for  
passage of  
Presbyterian  
schoolmaster.

I am to acquaint you in reply that His Lordship is prepared to allow a passage to Mr. Milligan in an Emigrant ship from Scotland on the understanding that he is to give his gratuitous services as schoolmaster on board the ship during her passage to New South Wales. Instructions to this effect have been given by Lord Glenelg to Mr. Elliot, the chief Agent for Emigration, to whom any further communication on the subject should be addressed. I am however distinctly to apprise you that Mr. Milligan cannot receive any further remuneration than a free passage, and that, on his arrival in the Colony, he must trust to his own resources, and not look to Her Majesty's Government for future employment and maintenance.

I have, &amp;c.,

GEO. GREY.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 189, per ship Dryade.)

My Lord, Government House, 22 Novr., 1838.

22 Nov.

In my Despatch of the 29th Sept. last, No. 153, I reported to your Lordship that two Government Emigrant Ships, the "Palmyra" and the "William Roger," had been placed in Quarantine, and in a Postscript to the same, written on the 6th Oct., I announced that both had been released. I am now sorry to have to report that, within two days after that Postscript was written, and before the "William Roger" could get up from the Quarantine ground to Sydney, the fever broke out again in her with renewed violence, no less than sixteen persons being attacked by it in one day. The vessel was immediately ordered back to the Quarantine Station, and the Emigrants landed. The sickness and mortality among them has been I am sorry to say unexampled, no fewer than 140 persons having been attacked with typhus of the most malignant kind, and which in 25 cases has proved fatal. Twelve deaths have also occurred from other causes, making the mortality from the 6th Oct. to the present day 11 men, 15 women and 11 Children, or 37 in all. Two Naval Surgeons, in whose skill, discretion and good management I had reason to place reliance, Dr. Lawrence and Mr. Dobie, were ordered to the assistance of the sick, immediately on their being placed in Quarantine, in addition to the Surgeon of the Vessel Mr. Reid. Dr. Lawrence and Mr. Reid have had charge of the Hospital or Lazaretto and Mr. Dobie of persons not actually suffering under

Ship *William  
Roger* with  
immigrants  
again  
quarantined.Sickness and  
mortality  
amongst  
immigrants.Medical officers  
at quarantene  
station.

1838.  
22 Nov.

Malignant  
typhus fever.

Quarantine of  
ship *Maitland*  
with  
immigrants.

Inquiry to be  
held *re* causes  
of sickness.

Qualifications  
required by  
surgeons in  
immigrant  
ships.

the disease. Supplies of every sort have been afforded them in the greatest abundance by this Government; nevertheless the fever, after a lapse of more than seven weeks, though abated, is not subdued, two new cases having occurred within the last three days. The number of sick is at present 25, and of convalescents 119. The disease is, as I have already said, Typhus fever of the most malignant kind.

I have still further with sorrow to inform you Lordship that we have had occasion also to place in Quarantine the ship "Maitland," which arrived here on the 6th Inst. with Government Emigrants from Gravesend, after a voyage of 134 days. The Buildings at the Quarantine ground being all occupied by the people of the "William Roger," it has been necessary to place the Emigrants by the "Maitland" under canvas, with the exception of those actually sick, for whom a temporary wooden Hospital has been erected. The number of deaths on board the "Maitland" was 35, Six of whom were adults, and 29 children. The cases of disease entered on the Surgeon's Books were no less than 286; but in this number the same individuals may in some cases have been reckoned more than once. Two women and two children have died since their arrival, and the present number of sick is 13. Scarlet fever was the first disease that broke out among them, but various others afterwards made their appearance.

As soon as these ships are released from Quarantine, I shall institute a strict enquiry, in order to ascertain if possible the cause why sickness has been so much greater in the present year on board Government vessels than those engaged on the same business by private individuals. At present I am utterly unable to account for it; it is suggested that it may be in consequence of the greater number of children embarked in them, or that the Emigrants are in a worse state of health when put on board, or that, being taken from a poorer class of society, they are less prepared with necessaries for the voyage.

The "Maitland" is said to have arrived in a very dirty state; but whether this was the fault of the Surgeon Superintendent, I am as yet unable to say. A talent for managing men, and gaining by easy means an influence over them, is no less necessary in a Surgeon selected to bring out Emigrants than Medical skill; indeed I should say it is more necessary. I have some reason to fear that a sufficient degree of control has not in some cases been exercised over Emigrants, in the essential particulars of forcing them to go on deck in fair weather, and to keep themselves clean at all seasons. The necessity of paying implicit obedience to the orders of the Surgeons in health, as well as in sickness, should I think be impressed on the Emigrants, at the



time when they are promised a passage; and it should be explained to them, that they will forfeit all claim to the care or protection of this Government on their arrival, if they misconduct themselves in any respect during their voyage.

I have, &c.,  
GEO. GIPPS.

1838.  
22 Nov.

SIR GEORGE GIPPS TO LORD GLENELG.  
(Despatch No. 190, per ship Dryade.)

My Lord, Government House, 24th November, 1838. 24 Nov.

With reference to my Despatch of the 19th July last, No. 113, respecting the Pardons which have at various times been transmitted for persons convicted of Machine Breaking, I beg to report to your Lordship that further enquiry has almost confirmed me in the opinion that a Warrant containing Two hundred and sixty four Pardons must by some mischance have been lost in the year 1835. In order to elucidate this matter, I enclose a Copy of a Memorandum, which has been drawn up on this subject and which contains all the information I can collect.

Possible loss of  
warrant for  
pardon of  
convicts.

I have, &c.,  
GEO. GIPPS.

[Enclosure.]

MEMORANDUM.

PRISONERS transported for Machine Breaking and other Riotous Conduct.				Statement <i>re</i> convicts transported for machine- breaking and riotous conduct.
Number originally transported by the "Eleanor" . . . . .	133			
Pardoned by Warrant dated 16 June, 1836 . . . . .		1		
Ditto           Ditto       1 October, 1836 . . . . .		45		
Ditto           Ditto       13 October, 1837 . . . . .		60		
Mentioned in Despatch No. 19 of 9th November, 1837, as having been Pardoned, but for whom no War- rant has been received . . . . .		3		
Not yet pardoned, That is, not included in any War- rant received, being however all free by Servitude . . . . .		25		
			134	
Included in Warrant of 13th October, 1837, but before Pardoned by Warrant of 16 June, 1836 . . . . .		1		
Total Number Embarked . . . . .			133	

With the exception of five of these who have been considered unworthy of Indulgence from their Colonial Offences, all the others have been set at liberty.

There has been some mistake in the Despatch No. 37 of 10th August, 1835. It alludes to the Prisoners, transported in 1830 and 1831 for Machine Breaking, but encloses a Warrant for Eighteen Men transported in 1820 for High Treason. It looks as if a Blank had been left in the Despatch for the number of Convicts to be

1838.  
24 Nov.

Statement *re*  
convicts  
transported  
for machine-  
breaking and  
riotous conduct.

pardoned and afterwards filled in by a wrong Number, and that a Warrant was enclosed different from that originally intended. This Despatch probably should have forwarded the Warrant for the two Hundred and Sixty four Men alluded to in that of 19th November, 1837, No. 19, and the Warrant received in it ought to have accompanied a Separate Despatch.

As it is, the Warrant for the Two Hundred and sixty four has never been received, and consequently many Men may Still be Serving under Sentence, who ought to have been Set at liberty; and it appears very probable that the four Petitioners (Jacob Wiltshire, David Payne, Charles Hayter, and Robert Cook) may have been included in it, although they only arrived here by the "*Captain Cook*" in 1833, as they were tried and Convicted at the same time and for the Same Offence as the Men by the "*Eleanor*," who arrived in 1831.

It is not known at Hyde Park Barracks that any others have been transported to New South Wales for Machine Breaking. Taking the number of One hundred and thirty three, who arrived by the "*Eleanor*" from the number mentioned as being pardoned by the Missing Warrant (of 264), there will still be One Hundred and thirty one to be set at liberty, whose Names are not known here; but yet so great a Number could hardly have been transported for Machine Breaking without its being known at the Principal Superintendent of Convicts' Office.

Colonial Secretary's Office, Sydney, 24th November, 1838.

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LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 248, per ship Asia.)

27 Nov.

Despatches  
acknowledged.

Sir, Downing Street, 27th November, 1838.

I have received your despatches, Nos. 65 and 66 of the 23rd and 24th of April last, relative to the state of the Medical Department in New South Wales.

These despatches however were only received in Duplicate on the 17th Instant, the originals not yet having reached this Department. As the Duplicate of No. 65 is deficient in one of its most important enclosures, viz., the representation of the six medical officers, who have resigned their appointments, I have been obliged to defer taking the subject into my final consideration.

I have, &c.,

GLENELG.

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SIR GEORGE GIPPS TO LORD GLENELG.  
(Despatch No. 191, per ship Florentia.)

28 Nov.

R.C. clergy  
sent to Norfolk  
island.

My Lord, Government House, 28th Novr., 1838.

With reference to my Despatch of the 7th April last, No. 54, I have the honor to report to your Lordship that two Roman Catholic Clergymen, the Revd. Mr. McEncroe and the

Rev. Mr. Gregory, were sent by their Bishop (Dr. Polding) to Norfolk Island in the Government Vessel, which sailed from Sydney on the 19th August last. I have sanctioned the issue of Rations to both Clergymen, as well as to Mr. Harding the Catechist, mentioned in my former Despatch; but it is distinctly understood that they are to have among them no more than the Salary of £150 authorised by your Lordship's Despatch of the 2nd Oct., 1837, No. 380.

1838.  
28 Nov.

Rations and allowances.

I have, &c.,  
GEO. GIPPS.

LORD GLENELG TO SIR GEORGE GIPPS.  
(A circular despatch per ship Asia.)

Sir, Downing Street, 29th Novr., 1838.

29 Nov.

I transmit to you a copy of a work\* lately published by Lieutenant Colonel Reid, of the Royal Engineers, entitled "the Law of Storms"; the object of the work is to develop, with a view to practical uses in Navigation, the Laws by which Storms and variable winds are governed. In order to make an enquiry of this nature truly useful, it is essential that the facts connected with such Phenomena should be collected and arranged over an extended surface, and that accurate records of them should be kept by persons, whose education and scientific or professional avocations enable them to estimate the value of such records.

Transmission of book on storms.

Necessity for collection of observations.

It has been suggested to me that such records could be most easily obtained, and the enquiries, on which Colonel Reid has entered, be most advantageously followed up, by inviting the cooperation of Captains of Ports, Masters of Lighthouses, Harbour Masters, and others whose professional pursuits naturally lead to the observation of Atmospheric Phenomena.

Persons proposed for compiling observations.

A perusal of the enclosed work will convince you of the interest and importance of this enquiry, and I feel assured that you will be anxious to do all in your power for its promotion.

I would therefore request you to communicate with such Officers or private individuals in the Colony under your Government, as may appear to you best qualified to furnish information on the subject, pointing out to them the service which they would render to science by keeping Journals of such Phenomena as may come under their respective observations.

The form in which such Journals should be kept is suggested in the Memorandum herewith enclosed.

If you should succeed in setting on foot a system of observation, you will have the goodness to transmit to Her Majesty's

\* Note 122.

1838.  
29 Nov.

Government half yearly an abstract of the Journals at your command, and I would suggest that you should endeavour as much as possible to obtain authentic information of the same nature from the Foreign Countries in your neighbourhood.

I request to be informed of the measures, which you may adopt for carrying this Instruction into effect.

I have, &c.,

GLENELG.

[Enclosure.]

Memorandum  
re records of  
meteorological  
observations.

MEMORANDUM respecting the Records to be kept of the state of the Weather, in the British Colonies.

THE Captains of Ports, Harbour Masters, and Keepers of Light-houses, or, where those Offices do not exist, some other competent Public Functionary, should be required to keep Journals of the Weather on the principle of the Log-books of Ships.

A Column should be specially reserved for inserting the Height of the Barometer.

Under the head of "Remarks" should be entered all Meteorological observations considered worthy of particular notice.

When the keeper of a Journal may hear that a Vessel has encountered a Storm, he will enter in it any information on the subject, which he can rely on, together with the name of the Ship, of her Owner, and of the Port to which she may belong.

With the view of tracing the course of Storms, the Trinity Board of London have given directions for the adoption of measures to obtain a more accurate Record of the state of the Weather than has hitherto been kept at the Lighthouses of Great Britain and Ireland.

The Keepers of these Lights having the opportunity of taking their observations by Night as well as by Day, great advantage may be derived from employing them in this manner. Officers in charge of Colonial Lighthouses should be instructed to keep similar Journals. In noting the Wind's force both in the Harbour Master's Journals, and in the Light-house Reports, it is desirable that the Officers should adopt the Numbers for noting the strength of the Wind now in use at Greenwich Observatory, and about to be introduced at the Lighthouses under the Trinity Board.

In the cases of St. Helena and Assensons, it is desirable that more precise information should be obtained by observation respecting the "Rollers" at those Islands. As the object of H.M. Government in instituting these enquiries is the advancement of knowledge on science generally, the Governors of the several British Colonies will consider how far it may be in their power to obtain useful information bearing on the subject from Countries adjoining to their Governments in the possession of Foreign Powers, or how far it may be useful to the study of Meteorology to exchange the Observations made within their Governments for those of other Countries in the neighbourhood.

If at any time desired, there would be no objection to the publication in the Colonial Newspapers of Extracts from the Journals.

LORD GLENELG TO SIR GEORGE GIPPS.

1838.  
30 Nov.

(A circular despatch per ship Asia; acknowledged by Sir George Gipps, 21st December, 1839.)

Sir, Downing Street, 30th Novr., 1838.

The Lords Commissioners of the Admiralty have applied to me for returns of the number of Seamen and Marines sent to Colonial Hospitals between the years 1830 and 1836, both inclusive, with a view to the preparation of certain Statistical Accounts of the Department of the Physician General of the Navy. I have therefore to request that, as far as lies in your power, you will supply me with the information required by their Lordships in respect to the Colony under your Government.

Return required of seamen and marines treated in hospitals.

I have, &c.,

GLENELG.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 250, per ship Asia.)

Sir, Downing Street, 1st December, 1838.

1 Dec.

With reference to former correspondence, I have the honor to transmit to you a copy of a letter, which I have received from the Moderator of the General Assembly of the Church of Scotland with an Extract from the Minutes of a Commission of the Assembly.

Transmission of letter from W. Muir.

I have, &c.,

GLENELG.

[Enclosure.]

MODERATOR MUIR TO LORD GLENELG.

My Lord, Edinburgh, 23rd November, 1838.

As Moderator of the General Assembly and having presided at the Assembly's Commission held on Wednesday last, I have the honor to transmit to your Lordship an Extract from the Minutes of that Day's Sederunt, containing the Commission's grateful acknowledgements on the subject of the late salutary interference by the Government in regard to the Scottish Ecclesiastical Affairs in New South Wales.

Thanks for action by government *re* schism in Presbyterian church.

And I beg leave to transmit the said Extract with all respects.

I have, &c.,

WILLIAM MUIR.

[Sub-enclosure.]

AT Edinburgh, the twenty first day of November, Eighteen hundred and Thirty eight.

WHICH day the Commission of the General Assembly of the Church of Scotland being met and constituted, the Moderator laid on the table a communication from Lord Glenelg, Principal Secretary of State for the Colonial Department, with which the Commission unanimously expressed their high satisfaction and requested the Moderator to transmit a copy of this minute to Lord Glenelg in a letter conveying the thanks of the Commission for the steps, which

1833.  
1 Dec.

his Lordship has taken in this matter. The Commission renewed the Committee named by the former diet in August with powers to watch over the interest of the Church in this Colony and to adopt in conformity with the former deliverance, such measures as the exigencies of the case may require.

Extracted from the Records of the Commission of the General Assembly of the Church of Scotland upon this and the preceding page by  
JOHN LEES.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 251, per ship Asia.)

Sir, Downing Street, 1st December, 1838.

British consul  
to be appointed  
in New  
Zealand.

With reference to former correspondence on the subject of the state of New Zealand, I have to acquaint you that it is the intention of Her Majesty's Government to appoint an Officer, who will be vested with the powers, and will assume the character of British Consul at New Zealand.

I hope very shortly to be able to communicate to you the selection of the Officer for this appointment.

In the meantime, I have to request that you will acquaint Mr. Busby of the intended arrangement.

Abolition of  
office of British  
resident.

He will have been in some measure prepared for a discontinuance of his present office by the intimation contained in my dispatch addressed to your Predecessor of the 28th October, 1835, No. 65.

Employment  
for J. Busby.

I trust that you may have an opportunity, should he desire it, of employing him in some suitable office under your Government.

I transmit, for your information, copies of a correspondence between this Department and the Board of Admiralty relative to the more frequent visitation of New Zealand by one of Her Majesty's Ships of War on the Eastern Station.

I have, &c.,  
GLENELG.

[Enclosure No. 1.]

UNDER SECRETARY STEPHEN TO MR. C. WOOD.

Sir, Downing Street, 15th August, 1838.

Request for  
ships of war  
to visit New  
Zealand.

I am directed by Lord Glenelg to request that you will state to the Lords Commissioners of the Admiralty that, as Her Majesty's Ship "Herald" is about to be dispatched to the East Indian Station, his Lordship is anxious that instructions may be given to the Commander in Chief of Her Majesty's Naval Forces on that station, that the Islands of New Zealand may be visited as frequently as possible by one of Her Majesty's Ships.

In the present state of those Islands, his Lordship considers that instructions of this nature are absolutely necessary for the safety of

British subjects, who are in the habit of resorting there in considerable numbers, and for the protection of the natives from injury and aggression on the part of British subjects.

1838.  
1 Dec.

With a view to this object, Lord Glenelg would recommend that the Officers in command of any of Her Majesty's Ships employed on this service should be directed to place themselves in communication with the Governor of New South Wales and with the Resident Agent at New Zealand.

I am, &c.,

JAS. STEPHEN.

[Enclosure No. 2.]

SIR JOHN BARROW TO UNDER SECRETARY STEPHEN.

Sir, Admiralty, 15th August, 1838.

With reference to your Letter of this day's date, conveying the wish of Lord Glenelg that instructions may be given to the Commander in Chief of Her Majesty's Naval Forces on the East India Station that the Islands of New Zealand may be visited as frequently as possible by one of Her Majesty's Ships, I am commanded by my Lords Commissioners of the Admiralty to acquaint you for Lord Glenelg's information that a copy of your letter has been sent to Rear Admiral Sir J. L. Maitland with directions to him to give orders to this effect.

Instructions issued.

I am, &c.,

JOHN BARROW.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 252, per ship Asia.)

Sir, Downing Street, 3rd December, 1838.

3 Dec.

I have received your despatch No. 112 of the 18th July, transmitting a copy of Resolutions\* adopted by the Legislative Council of New South Wales on the subject of Transportation and Assignment, and I have to inform you that, in compliance with the wish of the Council, the usual measures will be taken for laying them before both Houses of Parliament early in the ensuing Session.

Resolutions by council to be laid before house of commons.

I have, &c.,

GLENELG.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 193, per ship Florentia.)

My Lord, Government House, 3rd Decr., 1838.

Agreeably to the Instructions contained in your Lordship's Circular of the 17th April, 1838, and to the orders of the House of Commons of the 3rd of the same month, I have the honor to forward herewith, "A Return of the Religious Establishments of all denominations in the Colony of New South Wales, together with the expences of the same paid out of the Local Treasury."

Transmission of return of religious establishments.

I have, &c.,

GEO. GIPPS.

[Enclosure.]

[A copy of this return will be found in a volume in series VII.]

\* Note 100.

1838.  
4 Dec.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 253, per ship Asia.)

Sir, Downing Street, 4th December, 1838.

Despatch  
acknowledged.

I have received your despatch No. 114 of the 20th July last on the subject of the disposal of a number of Emigrants from the Highlands of Scotland, who had arrived in New South Wales in December, 1837, by the ship *Midlothian*.

Negotiations  
with Revd.  
J. D. Lang *re*  
immigrants  
*per* ship  
*Midlothian*.

On referring to the correspondence which took place between Dr. Lang, to which reference is made in your despatch, I am clearly of opinion that it contained nothing to warrant the inference that these Emigrants were to be considered as on a different footing from others, the expense of whose passage is defrayed from the funds applicable to emigration.

Disapproval  
of settlement  
of immigrants  
on land.

It was suggested by Dr. Lang that, as on the ground of their speaking the Gaelic language they would if dispersed over the whole Colony be placed in great measure beyond the reach of religious instruction, arrangements should be made for their settlement in the same part of the Country, which Dr. Lang stated on his own knowledge to be quite practicable owing to the great and general demand for labour in the Colony. Such a proposition appeared to me well deserving of consideration, but I certainly never understood it to involve the settlement of the Emigrants by the Government as Occupiers of Land on their own account, and the allusion in Dr. Lang's letter to the general demand for labour negated the presumption that such was his intention.

I could not have given my sanction to a proposal by which the condition of these people on their arrival was to be changed from that of Labourers to Occupiers of Land by the act of the Government independently of their own resources and industry.

Of the Circular letter written by Dr. Lang to these Emigrants prior to their embarkation, I was entirely ignorant, before the receipt of your despatch.

I have, &c.,

GLENELG.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 255, per ship Asia; acknowledged by  
Sir George Gipps, 20th June, 1839.)

8 Dec.

Sir, Downing Street, 8th December, 1838.

Transmission  
of letter from  
C. Hanmer.

I beg to enclose a copy of a letter, which I have received from Mrs. C. Hanmer, and to request that, if her Husband should be known to you to be resident within the Colony under your Government, you will enable me to furnish her with his address, and any further information respecting his position.

I have, &c.,

GLENELG.



[Enclosure.]

1838.  
8 Dec.

Mrs. C. HANMER TO UNDER SECRETARY OF STATE.

Sir,

18th Novr., 1838.

I have taken the liberty of addressing you, my husband being sent by his friends to Australia 4 years since, but they have kept him from me these 6 years past through their disapprobation of his marrying me, their only reason being that I had no fortune; he left me without any provision being made for me and a child to provide for and myself in a delicate state of health; my child is lately dead, and his friends have even objected to pay his funeral expenses. There has been a little money left me by my friends, and I cannot receive it without his signature, which they will not provide me with, altho' they know his address, or render me any assistance whatever, although they know I have only what I work hard for, and not equal to work through their ill usage and fretting. If you would have the kindness to render me any assistance in finding my Husband, I should feel truly grateful, as I have lost all claim of protecting myself through my marriage, and my situation is truly pitiful. His father is on half pay from Government, his name is Captain Hanmer, late Barrack master of Nottingham, and is living now at 17 Horkland St., Manchester. His friends have refused to give me his address; but, if you could by your influence obtain it of his Father, and if unsuccessful you could render me any assistance in finding him out abroad, I should feel very thankful, as what I could obtain would set me up in a small way of business; as I am a stranger in London, without any friends of my own, renders my situation more unpleasant, therefore I trust to your humanity to do what you can in my behalf.

Request for information re husband by C. Haumer.

I remain, &c.,

58 King St., Golden Square.

CATHERINE HANMER.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 257, per ship Asia.)

Sir,

Downing Street, 8th December, 1838.

The undermentioned Gentlemen having been recommended to me by the Society for the Propagation of the Gospel, and having been approved of by the Bishop of London, I have, in pursuance of the application forwarded in Colonel Snodgrass's despatch No. 13 of the 13th of January last, sanctioned their appointment to the Ecclesiastical Establishment of New South Wales; and have authorized the Colonial Agent General to issue to them the usual allowance for outfit and passage on their producing to him the usual certificate of their having engaged their passage to the Colony.

Appointment of clergy for church of England.

The Revd. Nugent Wade; The Revd. W. B. Clarke; The Revd. Charles Spencer; The Revd. R. T. Bolton; The Revd. John Morse.

I have, &c.,

GLENELG.

1838.  
8 Dec.

SIR GEORGE GIPPS TO LORD GLENELG.  
(Despatch No. 195, per ship *Florentia*; acknowledged by  
marquess of Normanby, 22nd June, 1839.)

My Lord, Government House, 8th Decr., 1838.

Leave of  
absence  
granted to  
C. M. Lewis.

On the 19th Jany. last, permission was given by the late Acting Governor to Mr. C. M. Lewis, Master of the Government vessel called the "Governor Phillip," to return to England for 18 months, receiving the half of his salary during his absence, on condition of his duty being performed without any additional expence to the Public. There were at that time two Government Vessels employed for Convict Services between Sydney and the Penal Settlements of Norfolk Island and Moreton Bay, one the above named "Governor Phillip," the other the "Isabella"; and to facilitate the arrangement by which Mr. Lewis was to have his half salary, an exchange was allowed between the Masters of these two vessels, Mr. Boyle from the "Isabella" being put to command the "Governor Phillip," and Mr. Lewis borne during his leave of absence on the books of the "Isabella," the Mate of which vessel consented to do his duty for half of the usual salary.

Arrangements  
for payment  
of half salary.

Arrangements  
nullified by  
sale of  
schooner  
*Isabella*.

These arrangements, which were all made before I assumed the Government, have been rendered inoperative by the discontinuance of the "Isabella" in the service of Government. The reduction of the Establishment at Moreton Bay and the intended abandonment of it as a Penal station have enabled me to dispense with the services of this vessel; she was accordingly, on the recommendation of the Commissary General, sold by my order on the 15th Augt. last, and all her Crew paid off; consequently there is no service, to which the further half salary of Mr. Lewis can be charged. The full pay of Mr. Lewis was £12 a month; and, as he wished on leaving the Colony to make a provision for his wife during his absence, he received £54 in advance, which was calculated as half salary for nine months. He will most likely apply to Mr. Barnard for a further advance at the expiration of the nine months, and it is therefore that I think it right to report the circumstance to your Lordship.

Advance to  
C. M. Lewis.

Possible  
gratuity due to  
C. M. Lewis.

Mr. Lewis has been between five and six years in the employment of Government, and his salary was paid out of Convict (not Colonial) funds. I doubt, however, whether he comes within the class of officers who are entitled to claim gratuity on reduction; but, should the 18 months' half salary be considered in the light of a gratuity, the amount of it will be only £108.

Your Lordship may remember that Mr. Lewis was recommended by Sir Richard Bourke for a gratuity of £300 for services performed whilst in search of persons wrecked in the "Charles

Eaton"; for reasons however, which are explained in my Despatch of the 25th Sept. last, No. 149, he is not likely ever to get this money, and perhaps his disappointment may be taken into consideration in the disposal of his case.

I have, &c.,  
GEO. GIPPS.

1838.  
8 Dec.

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LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 258, per ship Asia.)

Sir, Downing Street, 10th December, 1838.

10 Dec.

I have received your despatch No. 111 of the 17th July last, with the Petition therein enclosed from Mr. John Murray, addressed to His late Majesty, praying for a grant of land in consideration of his services in the Army; And I have to request that you will acquaint the Memorialist that I feel myself unable to advise Her Majesty to comply with the prayer of the Petition in opposition to the general regulations, to the observance of which the Government are pledged.

I have, &c.,

GLENELG.

Despatch  
acknowledged.

Refusal of  
land grant for  
J. Murray.

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SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 196, per ship Florentia.)

My Lord, Government House, 10th Decr., 1838.

With my Despatch of the 14th Novr. last No. 186, I had the honor to forward to your Lordship an application from Captain McLean, Principal Superintendent of Convicts, to have Mr. Ryan, his head Clerk, put upon the footing of a 1st Class Clerk in the Colonial Service of New South Wales, the effect of which would be to raise his pay immediately to £300 and ultimately to £400 a year.

Former  
despatch re  
status of  
T. Ryan.

Your Lordship will have perceived that I very feebly supported Capt. McLean's recommendation; and I now beg leave to state that I wish to withdraw even that feeble support in consequence of circumstances, which may possibly be brought under the notice of the Lords of the Treasury in the Audit of the accounts of the Convict Department. Mr. Ryan, being entrusted to superintend the preparation of Returns for Parliament, which are to be made by the junior Clerks at extra hours (as reported by me to your Lordship in my Despatches of the 8th Novr. last, Nos. 181 and 182) has returned some of those Clerks for from 250 to 300 extra hours in a month of 30 days, their ordinary labor for the same month being 182 hours only. I believe it to be quite beyond the physical power of any number of men to work between 16 and

Objections to  
application.

Criticism of  
returns  
submitted by  
T. Ryan.

1838.  
10 Dec.  
  
Disallowance  
of charge.

17 hours a day for a continuance, and therefore that, even if these gentlemen did attend for the number of hours certified by Mr. Ryan, it is quite impossible that their labor could have been effective. I have disallowed a portion of the charge for the month of Novr.; but I am sorry to say the accounts had been paid for the previous months of Sept. and Oct., without coming under my notice.

I have, &c.,  
GEO. GIPPS.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 197, per ship *Florentia*; acknowledged by marquess of Normanby, 31st July, 1839.)

12 Dec.

My Lord, Government House, 12th Decr., 1838.

With reference to your Lordship's Despatch of the 13th April, 1837, No. 290, I have the honor to inform your Lordship that Mr. Ryan Brenan, though repeatedly called on to refund the sum of £91 18s. 8d. overpaid to him whilst acting as Principal Superintendent of Convicts in this Colony, has not yet done so, and has protested against being called on to repay this money, in a letter of which I now enclose a Copy. As Mr. Brenan speaks of an authority supposed to have been given for his employment by the Secretary of State on the 1st Feby., 1833, I feel it right to inform your Lordship that no such authority is now to be found here. It is possible that a Private letter may have been addressed about that time by the Secretary of State to Sir Richard Bourke, but no such letter is recorded in the Private Secretary's Office, which office, moreover, is not one of record for any documents, except the official Despatches which pass between the Secretary of State and the Governor.

Protest by  
J. R. Brenan  
re demand for  
refund of  
salary  
overpaid.

As Mr. Brenan holds office under this Government, it will be in my power to enforce payment from him by stopping it from his Colonial Salary; but, before I resort to such a measure, I think it right to take the further instructions of your Lordship.

I have, &c.,  
GEO. GIPPS.

[Enclosure.]

MR. J. RYAN BREANAN TO COLONIAL SECRETARY THOMSON.

Sir,

Kent Street, 13th October, 1838.

In reply to your Letter of the 6th instant, having reference to your Letter of the 28th October, 1837, requesting me to refund the Sum of £91 18s. 8d. (Stated to have been) overpaid to me as Acting Principal Superintendent of Convicts.

I have the honor to Communicate for the information of His Excellency the Governor that I accepted the Office of Acting Principal Superintendent of Convicts on the express condition of being

appointed Principal Superintendent of Convicts on full Salary in the event of a Vacancy; And Accordingly, on the death of the late Mr. Hely, I was appointed to that situation on full Salary. I beg to observe that the terms of my accepting the appointment are proved by the following circumstance:—

1838.  
12 Dec.

Terms of  
appointment  
of J. R. Brennan  
as super-  
intendent of  
convicts.

On my sending the first pay Abstract Containing the item of my full pay, it was returned to me with the following observation by the Commissary of Accounts, "that I was not entitled to full pay until my Appointment Should be confirmed." Whereupon I applied to Sir Richard Bourke and reminded him of the terms of Accepting the Office, when he immediately directed that I should be paid the full Salary. This Order was given on or about the 5th of October, 1836.

It may not be amiss here to observe that my appointment was made under the authority of the Secretary of State, bearing date the 1st of February, 1833, which is on record in the Office of the Private Secretary and Contained a promise that any appointment of me would be confirmed.

These Circumstances, I may respectfully Submit, justifies me in retaining the Salary I have received as Principal Superintendent of Convicts.

I beg to add that Sir Richard Bourke forwarded a protest against my removal from office on the same grounds that I now rest my right to the full Salary.

I take leave in conclusion to observe that my appointment Cannot be governed by the general rule of ordinary appointments by local Governments, as my appointment was in obedience to the order of the Secretary of State. And I must say that, instead of being now called upon to refund, I feel satisfied that the Secretary of State on receiving my protest and statement of facts will consider me entitled to considerable Compensation for the Severe losses I have sustained by reason of my unexpected and unprecedented removal from my Office conferred under such an Authority.

Expected  
opinion of  
secretary of  
state.

I have, &c.,

JOHN RYAN BRENAN.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 260, per ship Asia.)

Sir,

Downing Street, 14th December, 1838.

14 Dec.

I have received your despatch No. 103 of the 10th July last, enclosing a copy of a letter from the Judges of the Supreme Court in favor of Mr. John Gurner, the Chief Clerk of that Court, and recommending him for a higher Office in the Court.

Despatch  
acknowledged  
re J. Gurner.

I think it unnecessary to issue any instructions on this subject, as I am convinced that, in the event of any vacancy occurring in that branch of the public service, the recommendation of the Judges in favor of so old and meritorious a public servant will be received by you with all the respect to which it is so justly entitled.

I have, &c.,

GLENELG.

1838.  
14 Dec.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 261, per ship Asia.)

Sir, Downing Street, 14th December, 1838.

Application  
from  
J. P. Fawkner  
acknowledged.

I have received your despatch No. 110, of the 16th July last on the subject of the application addressed to me by Mr. Pascoe Fawkner, and, under the circumstances which you have stated, I concur with you that it is superfluous to pursue any further the discussion of the question to which the letter of Mr. Fawkner has reference.

I have considered this question as distinct from that which formed the subject of my despatch, No. 188 of the 28th August last, and which had reference simply to the personal claim of Mr. Batman to have the amount of the outlay, which he had incurred in the improvement of land, considered in the acquisition of that land.

I have, &c.,  
GLENELG.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 198, per ship Florentia; acknowledged by  
marquess of Normanby, 26th July, 1839.)

My Lord, Government House, 14th Decr., 1838.

Transmission  
of report *re*  
narrative of  
schooner  
*Isabella*.

I have had the honor to receive your Lordship's Despatch of the 21st Feby. last, No. 77, calling upon me for further information respecting the expence of printing a Narrative\* of the voyage of the Colonial Schooner "Isabella," in search of the survivors of the Crew of the "Charles Eaton"; and enclosing a copy of a letter which was addressed by the Secretary of the Treasury to Mr. Stephen on this subject on the 19th of the same month.

As the whole of this expence was incurred, and all transactions respecting the voyage of the "Isabella" completed, before I entered on the administration of this Government, I take the liberty of forwarding the information required by your Lordship, in the words in which it has been furnished to me by the Colonial Secretary.

I have, &c.,  
GEO. GIPPS.

[Enclosure.]

[A copy of this letter is not available.]

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 262, per ship Asia; acknowledged by  
Sir George Gipps, 17th September, 1839.)

15 Dec.

Sir, Downing Street, 15th December, 1838.

Despatch  
acknowledged.

I received on the 31st October last the duplicate of your despatch No. 72 of the 5th May last, but it was not until the recent arrival of the Original of that despatch with its enclosures that I

\* Note 71.

was enabled to take into my consideration the letter, addressed to me by Mr. H. F. White on the 1st May, 1838, on the subject of his suspension from office.

1838.  
15 Dec.

On an attentive perusal of all the documents now sent by Mr. White, I do not find any satisfactory explanation of the admitted fact of the diversion by Mr. White to his own personal advantage of the labor placed at his command for the benefit of the public at large. The ground of his removal from Office consequently remains untouched, and the decision on his case cannot be altered so long as that charge shall remain unrefuted.

Justification  
of dismissal of  
H. F. White.

With regard to the course to be pursued in the case of Mr. Gray, I can only refer you to my dispatch No. 196 of the 28th August last.

Amongst the enclosures, however, to Mr. White's letter now before me, I find a Memorial from the Landholders of Port Macquarrie soliciting Mr. White's continuance in that District and bearing favorable testimony to his character. One of the signatures to that Memorial is Charles George Gray, J.P. The document is dated 10th April, 1838, which is subsequent to the decision of Colonel Snodgrass. As both the names\* and the official designation of Mr. Gray, the Accuser in this case, coincide with those of the party signing this Certificate, it would seem that Mr. Gray had either received what appeared to him an ample reparation for the injurious charge preferred against him, or, without any such reparation, had seen cause to withdraw the unfavorable opinion which he had at first formed of Mr. White as a public Officer. Altho. the case cannot entirely depend on Mr. Gray's favorable or unfavorable judgment, yet it would be impossible to deny great weight to such a retractation, if really made by him. It will be necessary, therefore, that, in any further examination of the case, this circumstance should not be overlooked.

Signature of  
C. J. Gray to  
memorial in  
favour of  
H. F. White.

I have, &c.,

GLENELG.

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LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 263, per ship Asia.)

Sir,

Downing Street, 15th December, 1838.

I received Colonel Snodgrass' duplicate dispatch No. 19 of the 5th February last, referring the claim of Mr. R. Glanville to an additional grant of land.

Despatch  
acknowledged.

I was unable, until the more recent arrival of the original dispatch with the enclosure which was omitted with the duplicate, to consider this case. The question raised is not as to actual claim of the party to a secondary grant which is admitted, but as

\* Note 123.

to the extent of that claim. The Council appear to have taken a correct view of the case. It never was contemplated that the secondary grant should exceed in extent the primary grant, and it would be unreasonable to assign Mr. Glanville more than 320 acres, which is the utmost to which he is entitled.

I have, &c.,

GLENELG.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 199, per ship *Florentia*.)

17 Dec.

My Lord, Government House, 17th Decr., 1838.

With reference to my Despatch of the 2nd Novr. last, No. 178, with which I transmitted a copy of a letter from Mr. Busby, expressing an apprehension on his part that an establishment on one of the Islands of New Zealand was meditated by the French, I have now the satisfaction to enclose a copy of a later letter received from the same gentleman, by which your Lordship will perceive that the French Frigate "*La Venus*" has visited New Zealand, without making any indication of such an intention. This Frigate, I am further enabled to inform your Lordship, has now sailed for France.

I have, &c.,

GEO. GIPPS.

[Enclosure.]

MR. J. BUSBY TO COLONIAL SECRETARY THOMSON.

British Residency at New Zealand,

Bay of Islands, 10th Novr., 1838.

Sir,

With reference to my letter of the 24th September last No. 134, I have the honor to acquaint you, for the information of His Excellency Sir George Gipps, that the French Frigate *Venus* has been at this place for upwards of four weeks, but that I have not observed the slightest indication of her visit having any reference to any political object such as I alluded to in that communication.

Bishop Pompallier\* has since also assured me that, though he expects several more Priests to join him, whom he proposes to appoint to different Stations in this country, his residence here has no connection with any Political Matters whatever.

I have, &c.,

JAMES BUSBY, British Resident at New Zealand.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 200, per ship *Florentia*; acknowledged by marquess of Normanby, 17th July, 1839.)

19 Dec.

My Lord, Government House, 19th Decr., 1838.

In my Despatch of the 21st July last, No. 115, I brought under your Lordship's notice a long list of atrocities, committed both by and on the Aborigines of this Country; and I then

\* Note 124.

1838.  
15 Dec.

Decision *re*  
claim of  
R. Glanville to  
land grant.

Intentions  
of visit of  
French frigate  
to New  
Zealand.

Intentions  
of French  
government  
*re* New  
Zealand.



stated that I had despatched a party of Mounted Police in search of some white men, who were supposed to have put to death in cold blood not less than twenty two helpless and unoffending Blacks; it is now my painful duty to inform your Lordship that seven of the perpetrators of this atrocious deed, having been convicted on the clearest evidence, suffered yesterday morning the extreme penalty which the law awards for the crime of murder.

1838.  
19 Dec.

Conviction and execution of murderers of aborigines.

The act, for which these men have paid the forfeit of their lives, took place on the evening of Sunday, the 10th June last. at or near a Cattle station, belonging to a person of the name of Henry Dangar, distant perhaps 350 miles from Sydney in a direction due North, on the banks of the Myall Creek. This Creek is a branch of the Big River, which is supposed to fall into the sea at Shoal Bay, in about Lat. 29° S.; but your Lordship is aware that this part of the Country is so little known, that it is impossible to fix the spot with any degree of precision. On the banks of the Big River, there are several Cattle stations besides that of Mr. Dangar; and it appeared on the trial that, for some weeks previous to the 10th June, not less than fifty Blacks of all ages and sexes had been living at these different stations (but mostly at Mr. Dangar's) in perfect tranquillity, neither molesting the Whites nor being themselves molested by them. In consequence of some old quarrels, however, or possibly from accounts having reached the place of occurrences in other quarters, a determination seems to have been formed by the white men to put the whole of the Blacks to death. On the afternoon of Sunday, the 10th June, a number of them suddenly surrounded the place, where more than thirty of the Blacks were assembled; they tied them all to a rope in the way that Convicts are sometimes tied, in order to be taken from place to place in the Colony, marched them to a convenient spot about a quarter of a mile off, and put them all, with the exception of one woman and four or five children, deliberately to death. The following day, Monday, the 11th June, the same white men scoured the Country on horseback, endeavoring to find ten or twelve of the Blacks, who, having left Dangar's station on the morning of the 10th, had escaped the massacre. These ten or twelve persons have never been seen or heard of since, and it is doubtful to this day whether they were not overtaken and murdered also. The first account of these deeds of blood reached Sydney about the end of the month of June. I despatched, with as little delay as possible, a Stipendiary Magistrate (Mr. Day), on whose activity and discretion I could rely, and a party of Mounted Police, in search of the Murderers; and Mr. Day, after an absence of 53 days, reported to me in person that, having come unexpectedly to the

Massacre of aborigines at Myall creek.

Magistrate and mounted police sent in pursuit of murderers.

1838.  
19 Dec.

Capture of  
murderers.

Cattle station of Mr. Dangar, he had succeeded in capturing no less than eleven out of the twelve persons, who were known to have taken part in the massacre. When Mr. Day arrived at the spot, some few scattered human bones only were visible, great pains having been taken to destroy the whole remains of the slaughtered Blacks by fire; but undeniable evidence was procured of more than twenty human heads having been counted on the spot within a few days after the day of the massacre; and the best accounts lead me to suppose that the number of persons murdered of all ages and both sexes was not less than 28.

Number of  
aborigines  
killed.

Description of  
murderers.

The eleven persons apprehended by Mr. Day, all arrived in this Country as Convicts, though, of some of them, the sentences have expired. The twelfth man or the one who has escaped is a free man, a native of the Colony, named John Fleming.

Trial and  
acquittal for  
murder of male  
aborigines.

The eleven men were all brought to trial on the 15th Novr. on an information lodged against them by the Attorney General containing nine Counts. The first four Counts charged them in various ways with the murder of an Aboriginal Black named Daddy, the only adult male who could be identified as one of the murdered party; the five other Counts charged them (also in various ways) with the murder of an Aboriginal male Black, name unknown. The Jury on this occasion acquitted the whole of the Prisoners.

Trial for  
murder of  
aboriginal  
children.

The Attorney General immediately applied to have them detained on the further charge of murdering the women and children, none of whom had been comprehended in the first Indictment; and, this being done, seven of these men on the 27th of the same month (November) were again brought before the Supreme Court on the charge of murdering a child. On this occasion, the first five Counts charged them simply with the murder of an Aboriginal Black Child; other Counts described the Aboriginal Child by the name of Charley. The Attorney General laid this information only against seven of the Prisoners, instead of the whole eleven, in order that they might have the opportunity of calling the other four, if they chose to do so, as witnesses in their favor, but which they did not do. On being brought this second time before the Court, the Prisoners, who were defended by three of the ablest Counsel\* at the Bar, entered on the first five Counts a Demurrer, to the effect that there was not sufficient certainty in the description of the Aboriginal Child, neither the name, nor the sex being mentioned; and, against the other Counts of the Indictment, which charged them with the murder of a Boy called Charley, they entered the Plea of "Autre fois acquit," saying that it was the same offence, for which they had been already acquitted. The presiding Judge (Mr. Justice

\* Note 125.

Burton) overruled their Demurrer, declaring that there was sufficient certainty in the description of the child, though neither the sex nor name was mentioned; and, upon their Plea of "Autre fois acquit," issue being joined by the Attorney General, a Jury was impanelled to try whether the Offence, with which they then stood charged, was or was not the same as that for which they had already been acquitted. This Jury found that it was not the same offence. The seven men were consequently two days afterwards, on the 29th Novr., put on their trial for the murder of the child, and found Guilty on the first five Counts, which described the Child merely as a Black Aboriginal; but were acquitted upon the Counts, which charged them with the murder of a Child named Charley, sufficient proof of the name of the child not being adduced.

1838.  
19 Dec.

Trial for  
murder of  
aboriginal  
children.

Conviction of  
seven men.

The seven men were brought up for judgment on the 5th inst., upon which occasion their Demurrer, as well as their Plea of "Autre fois acquit," was brought under the solemn consideration of the three Judges of the Supreme Court, and sentence of death was not passed upon them, until after the three Judges had unanimously expressed their opinion, against the validity of their Demurrer, and their satisfaction with the verdict of the Jury, which had been empanelled on their plea of "Autre fois acquit."

Sentence of  
death and  
decision of  
full court.

The Report of the Judge (Mr. Justice Burton), who presided at the trial, was received by myself and the Executive Council on Friday, the 7th instt., when, no mitigating circumstances appearing in favor of any of them, and nothing to shew that any one of them was less guilty than the rest, the Council unanimously advised that the sentence of the law should take effect on them; they were accordingly ordered by me for Execution, and suffered yesterday morning at 9 o'clock.

Execution of  
condemned  
men.

I enclose for your Lordship's information copies of the following documents:—

1. Copy of the Notes of the Chief Justice, taken on the 15th Novr., at the trial of the eleven men for the murder of the Aboriginal named Daddy, which ended in an acquittal;

Documents  
transmitted.

2. Report of Mr. Justice Burton of the proceedings on the 27th Novr, on the Demurrer of the seven prisoners, and on the trial of their Plea of "Autre fois acquit";

3. Minute of the Proceedings of the Executive Council on the 7th inst., to which is appended a Copy of the report made to the Council by Mr. Justice Burton of the trial at which the seven men, who have been executed, were found guilty.

It will be satisfactory to your Lordship to hear, that the smallest doubt does not exist of the guilt of the men who have

1838.  
19 Dec.

Guilt of  
prisoners.

been executed, or of their all having been actively engaged in the massacre. The whole eleven would indeed, I have reason to believe, have pleaded guilty at the first trial, if not otherwise advised by their Counsel. After condemnation, none of the seven attempted to deny their crime, though they all stated that they thought it extremely hard that white men should be put to death for killing Blacks. Until after their first trial, they never I believe thought that their lives were even in jeopardy.

Petitions in  
favour of  
prisoners.

Three Petitions were presented to me in their favor, though not very numerously signed, one from Sydney, another from Parramatta, and the third from Windsor, but I did not feel that I could consistently with my public duty pay regard to them.

I have, &c.,

GEO. GIPPS.

[Enclosures.]

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

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 201, per ship Florentia; acknowledged by marquess of Normanby, 17th July, 1839.)

20 Dec.

My Lord,

Government House, 20th Decr., 1838.

Connected with the trial of the men whose execution for murder I have reported in my Despatch of yesterday's date No. 200, there are some circumstances which I think it right to bring separately to your Lordship's knowledge.

Sensation at  
arrest of  
murderers.

The apprehension of so many as eleven men for the murder of the Blacks, and the determination of the Government to bring them to trial, created an unusual sensation in the Colony, and a Meeting was held at Patrick's Plains, a place on the Hunter River about 30 miles above Maitland, at which the sum of, I believe, about £300 was subscribed to defray the expences of their defence.

Money  
subscribed for  
their defence.

The person who presided at this Meeting was Mr. Robert Scott, a Magistrate of the Territory, who, from his property, family connections, and the prominent part usually taken by him in public affairs, may be considered a person of note in the community. At this same Meeting, a Petition or Memorial was adopted, which was subsequently presented to me by a Deputation, of which Mr. Scott was the leader. In all this, I saw nothing to find fault with. I could not be displeased that the Accused should have Counsel employed for their defence. The meeting at Patrick's Plains was held before the whole atrocity, which had marked the murders, was known to the Public. The persons,

R. Scott as  
chairman at  
meeting.

Conditions of  
meeting.

1838.  
20 Dec.

who attended it, might reasonably have supposed that the accused had only acted in defence of their Master's property against the aggressions of the Blacks, and the Memorial addressed to myself asked for nothing more than equal justice to both parties. I cautiously therefore avoided expressing in any way disapprobation of Mr. Scott's proceedings. The case however was altered, when a few days afterwards the Attorney General reported to me that Mr. Scott had visited the eleven men in prison, and, in the presence of the Gaoler, advised them not to split among themselves, saying that there was no direct evidence against them, and that, if they were only true to each other, they could not be convicted. Mr. Scott happening to call upon me soon after this occurrence, I thought it right to inform him of the report which had been made to me by the Attorney General, telling him, however, that, until the trial of the men should be over, I was determined to say or do nothing more in the matter. On this occasion, Mr. Scott fully acknowledged that he had visited the men in prison, and spoken to them the words which had been reported to me; he said, however, that, when he did so, he did not know the full extent of the case against them, not having then read the Depositions taken before Mr. Day; and that, after reading the Depositions, he was sorry for what he had done. From that moment, I supposed that Mr. Scott would at least have ceased to take any personal part in the defence of the men, and it was therefore with the greatest surprise I subsequently heard that he was seated in Court at their trial, close to the Bar, and by the side of their Attorney, thus making himself a party in their defence to the very last.

Advice given  
by R. Scott to  
murderers in  
prison.Explanation by  
R. Scott to  
Sir G. Gipps.Participation  
of R. Scott in  
defence at  
trial.

A New Commission of the Peace was at this time on the point of being issued, having been rendered necessary by the lapse of nearly eighteen months from the death of the late King. I thought I could not, consistently with my duty, continue Mr. Scott's name in it, and immediately after the trial was over I told him it would be omitted.

Omission of  
R. Scott from  
commission of  
peace.

The Commission was issued on the 8th Inst., and I have to report to your Lordship that Mr. Robert Scott's name does not appear in it.

I will only further express to your Lordship my opinion that the proceedings of Mr. Scott did materially interfere with, and have in part prevented the due administration of Justice. His appearance at the first trial contributed, I have no doubt, to produce a verdict from the Jury directly against the evidence; and it was in consequence of the Attorney General's knowledge of the advice given by Mr. Scott to the men in Gaol, that no attempt was made on the part of the Crown to get an approver.

Effect of  
conduct of  
R. Scott.

1833.  
20 Dec.

For want of an approver, it was not possible to get at the different degrees or shades of guilt, which attached to the different prisoners, or to ascertain who were the first instigators to the deed, and who might have come into it reluctantly.

Guilt of  
persons  
implicated.

I have no reason to believe that any man has been executed, who could have been saved; but it is now pretty certain that one of the four men, who have for the present escaped, was the most guilty of the whole.

I have, &c.,

GEO. GIPPS.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 265, per ship Asia.)

21 Dec.

Despatch  
acknowledged.

Sir,

Downing Street, 21st December, 1838.

I have received your despatch, No. 115 of the 21st of July, transmitting several documents with reference to further collisions, which had unhappily taken place between parties of white settlers in the Colony, and the aboriginal inhabitants.

Reference to  
instructions *re*  
policy towards  
aborigines.

You are so fully aware of the views and wishes of Her Majesty's Government on this subject that it is unnecessary for me here to repeat them. I can only refer you to the Instructions already addressed to you as to the measures to be taken with a view to prevent the recurrence of outrages so destructive of human life, and so much to be deprecated on every principle of policy as well as of humanity.

Approval of  
action of  
Sir G. Gipps.

I approve of the answer, which you returned to the Memorial from Mr. King and other gentlemen, and of the proceedings which you had adopted with reference to the several transactions stated in your despatch. Your instructions to the Magistrate accompanying the mounted Police appear to be proper and judicious. I assume that the direction that, in the event of the Police being unable to identify and secure any individuals concerned in the murders which had been perpetrated, other individuals, not exceeding the number of men murdered, should be secured, including if possible some of the Chiefs, was given only with a view to hold members of the same tribe as temporary hostages for the future conduct of their companions, and not with any object of retaliation on parties against whom no proof of guilty participation in the outrage existed. Any proceeding sanctioning measures of mere retaliation would, I am confident, be wholly discountenanced by you, and could only tend to increase the evil by encouraging similar acts on the part of the aborigines. I am deeply concerned, on account of the character of the settlers, to find that the aggressions have not all been on the side of the Aborigines. I hope with reference to the last outrage, to which you refer in your Despatch, that a strict

Instructions  
to police *re*  
capture of  
aborigines.

Regret at  
aggressions  
by white  
persons.

investigation will have taken place in pursuance of your directions, and that due punishment will have been inflicted on the parties, against whom acts of so revolting and disgraceful a nature may have been substantiated.

1838.  
21 Dec.

I do not clearly perceive the force of the reasons which have led to a continued postponement of the proposed notice, a copy of which you transmitted in your despatch of the 27th of April. Without at this distance prescribing to you the precise course which should be adopted, I cannot help expressing my opinion that such a notice is highly expedient, in order that, while the Government affords all due protection to the person and property of the peaceable and industrious settlers, it may be clearly known by all parties that it will not shrink from enforcing the Law against all those who, not for the purpose of self-defence but wantonly, commit acts of violence or aggression against the aboriginal inhabitants.

Necessity for  
notice *re*  
aggressions by  
white persons.

I have, &c.,  
GLENELG.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 266, per ship Asia.)

Sir, Downing Street, 21st December, 1838.

I have received your Despatch No. 102 of the 9th July last, transmitting a letter from the Chief Justice of New South Wales on the subject of his precedence.

Despatch  
acknowledged.

There can be no doubt of the accuracy of the opinion of the Chief Justice that the Royal Charter determining the precedence of the Judges cannot be superseded by any less solemn expression of the pleasure of the Crown; and the question, which the Chief Justice has now brought forward, must therefore depend altogether on the construction of the Charter. It grants to that officer precedence over all persons excepting such as in this Country take precedence of the Chief Justice of the Court of Queen's Bench. There is no doubt that such precedence is due to a Bishop, being a Peer of Parliament, over a Chief Justice, who does not enjoy that dignity. But between a Chief Justice and a Bishop, of whom both are Commoners, the precedence is assigned to the Judge; as, for example, in the case of the Bishop of Sodor and Man. The titular designation of Lord, which is borne by the Bishops of the Church of England even when not Peers of Parliament, is a mere title of courtesy, and carries with it no actual rank. The claim of the Chief Justice of your Government in regard to precedence must therefore be admitted.

Precedency of  
chief justice  
dependent on  
charter of  
justice.

I have, &c.,  
GLENELG.

1838.  
21 Dec.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 264, delivered by Mr. Mulholland.)

Sir, Downing Street, 21st December, 1838.

Allowance for  
passage and  
outfit to R.C.  
schoolmaster.

I have to acquaint you that I have authorized the Colonial Agent General to issue to Mr. Mulholland the sum of Sixty Pounds, on account of his outfit and passage as one of the six Roman Catholic School-masters, for whom an allowance of this nature was sanctioned, as stated in my despatch No. 51 of the 19th of December, 1837.

I have, &c.,  
GLENELG.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 267, per ship Asia; acknowledged by  
Sir George Gipps, 10th June, 1839.)

Sir, Downing Street, 21st December, 1838.

Report  
required *re*  
disposal of  
religious books  
*ex* convict  
ships.

I transmit, for your information and guidance, the copy of a letter from the Board of Treasury, enclosing statements of Religious Books delivered to the Chaplains' Department at New South Wales from Convict Ships between the periods therein stated, and I have to request that you will report in what manner these Books have been disposed of, stating at the same time the several particulars on which the Lords of the Treasury require information.

I have, &c.,  
GLENELG.

[Enclosure.]

MR. F. BARING TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 19th December, 1838.

I am commanded by the Lords Commissioners of Her Majesty's Treasury to transmit to you the enclosed statements\* of religious Books, delivered to the Chaplains' Department at New South Wales from Convict Ships between the following periods, vizt.:—

September, 1836, and January, 1837;

27th February, 1837, 10th May, and 29th July, 1837;

and I am to request you will move Lord Glenelg to instruct the Governor of New South Wales to call upon the Revd. Wm. Cowper, through the principal Chaplain, to state in what manner the Books, which appear to have been delivered to him, were disposed of, and to report the amount of the proceeds of such as may have been sold by auction, and to ascertain or fix the value of such as were otherwise disposed of according to the state in which they were received, affixing the value that would have been given to them if purchased upon the spot, and My Lords will be glad to receive the result of his Lordship's communication.

I am, &c.,  
F. BARING.

\* Note 14.



SIR GEORGE GIPPS TO LORD GLENELG.

1838.  
24 Dec.(Despatch No. 202, per ship *Florentia*.)

My Lord, Government House, 24th Decr., 1838.

I have the honor to inform your Lordship that the French Frigate, "La Venus," of 58 Guns, commanded by Captn. Du Petit Thouars, anchored in Port Jackson on the 25th Novr. last, having come from the Society Islands and New Zealand.

Arrival of  
French frigate  
*La Venus*.

Captn. Du Petit Thouars was the bearer of a letter to me from Mr. Pritchard, the British Consul at Tahiti, in which Mr. Pritchard complains of the proceedings of Captn. Thouars towards the Queen of that Island; of this letter, as well as of an enclosure which it contained, I have the honor herewith to forward a Copy. Considering that this communication from Mr. Pritchard required some notice on my part, and yet feeling that the business was one in which it was necessary to proceed with great caution, I thought it right to advise on the subject with my Executive Council, and I have the honor to report that, by the advice\* of the Council, a letter (of which I enclose a copy) was written by the Secretary of this Government to Captn. Thouars. I enclose a copy of the answer which was received to this communication, and also of my acknowledgment of the receipt of the same to Captn. Thouars, with which the correspondence closed.

Complaint by  
British consul  
at Tahiti re  
conduct of  
captain.

I am happy to inform your Lordship that these matters (though of a delicate nature) have not in any way been productive of a bad feeling between Captn. Thouars and myself, or between his officers and those of this Government; all the usual civilities and courtesies having been kept up between us, equally as they would have been, if none of these occurrences had taken place. Captn. Du Petit Thouars was detached from the Coasts of Chili and Peru, by express order of his Government, to demand satisfaction from Queen Pomare for insults offered on the Island of Tahiti to two Frenchmen in the year 1836. These Frenchmen were Catholic Priests, and I believe it is beyond doubt that they were removed from the Island, in consequence of the Representations of the English Missionaries. As however the "Actoon" Frigate was despatched by Commodore Mason to enquire into the cause of it, and was at Tahiti for that purpose towards the end of the year 1836, far more correct information on the subject of the forcible removal of the two Frenchmen from the Island will be obtained, I have no doubt, from the Report of Lord Edwd. Russell, who then commanded the "Actoon," than it is possible for me to give.

Intercourse  
with French  
officers.Object of visit  
of frigate to  
Tahiti.

\* Note 126.

1838.  
24 Dec.  
Departure of  
frigate  
*La Venus.*

I have only, My Lord, to add that "La Venus" sailed from Sydney for the Cape of Good Hope and Europe on the 18th Instant.

I have, &c.,  
GEO. GIPPS.

[Enclosures.]

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

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 203, per ship *Florentia*; acknowledged by marquess of Normanby, 19th June, 1839.)

27 Dec.  
Transmission  
of letter from  
J. H. Plunkett.

My Lord, Government House, 27th Decr., 1838.

I have the honor to forward herewith to your Lordship a Copy of an application for Leave of Absence, which I have received from the Attorney General of this Colony.

Inability to  
procure acting  
attorney-  
general.

I feel confidence in stating that Mr. Plunkett is by his Public services entitled to every indulgence which your Lordship can afford him; but at the same time it is my duty to inform your Lordship that it will, I fear, be impossible to find any person in this Colony, competent to perform his duties, who will be willing to undertake them for half salary.

I have, &c.,  
GEO. GIPPS.

[Enclosure.]

ATTORNEY-GENERAL PLUNKETT TO COLONIAL SECRETARY THOMSON.

Sir, Attorney General's Office, 20th December, 1838.

Application by  
J. H. Plunkett  
for leave of  
absence.

Having already in personal communication Stated to His Excellency the Governor my wish to obtain leave of absence for two Years to visit Europe, I beg you will lay this more formal mode of application before His Excellency in order that he may be pleased to give it his consideration.

It is now nearly Seven Years since I arrived in the Colony as Solicitor General, and, from the Month of April, 1836. I have discharged the duties both of Attorney General and Solicitor General.

During the whole of that time, I have not been absent from my duties for a Single Week, except on one occasion in the beginning of 1835, when a Serious fit of illness, brought by close attention to my official duties, made it necessary to take change of Air, and even then my leave of absence did not exceed a fortnight; after so long a career of incessant and laborious duty, I trust His Excellency will consider me entitled to the Indulgence I Solicit.

Although my General State of health at present is not very good, it is not on the ground of illhealth I make my application. It is because my presence in Ireland is absolutely necessary in order to make arrangements respecting some private property left me by my deceased Father, which arrangements I find Cannot be carried into effect in my absence.

I am aware that His Excellency may at present have some difficulty in providing for the discharge of those very responsible duties

belonging to my office; and, as it is my anxious desire not to cause him any Embarrassment by a hasty application for leave, I wish to shape it so as to afford ample time to ensure the efficiency of the Public Service during the period of my leave of absence. My application is therefore for *two Years' leave to Commence* from the Month of November, 1839.

As all public Officers are, by the regulations made for the Colonies, entitled to draw half Salary while on leave of absence, I will of course Calculate on the benefit of that regulation; but, as I am afraid that no competent Gentleman of the Bar can be found to discharge the duties of Attorney General for half Salary, I think it right to apprise His Excellency of my apprehensions in this point, lest there Should be any unforeseen difficulty as to payment to me of my half Salary.

When the late Chief Justice (now Sir Francis Forbes) went to Europe on leave in 1836, he received the half Salary of Chief Justice, and the Acting Chief Justice Dowling, during that time, received the full amount of the Chief Justice's Salary, Viz., £2,000 per Annum. I therefore trust the Same course may be followed in my Case.

I have, &c.,

JOHN H. PLUNKETT, Attorney General.

1838,  
27 Dec.

Application by  
J. H. Plunkett  
for leave of  
absence.

SECRETARY OF STATE TO SIR GEORGE GIPPS.

1839.

THE following despatches, written in the year 1839, have been omitted:—

Despatches  
omitted.

Despatch dated	numbered	Transmitting
21st January	12	instructions for report <i>re</i> James Wawn, convict.
4th March	9	approval of commutation of death sentence on James McCullum.
4th March	11	reply <i>re</i> victualling of convict ships.
7th March	17	authority for conditional pardon for William Nixon.
8th May	43	petition for free pardon for William Fowler.
8th May	44	report <i>re</i> proposed escape of John Kinnear, convict.
8th May	45	authority for conditional pardon for Charles Hayter.
1st June	60	free pardons for Richard and Uriah Lovell.
4th June	62	instructions <i>re</i> pardons for convicts transported for machine-breaking.
17th June	69	report <i>re</i> sentence on Thomas Cullen and Bernard Murray.
19th June	74	approval of decision <i>re</i> James Monds or Mounds, convict.
26th June	80	instructions for report <i>re</i> delay in granting pardon to John McMillan.
3rd July	84	approval of coal-mining at Western port.
19th July	97	commutation of death sentence on John Finn.
25th July	100	approval of twenty-three conditional pardons.
26th July	101	approval of two absolute and one hundred and forty-two conditional pardons.
2nd August	108	instructions for report <i>re</i> George Gambling and his property.
29th August	129	approval of commutation of death sentence on Thomas Holden.
29th August	131	free pardon for Dennis Caulfield.
6th September	3	details of sentence on Ann Byrne.
13th September	5	free pardon for Thomas Mackrell.
8th October	9	instructions for report <i>re</i> John Hicks, convict.
15th October	13	warrant for reduction of sentence on John Rutledge.
25th October	21	instructions for report <i>re</i> Alexander Milne, convict.
4th November	31	report <i>re</i> Grace Taylor <i>alias</i> Logan.
5th November	32	approval of three absolute and thirty-four conditional pardons.

1839.  
Despatches  
omitted.

THE following despatches, written in the year 1839, have been omitted—*contd.*

	dated	Despatch numbered	Transmitting
	6th November	33	approval of twenty-five conditional pardons.
	11th November	37	approval of payment into Savings bank for Catherine Kenny, convict.
	20th November	47	instructions for report <i>re</i> Edward Smith, convict.
	25th November	49	do <i>re</i> free pardon proposed for F. Bigg.
	26th November	50	authority for indulgence for John Linforth, convict.
	2nd December	52	authority for free pardon for Patrick Dowling.
	21st December	61	warrant for free pardon to Samuel King.

### CIRCULAR LETTERS.

Circular  
letters  
omitted.

DURING the year 1839, the following letters\* were written by the secretary of state, which were similar to that dated 5th December, 1837, with the following manuscript alterations:—

Letter dated 25th November, 1839.

Mr. Peter Beauclerk Spicer—a Letter—13th of May—his claims for remuneration for past services as Superintendent of Convicts at Moreton Bay or to further employment.

Letter dated 27th December, 1839.

Mr. W. S. Parker—a Letter—1st of July—his claim for an additional Grant of Land.

### SIR GEORGE GIPPS TO SECRETARY OF STATE.

Despatches  
omitted.

THE following despatches, written in the year 1839, have been omitted:—

	dated	Despatch numbered	Transmitting
	4th January	4	schedules of appointments to public officers and of alterations in salaries and allowances.
	11th January	11	report <i>re</i> Patrick Davoren or Staunton, convict.
	13th January	13	„ <i>re</i> Patrick Gaygan, convict.
	29th January	23	recommendation of John Finn for commutation of death sentence.
	5th February	25	quarterly schedule of appointments and special payments.
	8th February	26	immigration return for 1839.
	16th February	29	“blue book” for 1837.
	18th February	30	twenty-three conditional pardons.
	19th February	31	list of convicts recommended to have their families sent out.
	1st March	39	quarterly schedule of appointments and special payments.
	2nd March	40	schedule of appointments to public offices.
	6th March	43	requisition for stationery for convict services.
	7th March	44	requisition for printed stationery for convict services.
	13th March	50	returns of tickets of leave issued and of deaths and escapes of convicts.
	15th March	52	inquiry <i>re</i> sentence on Anne Byrne, convict.
	18th March	54	return of assignments revoked in 1838.
	20th March	55	report <i>re</i> non-arrival of Grace Taylor <i>alias</i> Logan, convict <i>per</i> ship <i>Planter</i> .
	27th March	59	three absolute and thirty-four conditional pardons.

\* Note 58.

THE following despatches, written in the year 1839, have been omitted—*contd.* 1839.

dated	Despatch numbered	Transmitting	Despatches omitted.
30th March	61	list of convicts recommended to have their families sent out.	
10th April	67	do	
24th April	75	twenty-five conditional pardons.	
30th April	77	return of pardons granted in 1838.	
16th May	82	report <i>re</i> John Linforth, convict.	
20th May	83	annual return of diseases treated.	
1st June	87	list of convicts recommended to have their families sent out.	
18th June	94	one absolute and seventeen conditional pardons.	
15th July	104	half-yearly immigration return.	
18th July	105	seven conditional pardons.	
5th August	114	abstract of revenue and its appropriation for 1838.	
12th August	116	forty conditional pardons.	
15th August	117	list of convicts recommended to have their families sent out.	
19th August	118	requisition for stores for convict services.	
26th August	120	report <i>re</i> James Wawn.	
2nd September	123	recommendation of Thomas Lowe for commutation of death sentence.	
6th September	124	one absolute and twenty conditional pardons.	
20th September	129	report <i>re</i> Hugh Naghten, convict.	
23rd September	130	„ <i>re</i> William Fowler, convict.	
6th November	145	requisition for medicines.	
9th November	148	annual medical returns.	
13th November	150	report <i>re</i> Jean Henri Kütke.	
18th November	153	schedules of appointments and special payments.	
19th November	154	report <i>re</i> — Dubost.	
30th November	161	recommendation for commutation of death sentences on Richard Jones <i>alias</i> Knight, Samuel Ellis, James Hickey and William Barnes.	
12th December	171	“blue book” for 1838.	
16th December	174	three absolute and sixty-five conditional pardons.	
17th December	175	list of convicts recommended to have their families sent out.	
21st December	179	return of seamen treated in military hospitals.	

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 1, per ship Fergusson.)

Sir, Downing Street, 1st January, 1839. 1 Jan.

With reference to my Despatch, No. 234 of the 7th of November last, I transmit to you for your information the copy of a letter which I have received from the Convenor of the General Assembly's Committee on Colonial Churches, and of the answer which by my directions has been returned to that Letter

I have, &c.,

GLENELG.

[Enclosure No. 1.]

REV'D. PRINCIPAL MACFARLAN TO LORD GLENELG.

My Lord, College, Glasgow, 27th December, 1838.

I have been directed by the Committee of General Assembly for promoting the religious interests of Scottish Presbyterians in the British Colonies to transmit the accompanying observations on the Despatches respecting the Presbyterian Church in New South Wales, which your Lordship had the goodness to communicate.

I have, &c.,

D. MACFARLAN.

Transmission of papers *re* schism in Presbyterian church.

1839.  
1 Jan.

[Sub-enclosure.]

AT EDINBURGH, THE 7TH DECEMBER, 1838.

AT a Meeting of the Acting Committee of the Committee of the General Assembly of the Church of Scotland on Colonial Churches.

The Reverend Doctor Muir in the Chair.

The Acting Committee of the General Assembly's Committee on Colonial Churches, having taken into consideration the Despatch of date 12th of June, 1838, and relative documents from his Excellency the Governor of New South Wales to the Right Honorable Her Majesty's Secretary of State for the Colonies, transmitted by his Lordship to the Assembly's Committee for their information, and by them remitted to this the Acting Committee, beg with hearty thanks for his Lordship's kindness and attention to submit to him the following observations on certain of the matters embraced in the said Despatch and documents.

They observe that Doctor Lang attempts to justify the proceedings adopted by himself and his adherents on the grounds (first) of Authority from the Church at home; and (second) of the circumstances and condition of the Presbyterian Church in the Colony, being such as to Warrant these steps, according to the General rules and principles of Presbyterian Church Government.

In so far as regards alleged authority from the church at home, he states in the first place that he and his adherents were empowered by the General Assembly and the Synod of Ulster to reconstruct the Presbyterian Church of New South Wales.

That this Assertion is directly contrary to the facts, in regard to the Church of Scotland, is proved by the unanimous resolution\* of the Commission of Assembly in August last already transmitted to the Secretary of State for the Colonies; and, as to the Synod of Ulster (which besides could give no competent authority to reconstruct a branch of the Church of Scotland), it must be obvious that the assertion is equally unfounded from the resolutions of that Synod of date 28th August last, of which a Copy is herewith transmitted, and which was adopted in consequence of the transmission to them of the proceedings of the Commission.

Doctor Lang in the Second place alleges that he and his adherents were warranted to form themselves into a Synod by the Act of Assembly, Eighteen hundred and thirty three, regarding Presbyterian Ministers in the Colonies, and the principle on which that act is rested. That act contains no warrant whatever for their proceedings; and, although the objection to its application to the case in question, noticed by Sir George Gipps in his despatch, Vizt., that the persons uniting with Doctor Lang were not ministers of fixed congregations, is of itself perfectly sufficient, it is inferior in importance to another of a much more serious character.

The Act, referred to, was intended to promote the formation of Church judicatories in Colonies, where the Presbyterian Ministers settled there had not united to constitute a court for the purposes of Government and discipline; but it never contemplated the Establishment of separate and independent judicatories in the same Colony. An essential Element of the Constitution of a Presbyterian Church is that the whole Church should be subject to one United Government, constituting in the first instance a Presbytery;

\* Note 127.

or where the number of Congregations require a division into several Presbyteries, a superior Court to review their Actings. For the Ministers in a Colony to form themselves into different and independent Courts would be in contravention of the intention of the Act 1833, and in Violation of the fundamental principles of Presbyterian Government, on which it is founded; and indeed would constitute the Offence known in the laws of the Church of Scotland by the term "following divisive courses," which every licentiate at receiving licence and every minister at ordination solemnly promises to avoid. In the case therefore even of Ministers having fixed Congregations, and in a Colony where as yet no settled judicatory had been constituted, it would have been utterly at variance with the principles of Presbyterian Church Government and with the Act 1833 to have formed themselves into two independent Church Courts, while the idea of ministers having no previous connection with the Country, admitted to no pastoral charge (and so not entitled by the laws of the Church of Scotland to exercise rule and Government in the Church at all, unless specially empowered), assuming to themselves, a few days after their setting foot in the Colony, the character of a Supreme Church Court, to supersede the existing and established Judicatory, is utterly extravagant.

In so far as Doctor Lang rests his justification on the alleged inherent principles of the Protestant Church, sanctioned as he asserts by the proceedings of the General Assembly of 1638, that a faithful minority may reconstruct a Church to the exclusion of a corrupt majority, the committee observe in the *first* place:

That the application of this principle, supposing such a principle to be recognized, proceeds on the unwarranted assumption that the Presbytery of New South Wales had become totally corrupt; and that the opinion of Doctor Lang alone, he being of all the Ministers uniting to form the so called Synod the only Member of that Presbytery, is to be deemed conclusive of the corruption of his Brethren, while he himself, during his recent visit to this country, tabled no complaint against them to the Mother Church, to whom they were in any views amenable, as having received ordination from her Presbyteries; and to the last hour of his stay in Britain held himself out as a Member of that Presbytery which he now represents as extinct by reason of its corruption.

The Committee remark in the *second* place that no rule could, according to the laws of the Church of Scotland, be exercised by any of the stranger Ministers accompanying Dr. Lang, till duly admitted by competent authority to particular charges.

In the *third* place, the committee observe that there is no such Principle recognized as that alleged by Doctor Lang, according to which a minority, or in the present instance a single individual asserting themselves or himself to be exclusively faithful and pure, might lawfully supersede their proper Judicatory in the exercise of its legitimate functions. Such minority or individual might doubtless withdraw from a Communion with which they could not conscientiously hold fellowship; but the proceedings here adopted are of a totally different character, and receive no countenance from the practice of the Church, and none from the actings of the General Assembly of 1638. That Assembly was not composed of a minority, excluding a majority, whom they judged to be corrupt. It was an Assembly lawfully convened and elected by the free

1839.  
1 Jan.

Observations  
by committee  
of general  
assembly re  
schism in  
Presbyterian  
church.

1839.

1 Jan.

Observations  
by committee  
of general  
assembly *re*  
schism in  
Presbyterian  
church.

suffrages of the whole Church; and, being for the first time for many years freed from the fetters imposed by the tyranny of the Monarch, they re-established the system he had wrongfully overturned, and declared to be null the proceedings of Prior assemblies, not freely chosen, and acting under his control. The attempted comparison, however, is undeserving of serious attention, and no one, in the slightest degree acquainted with the principles of Presbyterian Church Government and the constitution of the said Church of Scotland, can entertain the slightest doubt that the conduct of Doctor Lang has been utterly unjustifiable, in contravention of the Fundamental laws of his church, and of his own obligation to submit to her constituted judicatories and abstain from "divisive courses."

The Committee beg further to submit one or two remarks on another subject, embraced by the despatch above referred to and accompanying documents; and in doing so they cannot but express their grateful sense of the kindness and zeal with which the Colonial Government have endeavoured to bring about a reconciliation of the unhappy differences in their church in New South Wales, and their resolution to cooperate to the utmost of their power in the accomplishment of this important object.

The Committee are of opinion that the proposition of Doctor Lang was in several particulars too obvious to require being pointed out altogether inadmissible, and also that it is impossible for the Presbytery to recognize the so called Synod as a Church Court, seeing they would thereby sanction proceedings in Violation of the Fundamental laws of the Church and destructive of all subordination and order. Neither does it appear to the Committee that the Presbytery could restore Doctor Lang, whose conduct, as a Member of their body and subject to their Authority, has been so highly blameable, without his submitting himself to the discipline of the Church. But at the same time the Committee cannot but regret that the Presbytery should have rejected, at their meeting of the 13th May last, the resolutions proposed by the minority of their body, which do not appear to give any recognition to the so called Synod as such, or to run counter to any of the rules of the Church, while it evinced a conciliatory spirit, calculated to promote the Union which is so eminently desirable.

The Committee have transmitted their sentiments on this point, and on their future conduct in the matter, to the Presbytery of New South Wales, in the Minute of which a Copy is subjoined for information of the Secretary of State for the Colonies.

What further steps shall be taken, in addition to the transmission by the Commission of the General Assembly of a Pastoral address to the Ministers, Elders, and people of the Presbyterian Church in New South Wales, in connection with the church of Scotland, and a letter of instruction to the Presbytery, must probably now stand over for the meeting of the General Assembly in May; and in the mean time the Committee desire to express to the Secretary of State for the Colonies their strong and united thanks for the prompt, cordial, and efficient assistance rendered by his Lordship, which they earnestly trust will have the effect of restoring harmony and peace.

D. MACFARLAN, Convener.



[Sub-enclosure No. 2.]

1839.  
1 Jan.

COPY Resolution of the Synod of Ulster, referred to in the preceding Minute.

Resolutions by  
synod of Ulster  
re schism in  
Presbyterian  
church.

At a Special Meeting of the General Synod of Ulster, held at Belfast on the 28th of Augt., 1838, the following Resolutions were unanimously adopted:—

1st. That this Synod deeply regret to learn that anything should have occurred leading to a division of the Presbyterian Church of New South Wales; especially considering the circumstances of that important and rising Colony, and the hopes which this Synod had entertained of its growing Welfare, from the recent additions made to its Ministry from this and the Mother Church of Scotland.

2nd. That the Directors of the Synod's Mission, under whose advice the four Ministers connected with this Church proceeded to that Colony, be empowered to draw up and transmit a letter explanatory of the Views and expectations of the synod, and recommending our Bretheren there, and Ulster Presbyterians generally, to use their strenuous efforts for the restoration of Unity and of Mutual confidence and Co-operation throughout the whole Presbyterian body; and that the Directors be further empowered, if circumstances should render it necessary, to correspond with the Secretary of State for the Colonies on this subject.

3d. That the Moderator be instructed to write to the Reverend the Moderator of the General Assembly of the Church of Scotland, acknowledging the receipt of his letter and the accompanying documents; and assuring him of the cordiality and readiness of the synod to cooperate with the Venerable Assembly in promoting to the Utmost of their power the peace, purity and extension of the infant Church in New South Wales; and to transmit forthwith to him a copy of these resolutions, and of the proposed letter, as soon as it may be prepared by the directors.

Faithfully extracted from the minutes of Synod by

J. SEATON REID, D.D., Clerk of Synod.

[Sub-enclosure No. 3.]

COPY of Minute transmitted to the Presbytery of New South Wales; referred to in the preceding document.

Minute of  
instructions to  
presbytery of  
New South  
Wales.

At Edinburgh, the seventh day of December, 1838.

At a meeting of the Acting Committee of the Committee of the General Assembly of the Church of Scotland on Colonial Churches.

The Reverend Doctor Muir in the Chair.

The Acting Committee of the General Assembly's Colonial Committee, having taken into their consideration the documents accompanying a despatch from His Excellency the Governor of New South Wales to the Right Honorable Her Majesty's Secretary of State for the Colonies, of date June 12th, 1838, transmitted by His Lordship to the Assembly's committee, and by them remitted to this the Acting Committee, in so far as these documents relate to the attempted reconciliation between the Presbytery of New South Wales and the Ministers composing the so called Synod of New South Wales, with a view to advising the Presbytery thereon, desire to communicate to the Presbytery their sentiments as follows:—

The Committee considers the propositions, made by Doctor Lang in his communications to the Governor, to have been on grounds

1839.  
1 Jan.

Minute of  
instructions to  
presbytery of  
New South  
Wales.

too obvious to require specification, altogether inadmissible; but at the same time they regret that the Presbytery did not accede to certain resolutions proposed by a Minority of their body at their Meeting on the 13th of May last, which appear to the Committee to have been calculated to open a door for reconciliation, without compromising any of the principles which, as a Presbyterian Church Judicatory, the Presbytery are bound to maintain.

The Presbytery cannot of course in any event acknowledge the so called Synod as a Church Court, nor recognize the validity of their Acts of Ordination or licensing; as this would be in flagrant Violation of the Principles of the Church to which they belong. At the same time however, the Committee do not perceive any sufficient reason for the Presbytery insisting on dealing with the Ministers composing that body, only separately and individually, and refusing to hold conference with them jointly, which the Presbytery might do, without in any way recognizing their existence as a duly Constituted Church Court. In general, with reference to their dealings with these Ministers, the Committee would strongly urge upon the Presbytery the importance and duty, while they abandon no point of Substantial principle, of not allowing technicalities or mere forms to stand in the way of the Grand Object of promoting peace and union; and, although they could not possibly restore Dr. Lang, whose conduct as a Member of their body and subject to their Authority has been so highly blameable, without his submitting himself to the discipline of the Church, the Committee urge in the strongest manner that all their proceedings be marked by the utmost consideration for the circumstances in which the several parties have been placed, and the most friendly tenderness and affection; and above all that every expression of party spirit be studiously refrained from and expressed. The Presbytery may rest assured that, if their object bear the appearance of the achievement of a party triumph rather than the restoration of Brotherly Union and Christian Charity and the removal of obstacles to the furtherance of the Gospel, neither the respectability of their adherents in point of worldly station and character, nor the countenance of the Government, will permanently maintain them; nor, anxiously as the Church of Scotland has exerted herself to support the legitimate authority of the Presbytery with the prompt and cordial aid of the Government, actuated by similar views, could she seek to have it countenanced and maintained longer than it is exercised for the Spiritual edification and moral improvement of all classes of the community subject to their superintendence.

[Enclosure No. 2.]

SIR GEORGE GREY TO REVD. PRINCIPAL MACFARLAN.

Sir,

Downing Street, 5th January, 1839.

Letter  
acknowledged.

I am directed by Lord Glenelg to acknowledge the receipt of your letter of the 27th Ult., transmitting observations by the Committee of General Assembly on Colonial Churches on the documents respecting the Presbyterian Church in New South Wales, communicated in my letter of the 5th ulto. Lord Glenelg desires me to express his sense of the gratifying terms, in which the Committee have acknowledged the course which he felt it right to adopt with reference to this subject, and he will have much pleasure in conveying to the Governor of New South Wales the thanks of the

Committee for his endeavours to effect a reconciliation of the unhappy differences in the Presbyterian Church in New South Wales.

Lord Glenelg cannot but hope that these differences will speedily be adjusted through the salutary influence of the views and opinions contained in the Minute of the Committee transmitted to the Presbytery of New South Wales, of which a copy was enclosed in your letter.

I am, &c.,

GEORGE GREY.

1839.  
1 Jan.

SIR GEORGE GIPPS TO LORD GLENELG.  
(Despatch No. 1, per ship Florentia.)

My Lord, Government House, 1st Jany., 1839.

Intelligence having reached this Government of the renewal\* for another year of the present New South Wales Act, and of the postponement until the next Session of Parliament of the Measure, which is to give to the Colony a new Constitution, it appears to me probable that your Lordship will expect from me some expression of the opinions, which a residence of ten months among them has enabled me to form of the wishes of the People, and of the extent to which those wishes may safely be complied with. I, therefore, avail myself of the earliest opportunity of addressing your Lordship on the subject. I feel that I might, in so doing, satisfy myself by assuring your Lordship that I concur (I believe I may say entirely) in the opinions† of my Predecessor on the subject, as far at least as I find those opinions upon record. I concur with him in thinking the present Council to be quite inadequate to the wants of the Colony; that it neither affords to the Governor, in matters of Legislation, the assistance which he has a right to expect from it; nor does it give to the Acts of his Government the support with the People, which the sanction of such a Body ought to carry with it. I concur also generally with Sir Richard Bourke as to the way in which this Body ought to be remodelled; as however I have not before me a copy of the Bill which was prepared by him (with the assistance of Sir Francis Forbes), and as your Lordship may expect that I should state more definitely my own opinion, I shall proceed at once (and as concisely as I can) to do so.

Assuming the time to be come, when Representative Government should in some shape be introduced into New South Wales, and yet that the circumstances under which the Colony is placed are such as to render unsafe the creation of a purely Representative Body, I consider that a mixed Body, partly elected and partly nominated by the Crown, offers the best and readiest means of providing for the wants of the Colony, during what may be called its intermediate or transition state. Other

Proposals by  
Sir G. Gipps re  
reform of  
constitution.

Concurrence  
with opinions of  
Sir R. Bourke.

Inadequacy of  
legislative  
council.

Proposal for  
partly elective  
and partly  
nominee  
council.

\* Note 128.

† Note 129.

1839.  
1 Jan.

means might be found, and I am aware that others have been proposed by persons whose opinions are entitled to the highest possible respect; but I feel confidence (after mature consideration and extended enquiries on the spot) in stating that no form of Representative Government will be acceptable to the People, which is not in its fundamental principles analogous to that of the Mother Country.

Constitution  
of council.

The New Legislative Council of New South Wales should in my opinion be made to consist of not less than 24, nor more than 36 Members, of whom not less than one half, nor more than two thirds, should be elected by the People.

Triennial  
elections.  
Limitation of  
constitution.

The Elections should be triennial; and the duration of this Constitution should be for three Elections, or nine years.

Considering the influence which the Government would possess in such a Council by the nomination of a portion of its Members, I do not think it would be necessary to give to the Governor the further power of dissolving it at his pleasure.

System for  
elections.

Direct Election, by qualified Electors, is the only one which will I think satisfy the great majority of the People of the Colony.

Qualifications  
for electors.

The Qualification should be either a £10 household occupancy within the District, or the possession, clear of all incumbrances, of Landed or real property to the value of £500 without residence in the District.

Electoral  
districts.

The Colony should be divided into Six Electoral Districts, of which Sydney should be one.

Each District should elect Three, or Four Members, according as the total number elected is to be 18 or 24.

Members for  
Port Phillip.

A power should be reserved, of adding one Member for the District of Port Phillip, whenever its population shall amount to seven thousand souls, And a second when it shall amount to fifteen thousand.

Method of  
elections.

Polling places should be fixed at convenient spots by the Governor; and the Elections throughout the Country should take place on one and the same day.

Provision for  
representation  
of minorities.

No person should vote in more than one District, nor for more than one Candidate; whatever be the number of Members to be returned by the District. The effect of this method of voting, in giving to a minority its due influence, is exhibited in the Report of the Commissioners for Lower Canada, on the Representation of the People, par. 27, See page 18 of the General Report, ordered to be printed by the House of Commons on the 20th Feby., 1837; also pages 69 and 72 of the Appendix to that Report.

The division of the Country into Districts, the Requisition of Voters and the mode of conducting elections, as well as of deciding in cases of controverted Elections, or Election Petitions, to be left to the Council itself, and in the first instance to the present Council.

1839.  
1 Jan.Subjects for  
decision of  
council.

The Qualification for a Member of Council to be the possession of property real or personal, within the Colony, to the amount of £3,000, clear of all debts or incumbrances, Proof to be made to the satisfaction of a Committee of the Council (sworn to secrecy), if such proof shall be demanded by any three Members of the Council.

Qualification  
for members.

Residence within the District not to be necessary on the part of the persons elected.

Emancipists and persons whose sentences have expired to be allowed to vote at Elections (if qualified), but not to sit in the Council.

Emancipists  
and expires  
to be eligible  
as voters.

The nominated Members to be removable at the pleasure of the Crown.

Removal of  
nominee  
members.

The Governor should not preside in the Council, neither should any Judge or Ecclesiastic have a seat in it. Retired Judges however should be eligible.

Exclusion of  
governor,  
judges and  
clergy.

A President of the Council should be named by the Crown.

President.

The Governor should convoke and adjourn the Council, as he may deem expedient; and he should both open and close their Sessions in person. At other times he should communicate with the Council by Message, and receive communications from it through the President or a Deputation of its Members.

Council to be  
convoked and  
adjourned by  
governor.

The right to initiate Measures (except Money Bills) to be enjoyed by any and every Member of the Council. The Governor also to have the power of initiating measures by message; and exclusively the right to initiate money Bills. The Governor to have the further right to amend Bills, and to return them any number of times with his amendments. The Governor to confirm Bills by giving them his assent, either in person or by Message; and to withhold his assent in the same way, without the necessity of assigning his reasons. Conferences between the Governor and the Council to be held when demanded by either party. In such cases, the Council to wait upon the Governor, not the Governor on the Council. These conferences to be held with closed doors. The President of the Council and *Nine Members* to form a Quorum for the dispatch of business. Rules for the regulation of its own debates and for the preservation of order to be made by the Council.

Initiation of  
measures.Allowance and  
disallowance  
of bills by  
governor.

Quorum.

1839.  
1 Jan.

Alterations  
suggested *re*  
administration  
of justice.

In the portions of the present New South Wales Act (9 Geo. IV, Ch. 83) which relate to the administration of Justice, the following alterations are I think necessary:—

*Clause I\** Should be so altered as to admit of the appointment of one or more additional Judges;

*Clause V.*—Military Juries should be abolished;

*Clause VIII.*—The trial of issues by a Judge and Assessors should be abolished;

*Clause X.*—The power of establishing Grand Juries should be left to the Local Legislature;

*Clause XI.*—It should be left to the Local Legislature to establish (if necessary) one or more Masters in Chancery;

*Clause XIII.*—Power should be given to the Local Legislature to establish Circuit Courts, without a previous order in council;

*Clause XVII.*—Power should be left to the Local Legislature to give to the Courts of Quarter Sessions a Requests Jurisdiction, with cognizance of money causes to the extent of £30.

*Clause XVIII.*—The words in this Clause should be omitted, which require the Courts of Requests to be held under the Presidency of a Commissioner named by Her Majesty. It has long been considered desirable, wherever there is a Stipendiary Police Magistrate, to give to the Bench of Magistrates a Requests Jurisdiction to the extent of 40s. or even perhaps of £5; but this part of Clause 18, which requires each Court of Requests to have a Commissioner appointed by the Crown, has hitherto prevented it;

*Clause XXII.*—The power given by this Clause to the Judges to put their veto on acts passed by the Governor and Council should be taken away.

Abolition of  
veto of judges  
over acts of  
council.

Your Lordship will, I hope, believe that I do not recommend the above alterations, without having previously had frequent communications with the Judges on the subject. Two of their Honors, the Chief Justice and Mr. Justice Willis, have already favored me with their opinions upon them in writing; and from Mr. Justice Burton I am in daily expectation of receiving a similar communication. By the next vessel which may sail from Sydney, I will forward Copies of these papers to Your Lordship; but I should lose the present opportunity, were I now to wait to have them made.

In the parts of the act which relate to the management of Convicts, I would respectfully submit that the following alterations are necessary:

*Clause IX.*—The concluding part of this Clause should be so worded, as expressly to repeal the enactments in the 2nd Clause of the 2d and 3d Gul. IV, Cap. 62, which have been so frequently complained of to your Lordship. The Enactments, which

prevent the Governor from granting Tickets of Leave to persons who have not served four, six, or eight years in the Colony according as their sentences are respectively for seven or fourteen years or for life, stand more than anything else in the way of the abolition of assignment; and the enactment, which incapacitates a Convict from holding property, prevents for the present our carrying into full effect the order respecting Tickets of Leave, communicated in your Lordship's Despatch of the 6th July, 1838, No. 147.

1839.  
1 Jan.  
—  
Amendments  
proposed *re*  
tickets of  
leave;

*Clause XXXIII.*—This Clause regulates the issue of Pardons in cases where they originate with the Governor of the Colony; and I would respectfully submit that the parts of it, which follow after the words “valid and effectual,” ought to be omitted. The retrospective effect given to a Pardon, on the receipt from England of the Queen's approval, places the person pardoned in a most anomalous position for the period (generally a year at least), which must elapse from the time the Governor transmits his Pardon to England, to the time when the Queen's approval of it is received. He is still a Convict, and may be treated as such; but he has afterwards a right of action and may recover damages against the person so treating him. No retrospective effect should I think be given to the Pardon; it should take effect from the day on which the notification of the Queen's approval is signified in the Government Gazette of the Colony; and it might be sufficient that the Governor were required to make this notification within fourteen days from the day on which he receives it. A Power to suspend a Pardon, even after it has received the Queen's approval, should also I think be given to the Governor, to meet cases in which a person recommended for a Pardon may render himself unworthy of it by misconduct during the interval that must elapse between the sending home of the Pardon, and the receipt of the Queen's approval of it. In such cases, however, the suspension of the Pardon by the Governor should be notified in the Government Gazette of the Colony, also within fourteen days after the receipt of it; and the cause of the suspension of the Pardon should be reported to the Secretary of State.

and pardons  
for convicts.

The only further suggestion which I think it necessary to offer to your Lordship on the proposed New Constitution of this Colony is that, either by Legislative Enactment or by some explicit Instructions from Her Majesty's Government, the course of proceeding may be explained, which is to be followed in the Appropriation of the Territorial Revenue of the Colony; on which subject, I beg respectfully to refer to my Despatches of the

Necessity for  
decision *re*  
appropriation  
of territorial  
revenue.

1839.  
1 Jan.

31st Oct. and 7th Novr. last, Nos. 177 and 180, also to my Separate Despatch of the 3rd Novr. last.

Municipalities  
proposed.

I have not failed, my Lord, to give my serious attention to the proposal for making the Electoral Districts into Municipalities, and with an anxious desire also, I will say, to see it effected if possible; but I must avow that, after the most attentive consideration of the subject, and consulting on it with the persons in the Colony most capable of giving an opinion, I am forced to the conclusion that it is in Sydney alone that a Municipal Body could at present be formed with any advantage.

I have, &c.,  
GEO. GIPPS.

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LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 2, per ship Fergusson.)

2 Jan.

Sir,

Downing Street, 2 Jany., 1839.

Transmission  
of letter from  
T. F. Elliot.

With reference to my Despatch No. 236 of the 10 Ultimo, I now transmit to you a copy of a letter from the Agent General for Emigration, intimating the probability of his dispatching an Emigrant ship to Port Philip about the month of April or May next.

I have, &c.,  
GLENELG.

[Enclosure.]

MR. T. F. ELLIOT TO UNDER SECRETARY STEPHEN.

Sir,

2 Middle Scotland Yard, 18 Decr., 1838.

Proposed  
sailing of  
ship with  
immigrants for  
Port Phillip.

In reference to your letter of the 10th ultimo, mentioning Lord Glenelg's wish that, if practicable, arrangements should be made for sending a ship with Emigrants direct to Port Philip, I have the honor to state that, in obedience to His Lordship's desire, I will endeavour to collect a party of people for that destination by the month of April or May, which will be the date of sailing of the first Emigrant Ships next season. I cannot of course have the same assurance of collecting them for a new Place as for districts, to which a considerable number of the friends and Neighbours of people in this Country have already proceeded; but it will be my duty to do my best, and I would take the liberty of mentioning that it has for some time been my wish to be able to devise the best means of encouraging by Emigration from home the promising settlement of Port Philip.

I would suggest that Sir George Gipps should be apprized at once of the intention to endeavour to send a Ship about the month of April or May to Port Philip.

The propriety of sending more Ships to the same quarter and the number to be so sent will probably be considered to depend in a great measure on the accounts, which may in the mean while arrive of the state of the settlement.

I have, &c.  
T. F. ELLIOT.



LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 3, per ship Ferguson.)

1839.  
2 Jan.

Sir, Downing Street, 2nd January, 1839

I have received your dispatch No. 109 of the 15th July last, reporting the course which you had adopted for the disposal of certain Natives of the Feejee Islands, who had found their way to Sydney. Despatch acknowledged.

I transmit to you herewith a copy of a letter from the Secretary to the Treasury approving of the expenditure, which you incurred in sending the natives back to their Country. I have however to call your attention to the observations contained in the enclosed letter in regard to the mode of directing issues from the Military Chest. Approval of expenditure on return of Fijians.

I have referred your dispatch No. 109 to the Lords Commissioners of the Treasury for their further information on this subject, and with the recommendation that the maintenance of the Tonga Chief should be defrayed, as you propose, by the Public. That dispatch had not reached this Department at the date at which the enclosed letter was written. I have, &c., Maintenance of Tongan chief.

GLENELG.

[Enclosure.]

MR. F. BARING TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 17th December, 1838.

I have it in command from the Lords Commissioners of Her Majesty's Treasury to transmit copies of a letter from Depty. Commissary General Miller, dated New South Wales, 20th July last, and of the Letter addressed to him by the Colonial Secretary conveying the directions of the Governor for the issue from the Military Chest at Sydney of the sum of £39 19s. 1d. on account of the Expenditure incurred in providing Rations and Clothing for 11 Natives of the Feejee Islands, found at Sea and landed in that Colony; and I am directed to request that you will lay these papers before Lord Glenelg and apprise His Lordship that, under the circumstances stated, my Lords have admitted the expense as a charge upon the funds of this country, altho. they desire it may be considered that they will not consider such a sanction as a precedent for future occasions, because they think as a general principle that such charges should be borne upon the revenues of the Colony, but that, as by their Lordships' regulations all issues from the Military Chest except for Convict services can only be correctly made on an authority from the Officer commanding the Troops, they would be glad if His Lordship would point out to Sir George Gipps that his views on the subject should have been addressed to the Officer Commanding and not by the Colonial Secretary to the Commissariat Officer. Approval of expenditure on return of Fijians.

I have, &c.,

F. BARING.

[Sub-enclosure No. 1.]

DEP. COM.-GENL. MILLER TO SECRETARY OF TREASURY.

Sir, Commissariat Office, Sydney, 20th July, 1838.

For the information of the Lords Commissioners of Her Majesty's Treasury, I transmit herewith a copy of a Letter from the Instructions re issues from military chest.

1839.  
2 Jan.  
Expenditure  
on Fijians.

Colonial Secretary, dated 12th May last, conveying the directions of the Governor for defraying from the Military Chest the expense of maintaining 11 Natives of the Feejee Islands, who were found at Sea and landed in this Colony, where they remained from the 23rd April to the 3rd Instant, when they were taken on board Her Majesty's Ship Conway to be conveyed to their homes.

The expense incurred for provisions for the purpose was £34 3s. 2d., and Clothing was also supplied to them from the Ordnance Stores to the value of £5 15s. 11d.

I have, &c.,  
W. MILLER, D.C.G.

[Sub-enclosure No. 2.]

COLONIAL SECRETARY THOMSON TO DEP. COM.-GENL. MILLER.

Colonial Secretary's Office,  
Sydney, 12th May, 1838.

Sir,

Orders for  
maintenance  
of Fijians and  
Tongan chief.

Nine Natives of the Feejee Islands having been picked up at Sea by the Schooner "Jess," and brought to Sydney, I am directed by the Governor to inform you that, as these men are thrown upon the hospitality of Government and may if treated well be made the means of much good and perhaps have the power of saving the lives of shipwrecked Europeans in their own country, His Excellency has desired an arrangement to be made for lodging and supporting them until some opportunity offers of returning them to their native place. Accordingly the Master Attendant at the desire of His Excellency has procured permission from Mr. Mitchell for them to lodge on board the Macclesfield; and I am directed by Sir George Gipps to request that they may each be supplied with the following weekly ration by your Department, as the cost must be borne by the Military Chest, the Empire at large being concerned in the civilization of the Islands of the South Seas, namely,

7 lbs. Beef; 7 lbs. Bread; 7 lbs. Vegetables; 2 oz. Tea (two ounces); 1 lb. Sugar (one pound).

Rations are also to be supplied of the same articles to a Chief of Tonga and his man, who are to be lodged with the others, making in all Eleven persons to be victualled. I have, &c.,

E. DEAS THOMPSON.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 4, per ship Fergusson; acknowledged by Sir George Gipps, 24th December, 1839.)

Sir,

Downing Street, 2nd January, 1839.

Correspondence  
re passage  
for bishop of  
Australia.

I transmit to you herewith for your information and guidance copies of a correspondence between this Department and the Board of Treasury, relative to the payment of the passage of the Bishop of Australia on board Her Majesty's Ship Conway, when on a visitation within his Diocese between the 7th of April and the 16th of June last.

I have, &c.,  
GLENELG.

[Enclosure No. 1.]

1839.  
2 Jan.

MR. F. BARING TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 20th December, 1838.

I have it in command from the Lords Commissioners of Her Majesty's Treasury to transmit Copy of a Letter from the Board of Admiralty, dated 10th Instant, recommending the payment of £156 to Captain Bethune, of H.M.S. "Conway," for the passage of the Bishop of Australia, when on a visit to the different Districts of his Diocese between 7th April and 16th June last, and I am directed to request that, in submitting the same to Lord Glenelg, you will state that my Lords apprehend the charges of the Bishop of Australia's Periodical Visitations will be defrayed from the Revenues of the Colonies comprised within the Diocese, and that the Agent General for New South Wales and Van Diemen's Land should therefore be instructed to discharge the Claim in question.

Payment for  
passage of  
bishop on  
H.M. ship  
Conway.

I have, &c.,

F. BARING.

[Sub-enclosure.]

SIR JOHN BARROW TO MR. A. Y. SPEARMAN.

Sir, Admiralty, 10th December, 1838.

Her Majesty's Ship Conway having afforded a passage to the Bishop of Australia when on a visit to the different Districts of his Diocese between the 7th of April and 16th of June last, and Lord Glenelg being of opinion that the expence of this passage should be paid by the Public, I am commanded by My Lords' Commissioners of the Admiralty to request you will move the Lords Commissioners of Her Majesty's Treasury to cause the sum of one hundred and fifty six pounds to be paid to Mr. J. A. Ince, Agent to Captain C. R. Drinkwater Bethune of the "Conway," on that officer's account, as the Allowance to which he is entitled for the passage in question.

Payment  
proposed to  
C. D. Bethune.

I have, &c.,

JNO. BARROW.

[Enclosure No. 2.]

UNDER SECRETARY STEPHEN TO MR. A. Y. SPEARMAN.

Sir, Downing Street, 7th January, 1839.

Having laid before Lord Glenelg your letter of the 20th ultimo, I am directed to request that you will acquaint the Lords Commissioners of the Treasury that the Colonial Agent has been directed to pay to the Agent of Captain Drinkwater Bethune the allowance of £156, to which he appears to be entitled on account of the passage afforded to the Bishop of Australia in Her Majesty's Ship Conway. Lord Glenelg has directed that the Agent should make this payment in the first instance from the Revenue of New South Wales, and should inform the Governor of that Colony that he has so done in order that a proper adjustment may be made of the charge if the visitation of the Bishop should have extended to Van Diemen's Land.

Payment to  
be made by  
colonial agent.

Lord Glenelg has also instructed the Governor to notify to the Bishop of Australia that a communication should be made to this Department on every occasion, on which he applies to any of Her Majesty's Naval Officers for a passage, and that in the present case,

Instructions  
to bishop re  
future  
payments.

1839.  
2 Jan.

as in all others, any payment made on this account in the absence of express advices from him can be considered only as advances, made provisionally on his credit and subject to be charged against him in account, unless the specific expenditure should be expressly approved by the Secretary of State.

I have, &c.,  
JAMES STEPHEN.

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LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 5, per ship Fergusson.)

Sir, Downing Street, 2nd January, 1839.

Despatch  
acknowledged.

I have received your despatch No. 101 of the 8th July last, enclosing a copy of an Act of the Local Government for the Investment of Monies belonging to Intestate Estates by the Supreme Court in the Sydney Savings Bank.

Reference to  
treasury of act  
re intestate  
estates.

I have thought it right to refer this Act for the consideration of the Lords Commissioners of the Treasury before finally signifying to you the Queen's Pleasure with regard to it.

Denial of  
claims of  
J. E. Manning.

With reference to the representation of the Registrar of the Court as to the injury, which he would sustain by the removal of the property in question from his custody, I cannot admit that he has the least ground of complaint on that account.

From the explanations which I have received from Mr. Stephen in reference to Mr. Manning's statement of conversations with him, I am satisfied that Mr. Manning has no reasonable cause for disappointment on account of any such expectations as he describes to have been held out to him at this Office.

I may take this opportunity of observing that no claims can be entertained by Public Officers or indeed by any individuals proceeding to New South Wales, which rest merely on verbal communications alleged to have been held either with myself or with any Member of this Office.

I have, &c.,  
GLENELG.

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LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 6, per ship Fergusson.)

Sir, Downing Street, 2nd January, 1839

Despatch  
acknowledged.

I have received your despatch No. 69 of the 1st May last, in which you submit the question as to the restoration of property to Convicts on their obtaining Tickets of Leave, and particularly with regard to the case of the Convict Herring.

Instructions  
re restoration  
of property  
to convicts.

Having referred that question for the consideration of the Secretary of State for the Home Department, I now transmit, for your information and guidance, a copy of the communication, which has been received in reply with the report therein

enclosed from the Law Officers of the Crown; and I beg to call your attention to the suggestion of Lord John Russell that in general, if the practice of restoring to Convicts part of the property forfeited be continued, the sums given up or rather granted to the Convict (to which he has no title by law) should not exceed Twenty five or Thirty Pounds.

I have, &c.,

GLENELG.

1839.  
2 Jan.

Instructions  
re restoration  
of property  
to convicts.

[Enclosure.]

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

Sir, Whitehall, 18th December, 1838.

I have laid before Lord John Russell your Letter of the 16th Ultimo, enclosing the copy of a Despatch from the Governor of New South Wales on the subject of Property belonging to convicts on their obtaining Tickets of Leave, and particularly with regard to the case of Henry Herring, a Transport for life, who has received that Indulgence, and has applied for a sum of money which had been placed in the Savings Bank at Sydney on his arrival in that Colony; and also for the restoration of some Jewellery, which was in his possession at that time, but was soon afterwards sent to this Country for the reasons stated in the then Governor's Despatch, enclosed in Lord Bathurst's letter to this Office of the 9th of March, 1827.

Letter  
acknowledged.

Lord John Russell, in order to put Lord Glenelg in possession of the opinion of the Law Officers upon a case bearing upon this subject, which had been referred to them, has directed me to transmit to you a copy thereof for his Lordship's information, in which opinion Lord John Russell fully concurs; and under these circumstances he thinks that no part of the Remaining property above referred to in the case of Henry Herring, mentioned by Sir G. Gipps, ought to be restored to that person. And in general Lord John Russell is of opinion that, if this practice of restoring to Convicts part of the property forfeited be continued in the Colony, the sums given up or rather granted to the Convict (to which he has no title by law) should not exceed twenty five or thirty pounds.

Refusal to  
restore  
property to  
H. Herring.

Limitation of  
sums to be  
restored to  
convicts.

I am, &c.,

S. M. PHILLIPPS.

[Sub-enclosure.]

CASE as to the disposal of deceased Convicts' effects, deposited in the Savings Bank at Van Diemen's Land.

THE following is copy of a representation, made by the Commissioners for Auditing the Public Accounts to the Lords of Her Majesty's 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 Treasurers of New South Wales that, for some years past, small sums are occasionally brought to credit in respect to proceeds of the effects of Convicts, who have either died on their passage out or since their arrival in the Colony, which 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.

Problem of  
disposal of  
property of  
deceased  
convicts.

1839.  
2 Jan.

Problem of  
disposal of  
property of  
deceased  
convicts.

The sums in question are not however in the first instance remitted to the Agent, but notice of their having been received 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 in to the Colonial Chest therefore generally remain deposited there.

We have now four such cases before us in respect of proceeds of Convicts' effects lodged in the Colonial Chest at New South Wales in the years 1828, 1829, 1830, and not paid to the representatives of the parties; and, although 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 Establishment.

We apprehend that Mr. Capper, the Agent for Convicts, would be the most proper person to take charge of such monies, which he could hold until the same were claimed by the representative of the parties; and that the accounts and documents in 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 application being made.

If your Lordships should concur in this suggestion, we beg leave to recommend that directions be given to the Governors of New South Wales and Van Diemen's 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.

THE Lords of the Treasury were pleased to order a return to be made of the unclaimed Effects of deceased Convicts in possession of the Government of Van Diemen's Land; and the accompanying statement shewing the amount and names of every Deceased Convict, to whose credit money has been placed in the Institution originally, with Interest due thereon to 31 December, 1836, has been transmitted to the Lords of the Treasury, by which it appears that there is a sum of £381 18s. 10½d. standing to the account of the several persons therein named.

Upon enquiry at the Home Office, it is understood that it is the practice to take from the Convicts, before or at the time of their embarkation, all sums of money which may be in their possession,

to remit them to be invested in the Savings Bank at Van Diemen's Land, in which Bank also the savings of Convicts, having what are termed tickets of leave and conditional Pardons from the Governor, are invested. The monies, of which the total of £381 18s. 10½d. is formed, are composed of both these descriptions of Property; but there is no means of distinguishing them in this Country.

1839.  
2 Jan.

Problem of disposal of property of deceased convicts.

By the 5th Geo. 4, Cap. 84, Sec. 26, it is enacted quid vide.

In dealing with the property of deceased Felons, it has been the practice for the Crown, under the advice of the Lords of the Treasury, to distribute their effects in the same manner as they would have been divisible under the Statutes of distribution in case of Intestacy, provided the parties are fit objects of the Crown's Bounty.

Lord John Russell has been pleased to direct these papers to be laid before the Attorney and Solicitor General for their opinion.

Legal opinion re disposal of property of deceased convicts.

Whether the said several sums of Money in the Savings Bank, standing in the name of the said Convicts, belong to the Crown?

We are of opinion that so much of the before mentioned sum of £381 18s. 10½d. as is made up of sums taken from Convicts before or at their embarkation, with Interest for the same, belongs to the Crown; but that so much as consists of sums saved by Convicts, having received absolute or conditional remissions of punishment from the Governor, as mentioned in the statute 5 Geo. 4, Cap. 84, S. 26, belongs not to the Crown, but to the representatives of the deceased Convicts.

And if so whether there is any objection to the Government taking possession of this Money and applying it to the purposes of the Convicts' Establishment in England or the Colony?

We see no objection to the Government taking possession of so much of this Money as belongs to the Crown, and applying it as proposed.

J. CAMPBELL.  
R. M. ROLFE.

Temple, 29th November, 1837.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 2, per ship Hygeia; acknowledged by lord John Russell, 4th September, 1840.)

My Lord, Government House, 2 Jany., 1839.

By your Lordship's Despatch of the 30th Jany. last No. 71, I was directed to transmit to your Lordship a more ample report, than had been furnished by my Predecessor, on the necessity of the appointment of a Crown Prosecutor in New South Wales, the nature and amount of business transacted at quarter Sessions, and also the opinions of the Judges and Magistrates holding Sessions, on the creation of the office. By the same Despatch, I was also directed to notify to Mr. Holden that, even if it should be considered proper to sanction the establishment of such an office, he must be considered as holding it only provisionally.

Instructions re report on necessity for crown prosecutor.

I have first to report to your Lordship that, on making this communication to Mr. Holden, he instantly tendered his

1839.  
2 Jan.

Resignation of  
G. K. Holden  
as crown  
prosecutor.

resignation of the newly created office, and that he accordingly ceased to be Crown Prosecutor with the expiration of the year, which ended on the 31st Ultó.

A copy of Mr. Holden's letter, I have herewith the honor to enclose.

Transmission  
of reports *re*  
quarter sessions  
and necessity  
for crown  
prosecutor.

I have also the honor to enclose Copies of the following documents, received in answer to the communications, which, by your Lordship's orders, I caused to be made to the Judges, Magistrates and others, as to the nature and amount of the business, transacted at Quarter Sessions, and the necessity for the appointment of a Crown Prosecutor.

A Letter from the Judges, dated 9th Augt., 1838.

A Second Letter from the Judges, in which the mode of proceeding, recommended by their Honors, at Quarter Sessions is more specifically detailed, though this letter was written in answer to a reference made to them on the subject of the duties of the Clerk of the Peace.

A Letter from the Attorney General, dated the 23rd Oct.

A Letter from the Chairman of Quarter Sessions, dated the 19th Sept.

An Abstract of the Answers from the Magistrates of different Benches, shewing their opinions as to whether or not the appointment was necessary.

In these various documents, there is so little harmony that I may confess to your Lordship, they served rather to perplex than enlighten me.

Opinion of  
judges;

The Judges expressed their opinion that the Attorney General should be represented in the Courts of Quarter Sessions by a Barrister, but that the appointment of any one Barrister to represent him, under the name of a Crown Prosecutor, was not desirable. (Mr. Holden, your Lordship is aware, was not a Barrister.)

of attorney-  
general;

The Attorney General earnestly insisted on the necessity of the appointment of a Crown Prosecutor, and preferred that he should be a Barrister.

of chairman  
of quarter  
sessions;

The Chairman of the Quarter Sessions concurred entirely with the Attorney General.

and of  
magistrates.

The Benches of Magistrates were nearly equally divided; but those, who were against the appointment of a Crown Prosecutor, considered that the Crown business at Quarter Sessions might be conducted entirely by the Clerk of the Peace, therein differing not only from the Chairman and Attorney General but also from the Judges.

Considering the authority of the Judges to be in matters of this sort the highest, I determined in the first instance to act



upon their recommendation; and, after several personal conferences with their Honors, I drew out a plan, of which the following is the outline:—

1. That there should be no Crown Prosecutor;
2. That Informations should be drawn in the office of the Crown Solicitor, in the same way for Quarter Sessions as they are for the Supreme Court;
3. That a Clerk from the same office should attend at Quarter Sessions, and that with his assistance the Chairman should dispose of all cases, which did not in the opinion of the Attorney General, require the employment of Counsel;
4. That, in cases in the opinion of the Attorney General requiring the employment of Counsel, Briefs should be delivered by the Clerk from the Crown Office to such Barrister or Barristers (in attendance on the Court) as the Attorney General might direct;
5. That the ordinary fee in such cases to Counsel should be One Guinea; and that no more should be given, without special direction, either from the Attorney General or the Governor;
6. That the Office of Clerk of the Peace for Quarter Sessions for the County of Cumberland should be abolished, and that the same person, who acts as Clerk to the Bench of Magistrates, should at each place act as Clerk of the Peace.

My order for carrying this plan into effect was scarcely promulgated, when I received from the Attorney General so strenuous a remonstrance against it, that I requested the three learned Judges to meet him at Government House and to hold a conference with me on the subject. In this conference, it was argued by the Attorney General, and I think successfully, that the new plan would be neither economical nor efficient; that Barristers would not be induced to attend at the distant places where Quarter Sessions are held (Bathurst and Maitland) for so small a fee as one Guinea; That Defendants would also be found to pay better than the Crown, fifty Guineas being now by no means an uncommon fee offered to induce a Barrister, or even a Solicitor in good practice, to go to Bathurst; and that, in cases of importance, such as appeals against Convictions for the illegal sale of Spirituous Liquors, in which the Appellants are frequently people of considerable wealth though of low character, all the Barristers in attendance would be engaged against the Crown.

These arguments, My Lord, had considerable effect not only on myself but on the learned Judges; and the conference ended in their Honors declaring that, as they had neither presided nor practised at Quarter Sessions within the Colony, they did not

1839.  
2 Jan.

System evolved for conduct of crown prosecutions.

Conference with judges and attorney-general.

Arguments by attorney-general against proposed system.

Modification of opinion of judges.

1839.  
2 Jan.

wish to press their opinions against those of persons, who had by long experience acquired an intimate knowledge of the Courts.

Appointment  
of F. Moore  
as crown  
prosecutor.

Such being the result of the conference, I considered it right to recall the order which I had just issued; and, Mr. Holden having resigned, I beg leave to state that I have, on the recommendation of the Attorney General and the Judges, appointed Mr. Francis Moore to act as Crown Prosecutor at Quarter Sessions, until your Lordship's pleasure shall be known.

Mr. Moore has been less than a year in this Colony, but he is an English Barrister, admitted to the Bar in 1836, and went in England the Oxford Circuit.

Report *re*  
quarter  
sessions.

For information respecting the amount of business usually transacted at Quarter Sessions, I beg to refer your Lordship to the letter of the Chairman, Mr. W. M. Manning, which is among the Enclosures to this Despatch.

I have, &c.,

GEO. GIPPS.

[Enclosures.]

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

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 3, per ship *Hygeia*; acknowledged by lord John Russell, 16th December, 1839.)

3 Jan.

My Lord,

Government House, 3rd Jany., 1839.

Inconvenience  
caused by  
inefficiency of  
F. Garling as  
clerk of peace.

I beg leave to inform your Lordship that, in the month of May last, a report was made to me by the Attorney General of the great inconvenience, which frequently occurred at Quarter Sessions, from the inefficiency (arising from age and infirmity) of the Clerk of the Peace, Mr. Garling; but the arrival of your Lordship's Despatch, No. 71 of the 30th Jany., 1838, having rendered necessary an enquiry into the mode of conducting business at the Quarter Sessions, I postponed, until after that enquiry should be finished, the consideration of the retirement of Mr. Garling, his duties being intimately connected with those of the Crown Prosecutor; having however, in my Despatch of yesterday, No. 2, reported to your Lordship the circumstances under which I have thought it necessary to appoint Mr. Francis Moore to act as Crown Prosecutor, I now beg further to inform your Lordship that I have sanctioned the retirement of Mr. Garling from the office of Clerk of the Peace, and appointed as his successor Mr. Edward Rogers.

Retirement of  
F. Garling and  
appointment of  
E. Rogers.

The salary enjoyed by Mr. Garling was £400 a year, and he had an allowance also of £100 a year for travelling expences. His appointment was that of Clerk of the Peace for the County of Cumberland; and he attended as such at the Quarter Sessions,

which are held at each of the four following places within that County, vizt., Sydney, Parramatta, Campbell Town and Windsor. His duties however did not extend to the two other places, Maitland and Bathurst, at which Quarter Sessions are held, they being beyond the County of Cumberland. Mr. Garling was allowed no Clerk to assist him in his duties; and, as his infirmities increased, instances of negligence in the serving of subpoenas, the lodging of informations, or the bringing Prisoners to trial, became more frequent. In the month of May last, when the Court was opened at Campbell Town, the Prisoners were thirty miles off at Sydney; and at the same place, at the Quarter Sessions of Novr. last, though the Prisoners were there, no witnesses had been summoned.

1839.  
3 Jan.

Duties of  
F. Garling.

Instances of  
negligence of  
F. Garling.

Mr. Garling came to New South Wales 24 years ago, under an agreement which was communicated to Governor Macquarrie by a Despatch from Lord Bathurst, dated the 5th July, 1814, No. 31; Mr. Garling insists that the Salary of £300 a year, mentioned in that Despatch, was secured to him only as a compensation for giving up his prospects in England, and that he was entitled to receive and did receive for many years remuneration for his services to the Local Government, without any abatement on the account of his salary. I transmit herewith a Copy of a letter, which I have received from Mr. Garling on this subject; and, though I cannot admit that he has entirely made out his case, I find an impression very generally to exist in the Colony that he came out from England under an engagement, which entitles him to an income for life of at least £300 a year. Mr. Garling having been allowed no Clerk, the Records of the Courts of Quarter Sessions, of which he is the keeper, are understood to be in a very confused and unsatisfactory condition; on this subject, as well as on that of his employment generally, I beg leave to refer to a letter from the Judges, dated the 17th Sept., 1838, of which I forwarded a Copy with my Despatch of yesterday, No. 2.

Terms of first  
engagement of  
F. Garling.

Claim of  
F. Garling to  
annual salary.

Mr. Garling states his age to be 63. I propose to give him for the present year 1839 the sum of £300, but on condition that, within the year, he shall arrange in a proper manner and deposit in a place to be appointed for the purpose all the records and other documents relating to the Courts of Quarter Sessions, which are now understood to be in his private residence; and I would further ask your Lordship's permission to propose to the Legislative Council such a retiring allowance (not exceeding £300 a year) as your Lordship may be pleased to sanction, or such an equivalent in ready money as the Legislative Council may be disposed to vote; The Council having on recent occasions,

Records of  
quarter  
sessions to be  
arranged by  
F. Garling.

Proposed  
retiring or  
commutation  
allowance.

1839.  
3 Jan. referred to in my Despatches of the 13th Oct. last, Nos. 162 and 163, manifested a preference for this mode of remunerating Public officers on retirement.

Qualifications of E. Rogers. Mr. Rogers, whom I have appointed Clerk of the Peace (subject to your Lordship's approval), is an Attorney of the Supreme Court, and twenty seven years of age. He has been employed for some years in the office of the Crown Solicitor (Mr. Fisher) and is, of any persons who would undertake the office, the most competent I could select. In addition to the duties with which his predecessor was charged, he will in many (if not all) cases have to prepare Briefs for the Crown Prosecutor. Mr. Holden, the late Crown Prosecutor, being himself an Attorney, drew his own Briefs, or rather acted in most cases without them; but, a Barrister being now appointed, the etiquette of the profession will, I believe, entitle him to have Briefs, if he choose to demand them.

Proposed duties of E. Rogers. I beg in conclusion to recommend Mr. Rogers to your Lordship for confirmation in the office, to which I have provisionally appointed him.

Proposed confirmation of appointment. I have, &c.,  
GEO. GIPPS.

[Enclosure.]

[A copy of this letter is not available.]

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 7, per ship Fergusson.)

4 Jan. Sir,  
Downing Street, 4th January, 1839.

Despatch acknowledged. I have received your despatch and its enclosures No. 108, of the 15th of July last, reporting a fatal attack, which had been made on a British Schooner called the "Sir David Ogilby" by the natives of one of the Feejee Islands.

Approval of action re schooner Sir David Ogilby. I approve of your proceedings in this unfortunate case, and I have recommended the Lords of the Treasury to sanction the payment, which you have authorized to be made to three of the crew of the "Sir David Ogilby," who have again proceeded to the Feejee Islands in Her Majesty's Ship "Conway" for the reasons stated in your despatch.

I have, &c.,  
GLENELG.

SIR GEORGE GIPPS TO LORD GLENELG.  
(Despatch No. 5, per ship Hygeia; acknowledged by marquess of Normanby, 8th July, 1839.)

5 Jan. My Lord,  
Government House, 5 Jany., 1839.

With my despatch of the 5th Octr. last, No. 156, I transmitted to your Lordship a Copy of a letter from Mr. Busby, British Resident at New Zealand, containing a Report of the

way in which a Native of that Island had been tried and executed for the murder of a British subject, and also a Copy of the opinion expressed on the nature of that proceeding by the Attorney General of New South Wales.

1839.  
5 Jan.

Reports *re* trial  
and execution  
of Maori.

I have now the honor to submit to your Lordship a Copy of the letter, which Mr. Busby has addressed to me on being furnished by me with a Copy of the Attorney General's opinion.

I have, &c.,  
GEO. GIPPS.

[Enclosure.]

[A copy of this letter will be found in a volume in series III.]

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 6, per ship *Hygeia*; acknowledged by  
marquess of Normanby, 1st August, 1839.)

My Lord,

Government House, 6th Jany., 1839.

6 Jan.

The increase in the trade and shipping of the Port of Sydney, and the frequent recurrence of cases requiring Vessels to be placed in Quarantine, have been such as to cause of late much inconvenience to be felt both by this Government and the Public, from the want of an officer of Health, who should, as is customary in considerable harbours of all Nations, visit every ship on its arrival, examine into the state of health of all on board, and be the organ of the Government in carrying the Quarantine Laws into effect. From the want of a Professional Health Officer, ships are now frequently detained at the entrance of Port Jackson on the report only of the subordinate officer of Customs, who is the first to visit them; after his report is received, delay frequently will occur in finding a Medical Officer to send down the Harbour, and, when the services of one are engaged, they must of course be paid for by the Local Government.

Necessity for  
health officer  
for port of  
Sydney.

When Emigrant Vessels are in Quarantine, a similar want has been felt of some Professional person, through whom the Government may communicate with the Medical officers in the Lazaretto, and by whose advice it may be guided; and finally, a difficulty frequently has arisen in affording Medical assistance to Emigrants, who have landed or come from the Quarantine ground in a state to require it.

It is under these circumstances, I beg to report to Your Lordship, that I have appointed Mr. John Dobie to be Health Officer of the Port of Sydney, and to perform the duties above mentioned, subject to your Lordship's approval.

Appointment  
of J. Dobie.

1839.  
6 Jan.  
Qualifications  
of J. Dobie.

Mr. Dobie is a Surgeon in the Navy of high character, and of great zeal and activity. He has made three voyages to this Colony in charge either of Convict or Emigrant ships, has served twice as Surgeon to Flag ships, and been in Medical charge of the Naval Department at Trincomalee. He came last to this Colony as Surgeon Superintendent of the ship "Duncan," which, after a very protracted and boisterous passage, arrived in very good condition. He also a few weeks ago went voluntarily into Quarantine in order to assist in the Medical attendance on the Emigrants by the "William Roger."

Salary for  
health officer.

The salary, which I propose to give to Mr. Dobie, is £300 a year without other allowances of any sort; but with permission to practice privately.

In the event of your Lordship's approving of the appointment of Dr. Dobie, I beg leave to state, that it will be proper to apply to the Lords of the Admiralty, for their sanction to his employment in the Colonial service.

I have, &c.,

GEO. GIPPS.

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SIR GEORGE GIPPS TO LORD GLENELG.  
(Despatch No. 7, per ship Hygeia.)

7 Jan.  
Transmission of  
suggestions by  
judges *re*  
alterations in  
administration  
of justice.

My Lord,

Government House, 7th January, 1839.

With reference to my Despatch No. 1 of the present month, I have the honor now to forward to your Lordship Copies of the Papers, which I have received from the Judges in answer to the letter which I addressed to them on the 3rd Decr. last, soliciting their opinions on the alterations which it may be desirable to introduce into the system of Judicature and the administration of Justice in New South Wales.

Alterations to  
be left to local  
legislature.

As it appeared to me that the greater part of the alterations, proposed by the learned Judges, are such as might more properly be left to the regulation of the Local Legislature than made the subjects of Imperial Enactment, your Lordship will perceive that I have, with few exceptions, in my Despatch of the 1st instt., proposed no farther deviation from the 9th Geo. IV, Ch. 83, than will be necessary to bring the matters in question within the immediate cognizance of the authorities on the spot.

Provision for  
abolition of  
assessors in  
supreme court.

One of these exceptions was that I proposed by an alteration in Clause 8 of the present Act (9th Geo. IV, Ch. 83) to abolish the mode now in use of trying Issues in the Supreme Court by a Judge and two Assessors; when I made this proposal, I was under the impression that all the Judges concurred in recommending it; but, as I find from Mr. Justice Burton's Paper that this is not the case, I would respectfully beg leave to recommend

that in this case also, permission only should be given to the Local Legislature to make the alteration, whenever it may be deemed proper to do so. This might probably be effected by the insertion of the following words at the commencement of the 8th Clause\*:

1839.  
7 Jan.

Provision for  
abolition of  
assessors in  
supreme court.

“Until it shall be otherwise provided by any Act or Ordinance to be passed as hereinafter directed by the Governor and Council of New South Wales, or Van Dieman’s Land.”

I have, &c.,

GEO. GIPPS

[Enclosures.]

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

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 8, per ship Hygeia.)

My Lord,

Government House, 8th Jan. 1839.

8 Jan.

With reference to my Despatch of the 19th Decr. last, No. 200, in which I announced to your Lordship that the sentence of the law had taken its course on seven unhappy men, who had been engaged in a most atrocious massacre of the Aborigines of this Country, I think it right to enclose to your Lordship a copy of a letter written by the Principal Gaoler of Sydney to the Sheriff, in which the Gaoler (Mr. Keck) states that each and all of these men, at different times during their confinement, acknowledged to him their Guilt.

Confession of  
guilt by  
murderers at  
Myall creek.

I have, &c.,

GEO. GIPPS.

[Enclosure.]

[A copy of this letter is not available.]

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 9, per ship Hygeia; acknowledged by lord John Russell, 29th October, 1839.)

My Lord,

Government House, 9th Jan., 1839.

9 Jan.

Herewith I have the honor to transmit to your Lordship a copy of a letter, which was addressed to me on the 11th Decr. last by the Lord Bishop of Australia, in consequence of my having (in answer to his enquiries) informed his Lordship that I had been fully authorised by your Lordship to sell a portion of the Lands, granted to the late Church and School Corporation.

Protest by  
bishop of  
Australia re  
sale of clergy  
and school  
estates.

I beg to state that the letter, referred to by the Bishop as having been written by the Judges on the 8th Augt., 1831, is not on record in the office of the Colonial Secretary.

\* Note 130.

1839.

9 Jan.

Protest by  
bishop of  
Australia *re*  
sale of clergy  
and school  
estates.

As I can see nothing in the Lord Bishop's letter to make me doubt the legality of the orders, which have been so repeatedly given by different Secretaries of State for the sale of these lands, and particularly by your Lordship in the Despatch, which was addressed to me on the 24th Novr., 1837, No. 32, it is my intention to proceed with the sale of such portions of these lands as are already advertised.

Appropriation  
for church of  
England.

Considering that the Legislative Council has voted for the present year not less than £44,000 to defray the expense of the establishments, for support of which the lands were originally given, the claim that the lands shall be left unsold, and consequently unimproved, to the detriment of the Colony (since no man will here expend Capital on Land of which he has not the fee simple) does, I must say, appear to me preposterous in the extreme.

I have, &c.,

GEO. GIPPS.

[Enclosure.]

[A copy of this letter is not available.]

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 10, per ship Hygeia; acknowledged by marquess of Normanby, 6th July, 1839.)

My Lord,

Government House, 10th Jany., 1839.

I have received from Mr. Joseph Catterall a Copy of a letter, which he informs me he addressed to your Lordship on the 15th ulto., in consequence of my having declined either to remit a Fine, which had been imposed upon him by Mr. Justice Burton for a contempt of Court, or to institute any enquiry into the propriety of the conduct of Mr. Justice Burton on that occasion; and I in consequence enclose for your Lordship's information a copy of a letter, which I received from Mr. Justice Burton in answer to my enquiries respecting the imposition of the fine, as well as a copy of an official report made to me by the Attorney General.

On the subject of Mr. Catterall's complaint I will only add:

1st. That he is incorrect in stating that the Attorney General was employed as Counsel against him; the Attorney General expressly declares that he was sitting as a spectator in the Court, when the fine was imposed, having declined to be engaged in the cause;

2ndly. That Mr. Catterall had been heard by the three Judges of the Supreme Court, sitting in Banco, therefore that the enquiry, prayed by him at my hands, had been already made;

10 Jan.

Complaint by  
J. Catterall *re*  
fine imposed  
for contempt  
of court.

Replies to  
items of  
complaint.



3rdly. The imposition of the fine was naturally (as stated by the Attorney General) taken into consideration by the Court, when judgment was pronounced against him for the offence of which he had been found guilty.

I have, &c.,

GEO. GIPPS.

1839.  
10 Jan.

[Enclosure No. 1.]

MR. JUSTICE BURTON TO SIR GEORGE GIPPS.

My dear Sir,

Sydney, 10th October, 1838.

I return you the Memorial of Joseph Catterall; the Accusation against me, which is contained in it, is unfounded. He was properly fined; he was heard before the full court by his counsel against that fine; and it was confirmed. Without, therefore, that investigation he Solicits, I should think the remission of it to be improper.

For my own part, I have nothing to fear from such an investigation, but expect that my conduct, which has been much misrepresented by him and others in Concert with him, will appear as clear to Your Excellency as it does to my own conscience; I am not insensible, however, to the advantages to be gained over me by delay, if an investigation should hereafter be pressed upon your Excellency in consequence of the Memorialist forwarding his Complaint to England; and I would therefore request your Excellency to refer the Matter to the Attorney General and receive his opinion thereon, in order that any investigation, which you may be advised to institute, may take place immediately, whilst there are Witnesses enough within reach acquainted, I cannot doubt, with all Joseph Catterall said, and with all I said and did, on whose evidence I may safely rely for my Justification.

I remain,

W. W. BURTON.

[Enclosure No. 2.]

MR. J. H. PLUNKETT TO SIR GEORGE GIPPS.

Sir,

Attorney General's Office, 12th October, 1838.

I have the honor herewith to return the Memorial of Joseph Catterall, respecting a fine of £50 lately imposed on him by Mr. Justice Burton, in which he prays a remission of the fine, or to cause such investigation to be made as to your Excellency shall seem fit.

After a careful perusal of that Memorial, and balancing its contents with what I know to be the real facts of the case, I cannot advise your Excellency to comply with the Prayer of it either "by remitting the fine, or causing any further investigation."

I happened to be present during the whole of Mr. Catterall's trial, Sitting in my place at the Bar merely as a Spectator, having declined to be engaged in it as Counsel; therefore the whole of the Circumstances are within my recollection. The Speech of Mr. Catterall was of so Extraordinary a nature that it is impossible to convey an Accurate idea of it to any one who did not hear it.

It appeared to me that, throughout the entire of it, he aimed more at general abuse of the Military Character, and of Individuals not before the Court and Strangers to the Case, than at any legitimate defence of himself.

Mr. Justice Burton repeatedly remonstrated with him in the mildest manner as to the course he was taking, and also cautioned

Statement by  
W. W. Burton  
re complaint of  
J. Catterall.

Immediate  
inquiry  
proposed.

Report by  
J. H. Plunkett  
re fine imposed  
on J. Catterall  
for contempt  
of court.

1839.  
10 Jan.

Report by  
J. H. Plunkett  
re fine imposed  
on J. Catterall  
for contempt  
of court.

him against it, but all to no effect. It was not until the Judge saw that remonstrance was in vain, and all his cautions were disregarded, that he imposed the fine of £50. I thought at the time, and I think still, the Judge manifested upon the occasion not only good temper but great forbearance towards Mr. Catterall. It was evident to those who heard his Speech that he bestowed much care in its preparation, that he must have written it out and Committed it to memory, as he had the written paper before him, And that it was not an Ebullition of any Momentary excitement, and consequently there was the less excuse for it.

As the Memorialist States "that the power assumed by Judge Burton on that occasion was an Arbitrary one, the Exercise of which has for many Years been unknown in the British Courts," it may be proper in me to state to your Excellency that Mr. Catterall is mistaken.

There is a case stated in Barnwell and Alderson's reports (Rex v. Davidson), which was tried in 1821 before Judge Best (the present Lord Wynford), in which the Defendant conducted his own defence. In the course of which, he made several offensive observations concerning the Christian Religion and derogatory to the character of persons who were not present in Court to defend themselves; after repeated admonitions, the Defendant did not desist, and the Judge fined him three times. 1st £20, 2nd £40, 3rd £40; the case afterwards came before all the Judges of the King's Bench at Westminster, when they all agreed in the power of the Judge to impose the fines, and in the propriety of imposing them.

*Lord Tenterden*, in giving his opinion, said, "If I thought the decision I am about to pronounce could have the effect of restraining any person, who may hereafter stand on his trial, from making a bold as well as a legitimate course of defence, I would pause before I pronounced that decision. The question is indeed a momentous one; it is absolutely a question whether the Law of the Land Shall or shall not continue to be properly administered. For it is utterly impossible that the Law can be so administered, if those, who are charged with the duty of administering it, have not power to prevent instances of indecorum from occurring in their own presence. *That power has been vested in the Judges, Not for their personal protection, but for that of the public; and a Judge will depart from his bounden duty, if he forbears to use it, when occasions arise which call for its exercise.*"

*Judge Bailey* said:—"The question is shortly this, whether, for the future, decency and decorum shall or shall not be preserved in Courts of Justice, or whether, under colour of defending himself against any particular charge, a Defendant is at liberty to introduce New, mischievous and irrelevant matter upon his trial. I agree that a Defendant in all cases should have every facility allowed him in his address to the Jury, provided he confines himself within those rules, which decency and decorum require.

"Of the power of a Judge to fine for a contempt of Court. I have not the least doubt; and I am of opinion also that the Judge alone is competent to determine whether what is done be or be not a contempt, and that neither this Court nor any Co-ordinary Court has a right to examine the Question whether his discretion in that respect was fitly and properly exercised.

"If, in this instance, I were at liberty to express an Opinion. I should certainly say that I see no reason whatever to be dissatisfied

with the exercise of that discretion. *I think the conduct of the Defendant called for the interposition of the Judge, and that he would have abandoned his duty to the public if he had not interfered.*"

1839.  
10 Jan.

Report by  
J. H. Plunkett  
re fine imposed  
on J. Catterall  
for contempt  
of court.

*Judge Holroyd said:—"As far as I can in this case enter into the consideration of the subject as to the propriety of the fines in question, I think the Judge was fully justified in imposing them, and not only fully justified, but was called on in the discharge of his duty to impose them in order to prevent the line of defence, in which it manifestly appears the Defendant was determined to proceed even after a warning had been given to him to desist. The Judge had the defence of the Law entrusted to him; and he must either have permitted a breach of it, in which case I think he would have abandoned his duty, or he must have fined or imprisoned the party."*

From these Extracts of the Judges of the King's Bench of Westminster, your Excellency will see that the power of the Judge is indisputable, and also Your Excellency will See the Legal reasons upon which it is supported. The last fine of £40 imposed by Lord Wynford on the Defendant in the foregoing Case was for Libelling the Bench of Bishops in these terms, "*The Bishops are generally Sceptics.*"

The words, which Mr. Catterall acknowledges having used, were pretty much of the Same character with respect to the body of the Military; indeed all the circumstances of the two Cases are analogous; it must be observed that the trial of Mr. Catterall took place on the 13th of August, and it does not appear that he even made any application to Mr. Justice Burton himself on the Subject between that day and the first day of the following term, that is, the 15th day of September. If he had submitted himself to the Judge and made Such application, it is more than probable that the Judge would remit the fine; but of this I cannot speak with any certainty, never having spoken to Judge Burton on the subject.

On the first day of the present term, the question was fully argued before the full Court, Sitting as a Court of Exchequer to review all fines levied Since the last Civil Term, and the other Judges confirmed *the Legality and propriety of imposing the fine.*

Mr. Catterall having been found guilty by the Jury, the Court sentenced him to pay a fine of £50, which appears to be a lenient fine, and was stated by the Court in pronouncing its Judgment to be Mitigated in Consideration of the other fine of £50, which he had to pay.

Under these circumstances, it does not appear to me that the Memorialist has anything to complain of.

I have, &c.,  
JOHN H. PLUNKETT, Attorney General.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 8. per ship Fergusson.)

Sir, Downing Street, 11th January, 1839.

11 Jan.

I have the honor to acquaint you that the Directors of the Bank of Australasia have applied to the Lords Commissioners of the Treasury for permission to complete the subscribed Capital of the Bank to the full amount authorized by

Authority for  
increase of  
capital of bank  
of Australasia.

1839.  
11 Jan.  
—  
Authority for  
increase of  
capital of bank  
of Australasia.

their Charter of Incorporation, viz., £600,000, and that the Lords of the Committee of Privy Council for Trade have signified their opinion that there was not any objection to a compliance with their application. The Lords of the Treasury have therefore given the assent required by the Provisions of the said Charter for the increase requested by the Directors.

I have, &c.,  
GLENELG.

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LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 9, per ship Fergusson.)

12 Jan.  
Transmission of  
correspondence  
with A.A.  
company.

Sir, Downing Street, 12th January, 1839.

I transmit to you herewith for your information and guidance copies of a correspondence, which has taken place with the Australian Agricultural Company, relative to the three questions of their claim to the exclusive right of working the Coal Mines in New South Wales for a given term, their application for a further exchange of their Land, and their Convict Servants.

On the first point, I shall again communicate with you in answer to your despatch, No. 84 of the 7th of June, 1838, which I now acknowledge, when I shall have received the final report of the Law Officers of the Crown.

I have, &c.,  
GLENELG.

[Enclosure No. 1.]

SIR GEORGE GREY TO MR. J. S. BROWNRIGG.

Sir, Downing Street, 7th December, 1838.

Interpretation  
of agreement  
with A.A.  
company *re*  
coal-mining.

I am directed by Lord Glenelg to acquaint you that, since the date of my Letter to you of the 5th Ultimo, his Lordship has received from the Law Officers of the Crown a report of their opinion on the question whether the terms of the arrangements made by the Government in the year 1828 with the company for working the Coal Mines in New South Wales preclude Her Majesty in point of Law from the right of granting Coal Mines or from the right of working Coal Mines in any part of that Colony.

The Attorney and Solicitor General have reported it to be their opinion that the arrangement in question does not appear to them to impose any restriction whatever on Her Majesty's right of working any Coal Mines in the Colony; that it does prevent Her Majesty from granting Coal Mines to other persons to be worked by them without the previous sanction of the Secretary of State; but that with such sanction Her Majesty may, without at all infringing the terms of the arrangement, make a Grant of Lands including the Coal Mines, or authorize any person to work Coal Mines reserved to Her Majesty.

They further observe that the language of the 10th paragraph of the Letter, addressed by the Colonial Secretary of New South Wales to Sir Edward Parry on the 25th June, 1830, is certainly

somewhat ambiguous; but that, in its grammatical construction, the consent of the Secretary of State may be extended to authorise the Grant of Coal Mines, as well as the use of Convict Labour; and that, as the evident intention was to enable the Secretary of State to prevent the possible mischief of a monopoly in the Company, and it might be impossible to carry out that intention without a grant of Mines on which Convict Labor might be employed, they think that construction must be adopted which refers the consent of the Secretary of State to both Members of the sentence.

Having communicated this opinion to the Company, Lord Glenelg directs me to add that he will be happy to receive a Deputation of the Directors on any day next week at one o'Clock.

I have, &c.,  
GEO. GREY.

[Enclosure No. 2.]

MR. J. S. BROWNRIGG TO LORD GLENELG.

Australian Agricultural Company,

My Lord. 12 King's Arms Yard, 22nd December, 1838.

On the part of the Directors of the Australian Agricultural Company, I beg leave to lay before your Lordship the annexed Copy of a Letter, addressed by the Colonial Secretary at New South Wales to our Acting Commissioner, Mr. Ebsworth, under date the 28th of June last, and of Mr. Ebsworth's reply of the 7th of July following, which have recently reached us.

In the first mentioned Letter, it is stated that "the attention of the Governor having been drawn to the alleged fact of Black or Aboriginal Women frequently living and also travelling about the Country with assigned Servants of the Company, The Governor will, if the fact be well authenticated, be under the necessity of withdrawing the whole of the Men in the District of the Company's possession where it occurs."

We entreat your Lordship's serious attention to this Letter and to the reply of our acting Commissioner. In the absence of any specific case or cases, either as to time, place or person, we can only deal with the accusation of the Governor in the same general way in which it is made; We believe this to be the first complaint of the kind that has been brought against our management of our assigned Servants. We are prepared to prove to your Lordship's satisfaction that our unceasing anxiety, as well as that of our Commissioner, has been directed to the moral improvement of all placed under our Control, and we would submit that the high character in this, as in every other respect of our two last Commissioners, Sir Edward Parry and the late lamented Colonel Dumaresq, will carry conviction that our instructions on this head were not confided to persons at all lukewarm or indifferent to such high and important considerations; we have every reason to believe that our newly appointed Commissioner, Captain King, R.N., will be equally zealous as his Predecessor in using every effort to improve the Morals of all placed under his control.

We submit to your Lordship that the case of the Company's assigned servants cannot fairly be compared with those Individual Settlers, where they are generally few in number comparatively, and in situations where the Master has them much under personal control, aided by the intervention where necessary of Magisterial power to enforce existing Regulations.

1839.  
12 Jan.  
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Interpretation  
of agreement  
with A.A.  
company *re*  
coal-mining.

Association of  
black women  
with servants of  
A.A. company.

Policy of com-  
pany *re* moral  
improvement  
of employees.

Condition of  
convicts  
assigned to  
company.

1839.  
12 Jan.  
Condition of  
convicts  
assigned to  
company.

Our assigned Servants are congregated in large numbers in three extensive locations, two of which are without the limits of the Colony, and where our supervising officers have not those aids in support of their Authority to which we have alluded; and while we have to contend against the difficulty of keeping young unprincipled convicts under adequate control in that particular, which forms the ground of the Governor's complaint, a difficulty common to all having assigned servants, we have the additional evil of receiving much too frequently, amongst Convicts assigned to us under your Lordship's orders, an undue and unfair proportion of the worst and most depraved characters from the Iron Gangs, circumstance that was much complained of by our late Commissioner, Colonel Dumaresq.

Nevertheless we feel confident, upon an unprejudiced investigation of facts, it will be found that, when their numbers and the foregoing considerations are fairly weighed, the moral state of our assigned servants will be found to bear comparison with that of the Assigned Servants of Individual Settlers.

Criticism of  
allegations of  
Sir G. Gipps.

We cannot but lament that the Governor did not point out the cases and Districts, where the improper conduct he complains of had taken place, when every remedy in the power of our officers would have been applied; and that he has not, as far as we know, taken the trouble to ascertain whether the allegations, which he apparently too readily assumes to be facts, have not been made and propagated by interested Individuals, of whom there are too many in the Colony watching anxiously to benefit by the operation of the threat made by the Governor, should such be carried into execution.

It will be obvious to your Lordship that, against such complaints as the Governor's, given in such a general way, we can offer no other reply than the foregoing; but, when we contemplate the possibility of the Governor carrying the threat, with which his accusation is coupled, into execution, we are filled with alarm at the consequences to the interests of all concerned in the Australian Agricultural Company.

Effect of  
withdrawal  
of convicts  
assigned to  
company.

The effects of the Governor's threat would be that, were a few Individual Convicts may have misconducted themselves, and which it would in all probability be as much out of the power of the Governor himself to prevent as it is out of our Commissioners, the Convicts on the same Districts of our Possessions, amounting probably to more than 200, would be summarily withdrawn, and, judging from the animus which dictated the threat, would not we fear be replaced.

The immense property under charge, primarily, of such a number of assigned Servants consisting of many thousand head of Sheep and other Cattle would be lost to the Company, for your Lordship well knows that it would be utterly impossible to replace them by free Laborers, except from England.

The result would indeed be in every way disgraceful and ruinous; and we earnestly entreat your Lordship, with your accustomed sense of justice, to protect us from such an arbitrary and sweeping measure on the part of any Governor.

We fear that Sir George Gipps has not had time to inform himself of our position and the nature of our compact with Government, which required us to maintain a large amount of Convicts on our Estates, when our doing so was considered most beneficial to Government, and that it was on the faith of being supplied with

that description of Labor that the Proprietors of this extensive concern have already expended near £300,000 in the Colony, a Property which the Governor's threat would recklessly destroy; otherwise some shadow of ordinary consideration would, we think, have found its way into his Secretary's communication, the absence of which we so much lament.

1839.  
12 Jan.

We submit to your Lordship that, even admitting the charge to the fullest extent, or even to a much greater and more flagrant degree than is attempted even to be surmised, the Governor would not be justified in having recourse to a measure of punishment, which we unhesitatingly assert would be the instantaneous ruin of the Company.

Protest against summary withdrawal of convicts assigned to company.

If indeed such a case should ever be made out, (but of which we have no fear) to satisfy your Lordship's mind that the extreme penalty of withdrawing our assigned servants in any numbers beyond the offending Parties should be inflicted, we still would claim, as a point of common justice to the unoffending Proprietors in this Country, that time should at least be given to us to supply their places by free Laborers.

We confidently appeal to your Lordship's sense of justice to protect the Proprietors of this Company from the contemplated measure of the Governor, and that you will be pleased to issue with as little delay as possible such instructions as the case may appear to call for.

I have, &c.,

J. S. BROWNRIGG.

[Sub-enclosure No. 1.]

MR. T. C. HARRINGTON TO COMMISSIONER OF A.A. COMPANY.

Colonial Secretary's Office,

Sydney, 28th June, 1838.

Sir,

The attention of the Governor having been drawn to the alleged fact of Black or Aboriginal Women frequently living and also travelling about the Country with assigned Servants of the Company, I am directed to inform you that, if the fact be well authenticated, His Excellency will be under the necessity of withdrawing the whole of the Men in the district of the Company's Possessions where it occurs.

Threat to withdraw assigned convicts.

I have, &c.,

T. C. HARRINGTON.

[Sub-enclosure No. 2.]

MR. J. EDWARD EBSWORTH TO ———.

Sir,

Port Stephens, 7th July, 1838.

I have only this day had the honor to receive your Letter of the 20th June, stating that the attention of the Governor had been drawn to the alleged fact of Black or Aboriginal Women frequently living and travelling with assigned servants of the Australian Agricultural Company, and that, if the fact be well authenticated, His Excellency will be under the necessity of withdrawing the whole of the Men in the district of the Company's possessions where it occurs.

Letter acknowledged.

In reply, I beg leave to acquaint you, for the information of His Excellency the Governor, that it has been and will continue to be the anxious desire of the Company's Commissioner to check the improper intercourse alluded to, and I will immediately recall the attention of the persons in charge of the several branches of the Company's Establishment to the Instructions, which were

Action to prevent intercourse with native women.

1839.  
12 Jan.

given some time since with a view to prevent the occurrence of such disreputable proceedings on the part of the assigned Servants of the Company.

I regret that the cases, to which His Excellency the Governor refers, are not specified to enable me to take measures for causing the offenders to answer for their misconduct.

Offenders to  
be punished.

I would assure His Excellency that, in every instance where an assigned servant shall be made known to be, as living in intercourse with a Black or Aboriginal Woman, he shall be dealt with as the Police Authorities may deem right; but I trust that the Governor will not inflict upon the Company the penalty of withdrawing their assigned Servants on account of the misconduct of Individuals, who may infringe the regulations, because they are beyond the immediate reach of my observation and control, more especially when His Excellency may ascertain that any means, which the Government may suggest, will be readily adopted by the Representative of the Company, to maintain as much as possible the proper discipline of the Convict population in the instance now under notice, as well as in all other cases.

Protest against  
withdrawal  
of assigned  
convicts.

I have, &c.,

J. EDWARD EBSWORTH,  
Commissioner for the A.A.C.

[Enclosure No. 3.]

MR. J. S. BROWNRIGG TO LORD GLENELG.

Australian Agricultural Company,

My Lord, 12 King's Arms Yard, 22 Decr., 1838.

In obedience to your Lordship's wish, I proceed to state in Writing those points connected with the interests of the Australian Agricultural Company, which I had the honor to lay before your Lordship at the conference on the 14th Inst.

Application to  
work coal-mines  
at Western  
port.

2. The first point, to which I drew your Lordship's attention, was the application\* of certain Individuals to work Coal Mines at Western Port, and the degree in which the rights and interests of our Company would be affected, were such permission granted.

3. Your Lordship will bear in mind that it was, in compliance with the expressed desire of the Government, that We undertook the hazardous speculation of working the Coal Mines at New Castle, and the best proof of the risk we run was that Government had previously worked these mines at a loss.

Agreement with  
A.A. company  
re coal-mining.

4. We should not have considered ourselves justified in incurring the heavy outlay that we did in commencing the Coal Works, had not Government given us some security or assurance that, as long as we complied with certain stipulations having for their object the adequate protection of the Public, we should as far as rested with the Government be secured for a limited time against competition.

5. These Stipulations and conditions are, I submit, clearly laid down in the Under Secretary of State's Letter† of the 31 July, 1828, comprized under six distinct heads; in the fifth article, it is declared that Government will have the right to resume the Grant of the Coal Mines and the privileges connected with that Grant, "if the Company shall raise a less quantity of Coal than two thirds of the weight, which, on an average of the three years, ending the 31st December, 1828, had been yearly raised from the Mines," thereby securing to the Public an adequate supply.

\* Note 131.

† Note 132.



6. In the preamble to the 6th Article, the consideration given on the part of the Company is expressly recognized in the following words:—"That, as the Company will have incurred a great preliminary Expense for a Public benefit, which expense they ought to have a fair opportunity of repaying to themselves"; And then follows the pledge on the part of the Government at home that "no Governor would for the next 31 years grant or convey any Coal Mines or Land, containing Coal Mines, without a specific exception of the Coal in such Grant or Conveyance, nor afford any assistance in convict Labor for the working of any Coal Mine to any other Company, or to any other Individual *without the previous sanction of the Government at home.*" And in order to leave no doubt on our minds as to the circumstances under which such a sanction on the part of the Government at home would be given, the Article concludes by saying that "it would probably be given, if the Company should avail themselves of their Monopoly to impose an exorbitant price on Coal, the produce of their Mines."

1839.  
12 Jan.

Agreement with  
A.A. company  
re coal-mining.

7. We submit therefore to your Lordship that it would be a manifest breach of faith and contrary to the plain and honest meaning of the Article in question, if the Government at home sanctioned the Grant of Coal Mines, or gave facilities in Convict Labor for working them to any other persons, until the expiration of the 31 years, unless it can be shewn that we have failed in our part of the Agreement, and that we have either not raised the quantity of Coal, stipulated for in the 5th Article, or that, as provided for in the 6th Article, we have not incurred the "heavy preliminary expense" contemplated, or have imposed an exorbitant price on Coal.

Protest against  
grant of  
permission for  
coal-mining.

8. No such complaints have been made, and we are prepared to prove, if proof be required,

Proofs re  
fulfilment of  
agreement by  
A.A. company.

1st. That we have raised an infinitely larger supply of Coals than is stipulated for;

2ndly. That we have, in addition to the "great preliminary expense" contemplated, incurred subsequently a very heavy outlay in order to increase our power of supplying the increasing demands of the public, and that, at this time, we have not been reimbursed any part of our great preliminary expense; and

3rdly. That, so far from having "availed ourselves of our Monopoly to impose an exorbitant price on Coal," it is sold for less than was charged by the Government when it worked the Coal Mines, being 10s. per ton to the Public, and 8s. to the Government.

9. I might here my Lords further press upon your attention the fact of the Monopoly granted to Us being distinctly recognised in the very word, and the further consideration given by us and stipulated for by the Home Government, that we should supply the Coal, required by the Colonial Government, at prime Cost, were it not that I consider the right of the Company to be fully made out in what I have already stated.

Claim to  
monopoly.

10. With regard to the opinion of the Law Officers of the Crown, which your Lordship did us the honor to communicate to us in the Under Secretary of State's letter of the 7th Instant, We beg leave in the first place to state that, given doubtfully as that opinion is and with the admission that the "language of the 10th paragraph of the Letter, addressed by the Colonial Secretary of New South Wales to Sir Edward Parry on the 25th June, 1830, is

Reply to legal  
opinion.

1839.

12 Jan.

Reply to legal  
opinion.

certainly somewhat ambiguous," yet, without pretending to compete with such High Authority on legal niceties, we submit that, even if the abstract right of the Secretary of State to grant Coal Mines or give facilities for working them were established, and that, by the strict legal interpretation of the Paragraph above mentioned, we should have no legal redress, were we so injured. We confidently state our belief that neither your Lordship nor any Secretary of State would, with the Under Secretary of State's letter to Us of the 31st July, 1828, fairly before him, grant such permission on any other grounds than a failure on our part in any of those stipulations either expressed or fairly implied, by which the interests of the Public, as far as our recognised Monopoly is concerned, were very properly envired.

11. We further beg to draw your Lordship's attention to the fact that the Letter of the Colonial Secretary of New South Wales, on which the above mentioned opinion of the Attorney and Solicitor General is founded, is not the one on which we rest our claim. The Under Secretary of State's Letter to us of the 31 July, 1828, contains the Agreement as sanctioned by the Home Government, and moreover recognizes, in the Preamble to the 6th Article, The consideration given by us, which is altogether omitted in the Colonial Secretary of New South Wales' Letter, and which might, had it been before the Law officers of the Crown, have led perhaps to a different conclusion from that which they appear to have come to.

12. With this short exposition of the grounds of our claim, and the view which we take of the rights of the Australian Agricultural Company, we leave the case in your Lordship's hands, being assured that we shall receive that justice and fair consideration which we have always experienced from your Lordship.

13. The second subject, which I had the honor to bring under your Lordship's notice at the conference, was the proposed Exchange of Land.

14. The object which we have in view, and the grounds upon which we urge the proposed Exchange, were brought under Your Lordship's notice in June, 1837, at a conference, and subsequently in our letter to Your Lordship of the 7th of July following, wherein we enclosed a copy of our late Commissioner, Lt. Colonel Dumaresq, letter to the Colonial Secretary at New South Wales, dated 18th Decr., 1836; to this latter document, we called your Lordship's attention as going fully into the subject, and containing all the reasons in favor of the proposed Exchange which we desired to advance.

15. In reply, your Lordship was pleased to order us to be informed in Mr. Stephen's letter of the 20th July, 1837, that "you felt it impossible to issue any instructions, or to express any opinion until in possession of the Governor's report on the subject."

16. The Governor being known to be on his way to England, we refrained from troubling your Lordship again on the subject until his arrival, when we were grieved to learn that Sir Richard Bourke was unable from recollection to give any information connected with it, and it is now evident that no report from the present Governor is likely to be made without a special reference, which would entail upon us the evil of a further delay, in addition to the long time during which we have patiently waited your Lordship's decision on this important matter.

Proposal by  
A.A. company  
for exchange  
of land.

1839.  
12 Jan.

Proposal by  
A.A. company  
for exchange  
of land.

17. In addition to the statements contained in Colonel Dumaresq's letter to the Colonial Secretary of the 18 Decr., 1836, already adverted to as having been before your Lordship, with our Letter of the 7th July, 1837, and to which we again crave reference, we beg to annex an Extract from a Report from the Deputy Surveyor General Perry to the Colonial Secretary, dated 30th Jany., 1837, and we submit that both these documents go to establish the protection, I assumed in our conference with your Lordship, that the proposed Exchange of Land would be as advantageous to the Country generally as to our Company, the grounds of which assumption are very clearly stated by Deputy Surveyor General Perry in the Report abovementioned.

18. I took the liberty further to suggest to your Lordship, as the Colonial Surveyor General, Major Mitchell, was now in England, and was the officer through whom the preliminary negotiations of our Commissioner for the exchange had been made, and who would in all probability be the person on whose opinion the Government would place the most reliance, that his report on the matter might be called for, and that upon it Your Lordship would be pleased to decide as to the fate of our application, and this I beg respectfully to repeat.

19. In order to meet an objection that was hinted at by your Lordship, I beg leave to remind you that, in all Grants or Exchanges of Lands, the Australian Agricultural Company have invariably negotiated with the Home Government, and not with the Governor of the Colony. The Secretary of State has ordered the Grant or Exchange, and the Governor has taken care that it shall not infringe on private rights.

20. Thus, when in the year 1829 we stated to the Secretary of State that a considerable portion of our original Grant of Land was found to be unfit for the avowed and recognized object for which our Company was principally established, namely the rearing of fine woolled sheep, the same was recognized as a valid and sufficient ground for authorizing an Exchange.

21. An Exchange to the extent of 600,000 acres was consequently authorized by the Secretary of State without any previous reference to the Governor but limiting the same to two Locations. At the time however the Company could not find a sufficient extent of ground suitable for their purposes, limited as they were to two Locations, and 562,898 acres only were exchanged;\* there, therefore, remains 37,102 acres, which, under the former decision of the Secretary of State, the Company submit their claim to have exchanged has been recognized, provided it adjoins one of the present locations already chosen in exchange for the 600,000 acres of Land North of Port Stephens, which have been given up to the Government.

22. From what I have stated, I trust your Lordship will perceive that it will only be following the usual course, if your Lordship decides upon our application, leaving to the Governor the care that, in carrying Your Lordship's decision into execution, the Public Interests and private Rights are duly protected.

23. We respectfully but most earnestly deprecate another reference to the Colony, after the long delay that has already taken place; and, from the just and liberal consideration which this Company has before experienced from Your Lordship, and which they always gratefully acknowledge, we feel assured that such

\* Note 133.

1839.  
12 Jan.

will not be the case, if, after a reference to the Surveyor General Major Mitchell, and to what I have now brought under your notice, your Lordship is satisfied that our request is a reasonable one.

24. Having addressed your Lordship separately with regard to the threatened withdrawal of our assigned servants by the present Governor of New South Wales, I have only to state, on the subject of Convict Labor generally, that the Australian Agricultural Company has reason to complain that your Lordship's repeated instructions on this head have not been carried into execution, either promptly or efficiently; by our latest returns, we were still 46 men short of the 500 ordered by your Lordship, exclusive of those employed in the Colliery; if this non-compliance with your Lordship's orders proceeds from there not being a sufficient number of Convicts at the disposal of the local Government, We have no fair ground of complaint; and, in bringing the above fact under notice, we have only to request your Lordship to give instructions that, when a deficiency of Convicts prevail, the same shall not fall unfairly on us, but that the supply to private Settlers as fixed by Local Ordinances shall be rateably reduced, also a measure of justice which we have reason to believe has not been dealt to our Company.

I have, &c.,

J. S. BROWNRIFF, Deputy Governor.

[Sub-enclosure.]

EXTRACT from letter to the Colonial Secretary, dated  
30th January, 1837.

THE blue boundary upon the Map furnished by the Commissioner appears according to the Sections to comprise about 94,000 Acres, and, considering its locality only, with reference to the subjects mentioned in Colonel Dumaresq's letter, I should suppose to be of a value equal to Land on the Peel, as it contains many spots upon which it would be highly desirable to form Villages, and there is little doubt that the retention of this Land by the Company has had considerable effect in retarding the Settlement of the Northern parts, as the great tract of Country between it and the Manning may be said to be inaccessible for want of a complete command of the harbour of Port Stephens and of a land Road by the way of Clarence Town, which the acquisition of the Land, now proposed to be ceded, would afford. Having been to the Settlement in a vessel of only 12 tons burthen, I am quite aware that the navigation of Port Stephens is somewhat intricate owing to the number of Shoals; but Sir Edward Parry, who made a careful survey of the Harbour, assured me that there are Channels by which vessels of considerable burthen may be taken very near to the Company's Settlement.

In this case, it would seem that some facility in shipping produce might be afforded by the reservation of Sections Nos. 1637, 1656, 1659, 1588, and 1589, to be laid out as Villages; and, altho' the land is generally understood to be of inferior quality, many patches on the Borders of the Swamps and on the Banks of the Myall River might be found suitable for small farms.

Under all the circumstances therefore, I should consider that, in the actual state of the Company's possessions on the Peel and at Port Stephens, the proposed exchange (while doubtless the Company would be immediately benefitted) would be advantageous to the Country.

S. A. PERRY, Depy. Surveyor General.

Deficiency  
in convicts  
assigned to  
A.A. company.

Report by  
S. A. Perry re  
proposed  
exchange  
of land.

[Enclosure No. 4.]

1839.  
12 Jan.

SIR GEORGE GREY TO MR. J. S. BROWNRIGG.

Sir, Downing Street, 17th January, 1839.

I am directed by Lord Glenelg to acknowledge the receipt of your two letters of the 22nd Ultimo.

1. Lord Glenelg has referred so much of your Letter as relates to the working of the Coal Mines in New South Wales to the Crown Lawyers, with a view to ascertain whether there is anything therein contained, which would lead them to alter their opinion on the case. Reference of claim to monopoly in coal-mining for legal opinion.

2nd. With regard to the further exchange of Land which the Company are anxious to effect, Lord Glenelg cannot consent to decide on or to entertain such an application without the previous report of the local Government. If you are therefore desirous of bringing such a question under the consideration of the Government, it will be necessary that you should instruct your Agent to prefer the Application, with whatever is to be urged in its support, to the local Government in the first instance; and, in order to prepare the Governor for a consideration of the question when so brought before him, Lord Glenelg has transmitted to him Copies of this correspondence. Refusal to decide *re* exchange of land.

3rd. With regard to the number of Convicts assigned to the Company. In my letter to you of the 20 July, 1837, I pointed out, by Lord Glenelg's direction, that, in the increasing demand for labor existing in New South Wales, the Colonists generally were turning their attention to the introduction of free labor to supply the deficiency of Convict Servants. You are no doubt aware that, on the 18th November, 1837, Governor Sir R. Bourke issued a general notice in the Gazette of the Colony, founded on instructions which he had received, intimating that it was the intention of Her Majesty's Government, to discontinue at the earliest possible period the Assignment of Convicts to Private Service, and pointing out to the Settlers the expediency of their looking for the future to immigration rather than to assignment as the source, from which to obtain the requisite labor for the Cultivation of their Lands and for other purposes. Any arrangements, which may from time to time have been made for the supply of Convict Servants to the Company, depended of course on the continuance of the general system on which those arrangements were founded; and Lord Glenelg cannot lead the Company to expect a permanent supply of labour from this source. Inability to authorise full supply of convict labour.

With regard to the representation, which forms the subject of a separate communication from you, in consequence of a notice which the Governor had given to the Company's Agent that he should feel himself compelled to withdraw their assigned servants in a certain District in the event of an alleged fact being authenticated of Black or Aboriginal women frequently living and travelling about the Country with such Servants, Lord Glenelg directs me to state that the circumstance, to which Sir G. Gipps' attention had been called, was one which he could not, consistently with his duty, overlook; and he appears to have taken the proper course in addressing the Company's Agent on the subject. Lord Glenelg however does not find that the Governor adopted any proceeding injurious to the interests of the Company, or that he expressed any Approval of action of Sir G. Gipps *re* immorality of company's servants.

1839.  
12 Jan.

intention of withdrawing their convicts, except upon proof of a neglect of duty on the part of the Company's officers in charge of the District, which in Lord Glenelg's opinion would have rendered such a measure indispensable.

I have, &c.,  
GEO. GREY.

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LORD GLENELG TO SIR GEORGE GIPPS.

(A circular despatch per ship Fergusson.)

Sir, Downing Street, 12th January, 1839.

Warrant for  
regulation  
of barracks.

I transmit herewith for your information the copy of a New Warrant for the Regulation of Barracks recently issued by Her Majesty's Command. You will place this Warrant among the public Archives of the Colony under your Government.

I have, &c.,  
GLENELG.

[Enclosure.]

[A copy of this warrant\* is not available.]

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SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 12, per ship Hygeia; acknowledged by marquess of Normanby, 12th July, 1839.)

My Lord, Government House, 12th Jany., 1839.

Petitions  
received from  
N. L. Kentish.

I have the honor to inform your Lordship that I have this day received from Mr. Nathaniel Lipscombe Kentish Copies of Petitions addressed to Her Majesty and both Houses of Parliament of which I believe copies are transmitted by Mr. Kentish direct to your Lordship. The copies sent to me, I have thought it right to return to Mr. Kentish, on account of their being printed, it being, as I believe, not the practice of either House of Parliament to receive Printed Petitions.

These Petitions or Memorials were drawn up by Mr. Kentish some months ago, and offered to the Colonists of New South Wales for their adoption; but I have not heard of their being signed by any considerable number of the Inhabitants, and, of the copies sent to me, one was altogether without signature, the other two were signed by Mr. Kentish alone.

Career of  
N. L. Kentish.

Mr. Kentish was formerly, I believe, employed as a Teacher of Military Drawing at the College of Sandhurst; he was subsequently some time in the Department of the Surveyor General of New South Wales, but ceased to be in the employment of Government in the year 1833; he has since that time been connected with the Public Press of the Colony.

I have, &c.,  
GEO. GIPPS.

SIR GEORGE GIPPS TO LORD GLENELG.  
(Despatch No. 14, per ship Hygeia.)

1839.  
14 Jan.

My Lord, Government House, 14th January, 1839.

In the last paragraph of my Despatch of the 12th June last, No. 85, I informed your Lordship that I had given permission to the Revd. Dr. Lang to visit England, in consequence of the schism which had unfortunately arisen in the Presbyterian Church of the Colony. Dr. Lang's departure has however been deferred from various causes from that time to the present; and it is only, I believe, in consequence of information having reached the Colony of a decision on the part of the Church of Scotland, adverse to his claims, that he is now induced to embark in the "Roslyn Castle," the vessel by which this Despatch will be conveyed.

Leave of  
absence granted  
to Revd.  
J. D. Lang.

Departure for  
England.

I think it right that your Lordship should be informed, previous to the arrival in London of Dr. Lang, that no alteration in the relative positions of the two parties of Presbyterians in New South Wales has occurred, since the date of my Despatch referred to above, save that which has been effected by an act\* of the Legislature, of which I enclose a copy.

Continuance of  
schism in  
Presbyterian  
church.

The withholding altogether of salaries from so large a body of Ministers of Religion, whilst Clergymen of all other denominations were receiving stipends from the Government, had the effect of enabling the persons excluded to come repeatedly as Petitioners to the Legislative Council, and gave them moreover the great advantage of appearing before the Public in the light of persons persecuted for conscience sake; I therefore thought it advisable to yield to their solicitations and to those of their advocates, and to introduce a Bill to the Council to authorise the payment to them of salaries up to the end of the present year, and to sanction also their receiving the usual aid from the Public purse in building Churches, with the proviso, however, that the Churches so built should be ultimately vested in the Presbyterian Church, which may be recognised by competent authority as the Church of Scotland in the Colony; a condition, which, as they claimed to be themselves that Church, they could not, and did not object to.

Reasons for  
passing act  
of council.

This act was received with very general approbation, and has had the effect, I am happy to say, of restoring in a great degree religious peace amongst us; whilst it has left the main question at issue entirely to be decided at home. The salaries payable under it are only guaranteed, as I have said, to the end of the present year; and, on account probably of the proviso respecting the ultimate destination of the Churches, no demand for aid in the erection of them has yet been made on the Local Treasury.

Effect of act  
of council.

\* Note 134.

1839.  
14 Jan.  
Refusal of  
half salary  
for Revd.  
J. D. Lang.

I beg to add that I have distinctly informed Dr. Lang that I cannot secure to him the payment of half salary during his absence, but that this point must be reserved for your Lordship's special consideration.

I have, &c.,  
GEO. GIPPS.

[Enclosure.]

[*This was a copy of the act of council, 2 Vict., No. 16.*]

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 15, per ship *Hygeia*; acknowledged by marquess of Normanby, 3rd August, 1839.)

15 Jan.

My Lord,

Government House, 15th Jany., 1839.

Misconduct  
of immigrants  
per ship  
*St. George*.

I have the honor to report to your Lordship that, on the arrival of the "*St. George*," Emigrant ship, from Oban, which anchored in Port Jackson on the 15th Novr. last, it was reported to me, by the Surgeon Superintendent Mr. McLean, that a spirit of insubordination had prevailed among the Emigrants during a greater part of the voyage, which had been principally excited and kept up by an Emigrant of the name of John Macdonald.

Complaint by  
immigrants.

I at the same time received from the Colonial Secretary of the Cape of Good Hope a Memorial, which had been addressed by the said Macdonald and others to the Governor of that Colony, complaining of their treatment on board, but which, in consequence of the absence of the Governor, and the short stay made by the "*St. George*" at the Cape, was not there enquired into. I immediately directed a Board of Officers to be assembled to investigate these complaints, by the Report of which, herewith enclosed, your Lordship will perceive that the said John Macdonald was a very improper person to be received as an Emigrant.

Board of  
inquiry  
appointed.

Ineligibility of  
J. Macdonald  
as immigrant.

I have further to acquaint your Lordship that it appears from information obtained by the Emigration agent (Mr. Pinnock) that John Macdonald was in possession of a very considerable sum of money, stated to be not less than £1,200, and that he immediately on landing engaged some of his fellow passengers as servants, and proceeded to Port Phillip. I therefore feel it my duty to request that Dr. Boyter, who selected the Emigrants for the "*St. George*," may be called on to explain, how a person so entirely unfit and unworthy to share in the advantages, intended for poor, industrious and well conducted Emigrants, should have been allowed a passage in that vessel. Of the Memorial addressed by Macdonald and others to the Governor of the Cape of Good Hope, I do not forward a copy on account of its extreme length; it consists of twenty pages of close writing



on the largest kind of paper, each page being equal to two of common foolscap; it contains many accusations of personal violence to the passengers on the part of Mr. McLean; of his withholding Medical comforts and other necessaries from the people; and is in fact a journal or record of every trifling disagreement that occurred during the voyage. Amongst other things, contained in it, is an extract of a letter said to have been written by Dr. Boyter on the 22nd Jan., 1838, and addressed to John Macdonald, Esqr., of which, as also of another letter to John Macdonald from a Mr. M. N. Macdonald, a Writer to the Signet in Edinburgh, I think it right to forward to your Lordship copies, as they seem to shew that Dr. Boyter was well aware of the possession of property by Macdonald.

I have, &c.,

GEO. GIPPS.

[Enclosure No. 1.]

REPORT of Board on Charges preferred against Dr. McLean, Surgeon Superintendent of the "St. George" Emigration Ship.

Sir,

Emigration Office, 24th November, 1838.

In Compliance with the wishes of the Governor, conveyed to us in Your Letter of the 19th instant, addressed to the Agent for Emigration, we do ourselves the honour to acquaint you, for the information of His Excellency, that we assembled at this Office for the purpose of enquiring into the truth of Certain Statements, contained in a Petition addressed to His Excellency the Governor of the Cape of Good Hope, but which was transmitted by him to His Excellency Sir George Gipps; and we have now the honor to report as follows:—

On commencing our investigation we deemed it Essential in the first instance to examine the Principal persons who signed the document alluded to, especially John Macdonald; and we feel bound to State that we could elicit from these persons no just cause of dissatisfaction with their treatment by Doctor McLean, unless a rigid and strict Exercise of his authority in enforcing Regulations, which appeared to him necessary for the health of his Passengers, could be considered as deserving censure.

It further appears to us that a Ship has seldom arrived in this Colony with Immigrants, who have been brought out and landed in a better State of health than those who have arrived in the "St. George" under the Superintendence of Dr. McLean.

It also appears that great exertions have been made by the said John McDonald to induce his fellow Passengers to Sign the afore-said Petition, and also to Substantiate the truth of the complaints therein Set forth, which, in our Opinion, they have totally failed to do; and, from the result of our enquiries, it appears evident that that Person has been actuated by a Spirit of bitter hostility against Dr. McLean, in consequence of his not having Succeeded in inducing that Gentleman to take an unjustifiable part against the Chief Officer of the Ship at an early period of the Voyage, on the occasion of a trifling complaint brought by McDonald against that officer,

1839.  
15 Jan.

Contents of  
memorial of  
complaint from  
immigrants.

Report by  
board *re*  
complaints of  
immigrants  
*per ship*  
*St. George.*

1839.  
15 Jan.

Report by  
board *re*  
complaints of  
immigrants  
*per ship*  
*St. George.*

and for not attending at all times to his (McDonald's) Suggestions. We have also examined the Captain, Minister and other respectable Cabin Passengers, and they are all unanimous in bearing the strongest testimony in favor of Doctor McLean, and to the provoking and insubordinate conduct of McDonald.

We cannot conclude this Report without alluding to the difficulty a Superintending Surgeon on board an Emigrant Ship must Labour under in bringing out so considerable a number of Passengers, particularly *free persons*, without a very Strict enforcement of Health regulations, many of which may be disagreeable to Individuals, although absolutely essential to the welfare of all.

And finally, the Success of Dr. McLean on the Passage of the *St. George* justifies us in expressing our unanimous opinion that the allegations against him, contained in the Petition before alluded to, are entirely without foundation; but that he is in every respect deserving of Public thanks rather than a Comment of an unfavourable Nature.

We have, &c.,

J. DENHAM PINNOCK.

JNO. NICHOLSON.

JAMES RAYMOND.

H. C. WILSON.

FREDK. CAMPBELL MONTGOMERY.

[Enclosure No. 2.]

DR. BOYTER TO MR. J. MACDONALD.

(Extract.)

Sir,

22nd January, 1838.

Arrangements  
*re* passages for  
J. Macdonald  
and family.

I have this moment received your letter of yesterday's date regarding yourself and your family. I can make no arrangement; but I have no objections to your concluding an agreement with the Master of the vessel; if I am not desired to keep the Cabins for Government use, I can see no just reason to refuse the number (10) you have stated in your first letter from Portsea. I shall even excuse Norman from any matrimonial engagement, and young unmarried women are at all times eligible; your father and Mother must pay their passage, the amount of which is not yet decided on by Government.

D. BOYTER.

[Enclosure No. 3.]

MR. M. N. MACDONALD TO MR. J. MACDONALD.

Dear Sir,

Great King Street, Saturday.

Dr. Boyter has this moment called upon me, and I have had a long conversation with him about your case. He says in the *first* place that a Cabin Passage cannot be given in any of his Ships without a direct application to Government, as they are reserved for official persons, and therefore that is out of the Question.

Secondly, he cannot give your family a passage in the Ships that are going with the low country people, as they are reserved exclusively for the latter. But he says that you will *all* go together below in the *St. George*, a ship of 500 tons, which is going soon with Highlanders; *he will take you all free* upon your paying £9 each for your father and Mother; that he will put you in a separate Mess for yourselves; that the Ship is eight feet between Decks; and that in short you will be very comfortable. Indeed he says, if he were going himself, he would not hesitate to go in that way;

and, if you are to have a Mess of your own, you might, I suppose, lay in little comforts additional. *I pressed him much to allow the old people to go with their children, and that you would go in a private Ship*; but he says he cannot do that; that old people are allowed to go only in a certain proportion to young ones; and that, although a certain Sum is taken, it is not full payment, and therefore it is a favor taking them at all. I would therefore decidedly advise your adopting the last plan as the best upon the whole, and by which Dr. B. says you will save £200 of passage money.

Whatever happens, I am satisfied that nothing more can be done with Dr. Boyter. Let me hear from you when you have decided what you will do.

Yours faithfully,

M. N. MACDONALD.

1839.

15 Jan.

Arrangements  
re passages for  
J. Macdonald  
and family.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 16, per ship Hygeia; acknowledged by marquess of Normanby, 13th August, 1839.)

My Lord,

Government House, 16th Jany., 1839.

16 Jan.

I have the honor to enclose herewith Copies of three letters, which have passed between the Officers of Customs in this Colony and the Colonial Secretary, on the subject of the appointment of a Landing and Tide Surveyor at Port Phillip.

Appointment of  
landing and  
tide surveyor at  
Port Phillip.

The arrangements, recommended by Sir Richard Bourke for the establishment of the Department of Customs at Port Phillip, not having been sanctioned by the Lords of the Treasury (as communicated to me in your Lordship's Despatch of the 29th May, 1838, No. 113), and the proposed appointment of a Landing and Tide Surveyor being an increase on the establishment recommended by the Board of Customs, I think it my duty to lay before your Lordship these letters, as showing the grounds on which I have consented to it.

I have, &c.,

GEO. GIPPS

[Enclosure No. 1.]

MESSRS. J. GIBBES AND G. COOPER TO COLONIAL SECRETARY.

Sir, Custom House, Sydney, 6th December, 1838.

We have the honor to report, for the information of His Excellency the Governor, that the Board of Customs have, by their order of the 30th of June last, No. 36, been pleased to appoint Mr. Robert S. Webb to be Sub-Collector of this revenue at Port Phillip, at a Salary of Three hundred Pounds per annum, and have also authorised him to act as Sub-Treasurer and sub-Collector of the Internal Revenue with an additional allowance of Fifty Pounds per Annum from Colonial Treasury.

Appointment of  
R. S. Webb as  
sub-collector  
and sub-  
treasurer at  
Port Phillip.

The Customs revenue at Port Phillip has lately increased to such an extent, as to render it necessary that an Officer shall be appointed as a check on the receipt and expenditure of it, as well as to execute the out door duties at Melbourne; this Officer, we

Proposed  
appointment of  
landing and  
tide surveyor.

1839.  
16 Jan.

Proposed  
appointment of  
landing and  
tide surveyor.

Submit, should hold the Office of Landing and Tide Surveyor And Landing Waiters at a Salary of Two hundred Pounds per Annum; and we beg leave to recommend Mr. Charles Henry Le Souif, as a fit and proper person to hold this appointment, until the pleasure of the Board of Customs shall be received. Mr. Le Souif has been upwards of two years in this Department, and has conducted himself very much to our satisfaction.

We are also of opinion that the Sub Collector will require the assistance of a Clerk at a Salary of One hundred Pounds per Annum.

We have, &c.,

J. GIBBES, Colr.

G. COOPER, Contr.

[Enclosure No. 2.]

COLONIAL SECRETARY THOMSON TO COLLECTOR AND  
CONTROLLER OF CUSTOMS.

Colonial Secretary's Office,  
21st December, 1838.

Gentlemen,

Letter  
acknowledged.

I have the honor to acknowledge the receipt of your Letter of the 6th instant, proposing the appointment of an Officer to perform the duties of Landing and Tide Surveyor and landing Waiter at Melbourne, with a Salary of £200 per annum, and that a clerk with £100 a year should be allowed to assist the Sub-Collector at that Port.

Request for  
further  
information.

This assistance is recommended in consequence of the recent instructions from England on the Subject of your Department at Port Phillip; but the Governor considers it a very large increase upon what has been authorised by the Board of Customs. And his Excellency directs me to inform you that it is necessary that He should have further information as to the Amount of duty performed by Mr. Webb before he Sanctions it. The Board of Customs Speaks of an Officer to assist him in his duties, and not to check and control him as contemplated in the arrangement you have proposed; and this assistance would, His Excellency conceives, be afforded by the appointment of a Clerk.

I am further directed to enquire whether Security is given by Mr. Webb.

I have, &c.,

E. DEAS THOMSON.

[Enclosure No. 3.]

MESSRS. J. GIBBES AND G. COOPER TO COLONIAL SECRETARY.

Sir,

Customs, Sydney, 27th December, 1838.

Duties of  
R. S. Webb as  
sub-collector at  
Port Phillip.

We have the honor to acknowledge rect. of your Letter of the 21st instant, calling for further information respecting the duties performed by Mr. Webb at Port Phillip.

As now carried on, they are of a multifarious nature, for he has charge of both the Indoor and outdoor duties. He receives all the Money, Keeps all the Books, and makes all the returns which are very numerous.

He gauges, weighs, and discharges all the goods on the wharf, or at least he ought to do so; but, from the present State of the Trade, we much doubt the possibility of his accomplishing So much.

The instructions, received from the Board of Customs for his guidance, imply that an officer, holding the rank we have recommended,

should be stationed at Melbourne, which would be in accordance with the general regulations of this Department, Whereby it is directed that no Collector or Sub-Collector shall be stationed at any Port or Place without an Officer to check his receipts and payments; and, certainly where the revenue already amounts to Twelve thousand pounds per annum, such a check is absolutely necessary.

1839.  
16 Jan.  
Necessity  
for new  
appointment.

Indeed we should be scarcely justified in permitting the duties to be carried on any longer by Mr. Webb in the irregular way they have been.

We must also repeat our Opinion that a Boat with a crew of four Men will be necessary to enable the Duty to be correctly done.

We have, &c.,

J. GIBBES, Collr.  
GEO. COOPER, Contr.

We beg to add, that such an Appointment must, we think, meet with the approbation of both the Lords of the Treasury and the Board of Customs.

J.G., Collr.  
G.C., Contr.

MR. WEBB has been called on to give Security to the Amount of One thousand Pounds.

J.G., Collr.  
G.C., Contr.

Security to  
be given by  
R. S. Webb.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 10, per ship Ferguson.)

Sir, Downing Street, 17th January, 1839. 17 Jan.

Having now received the original of your dispatch No. 65 of the 23d April last, with the letter addressed to me by six of the principal Medical Officers on the establishment of your Government, I have been enabled to consider the question fully.

Despatch  
acknowledged.

Agreeably to your suggestion, I referred to the late Governor, Sir Richard Bourke, and transmit, for your information, a copy of a communication which I have received from him on the subject.

Complaint by  
medical officers  
referred to  
Sir R. Bourke ;

In order to bring the conduct of Dr. Thompson under the notice of his immediate Military Superior, I have communicated copies of your dispatches to Sir Jas. McGrigor, who, I doubt not, will convey to Dr. Thompson such a decision on the subject as the justice of the case and the interests of the public service may require.

and to Sir  
J. McGrigor.

I still adhere to my opinion that the Medical Establishment should be maintained under the existing Military authority. If the resignation of the Members of that Establishment had been absolute and unconditional, I should not have hesitated to accept it; but, being made subject to a condition with which

Medical  
department to  
be maintained  
under military  
authority.

Her Majesty's Government cannot comply, I do not feel myself at liberty to regard it as binding on those by whom it has been made, until they shall distinctly understand that no compensation can be granted to them, if they should retire, on the grounds which they have stated, and for this reason alone no officers have been sent to supersede them.

I have, &c.,

GLENELG.

[Enclosure.]

SIR RICHARD BOURKE TO LORD GLENELG.

Sir,

London, 16th Novr., 1838.

In reply to your Letter of the 3d Inst. and in obedience to Lord Glenelg's desire, I have the honor to state the course I would recommend to be taken with regard to the Medical Establishments of N. S. Wales.

The question raised by the Despatch of Sir Geo. Gipps (23rd April, 1838, No. 65) appears to be principally whether it is expedient to place the Colonial Hospitals wholly under Civil or wholly under Military Regulation, as it has been found difficult to carry on the service with a Military Chief and Civil Subordinates.

The change, which took place in 1836 in the direction of the Colonial Hospitals, was not in consequence of any previous reference to me or by my recommendation. I am nevertheless of opinion that it was a judicious measure to introduce the Regulations of British Military Hospitals into those of the Colony, and to place the final controul of those Establishments under the Director General of Army Hospitals in England. There is not perhaps in the whole range of Colonial Administration a Department whose expenditure the local Govt. has in itself such little means of checking as that of an extensive Hospital. It seemed desirable therefore to adopt the matured system of superintendence, which is found to answer so well for British Military Hospitals, both abroad and at home, and to adopt it more especially in N. S. Wales where the expense of the Medical Establishments is borne by the British Treasury.

It will doubtless much facilitate the working of this system in the Colony to fill up the vacancies, which occur in the list of Medical officers of New South Wales by the appointment of Army Surgeons and Assistant Surgeons. I proposed this arrangement some time ago; but it was objected to by the Director General upon grounds which I did not fully comprehend. It will now be right, in my opinion, to take advantage of the proffered resignation of the six gentlemen, who address Lord Glenelg, by appointing Military Medical Officers to their Employments. I cannot perceive any inconvenience likely to affect either the Colony or the Army by the gradual substitution of Military for Civil Medical Officers in N. South Wales. Persons fully qualified can doubtless be found to serve as assistant Surgeons; and, if the transportation of Convicts to that Country should be diminished or wholly cease, and the Hospitals which are now chiefly required for them were to be reduced, the Medical Officers would be placed on Half Pay, to be

1839.  
17 Jan.

Non-acceptance  
of resignations  
of medical  
officers.

System  
proposed by  
Sir R. Bourke  
for medical  
establishments.

brought forward elsewhere as circumstances might admit. Some such retired allowance or compensation would necessarily be granted, were civilians to be reduced.

1839.  
17 Jan.

I have considered the Hospitals of N. S. Wales, maintained as they are almost wholly for Convicts, as chargeable on the British Treasury. The few free Persons, whom the Local Govt. may deem to require gratuitous treatment, will continue as at present to be provided for by the Colony by payments at a fixed rate made into the Military Chest. The Civil and Military Administration in New South Wales being now exercised by separate officers, the Commander of the Forces issues, I presume, Warrants on the Military Chest for the Medical Expenditure. The Civil Govt. might therefore be relieved from all superintendence of the Medical Establishments, retaining the power of directing, under general Regulation, or by Special order when the latter might be necessary, the admission into or discharge from Hospital of free Persons and Convicts.

System  
proposed by  
Sir R. Bourke  
for medical  
establishments.

In the comparative Return of Expenditure furnished by Sir Geo. Gipps in the appendix to his Despatch, I find that, in the charge for the Sydney Hospital under the new system, the payment of £850 a year to the principal Medical officer of the old or Civil Establishment is included, the necessary order for his discontinuance on pay not having been issued by the Home Govt. for some time after he had been superseded in duty by the Mily. Dep. Inspector Genl. This payment has now ceased. Again the Return sets forth, as I apprehend, the expense of the fixed Establishment only of the several Hospitals, whilst it is in the charge for contingencies, and especially for Medicines, that the Military Superintendence is expected to be found more advantageous to the Public than the Civil. The comparative Statement therefore can hardly be considered as shewing the relative merit of the two systems as regards economy.

I am of opinion, in which Sir Geo. Gipps seems to concur, that the Medical Gentn., who have now sent in their resignations, are not entitled to compensation for a loss which they impose upon themselves. There is nothing in the system of British Military Hospitals to which any professional Gentleman, placed in a subordinate situation and receiving pay for the discharge of duty, can reasonably object. If he has just cause to complain of the treatment he receives from a Superior, who is a Mily. officer, the Military system affords a readier mode of redress than the Civil.

With respect to that part of Sir Geo. Gipps's Despatch of the 25th April, 1838, No. 66, which relates to the allowance of the Deputy Inspector General of Hospitals and of the Purveyor, I have nothing to subtract from or add to the Minute in my handwriting to which Sir Geo. Gipps refers. The allowances of both officers should be strictly Military and nothing more. With regard to the channel of communication which I adopted in corresponding with Depy. Inspector Genl. Thompson, I found it necessary to use the General Order Book and the pen of my Military secretary, as well to constrain prompt obedience to my orders, as to cut short contentious and insubordinate discussions to which the Deputy Inspector Genl. of Hospitals was too prone.

I have, &c.,

RICHD. BURKE.

1839.  
17 Jan.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 11, per ship Fergusson.)

Sir, Downing Street, 17th January, 1839.

Transmission of  
memorial from  
F. C. Waldron.

I transmit to you herewith a copy of a Memorial, which I have received from Mr. F. C. Waldron, late Lieutenant in the Army, on the subject of a difficulty which he has experienced in obtaining the advantages granted to Military Settlers in the purchase of land.

Mr. Waldron should have transmitted his application thro' the prescribed channel; but I am unwilling in this particular instance to create the further delay of referring the case again for your report.

Criticism  
of claims of  
F. C. Waldron.

It appears from his own statement that he received the usual certificate of his services from the Horse Guards on the 18th July, 1834, that is, nearly a month before the adoption of that regulation which prescribed that such Certificates should be produced in the Colony within twelve months from their date. Assuming this fact to be correctly stated (and of its correctness you will be able to satisfy yourself by reference to the document), and that Mr. Waldron delayed his departure in ignorance of the new restriction, I think he has a fair claim to the advantages, which would have been accorded to him, had the delay not arisen.

With regard, however, to the further compensation which he claims on account of the delay which has occurred since his arrival in the Colony, it is impossible to entertain such a claim.

It was evidently contemplated, altho., not at first stated in terms, that the officer should proceed to the Colony within a reasonable time after he had received his Certificate. I perceive moreover that Mr. Waldron neglected to send home any representation of his case for more than a twelvemonth after his arrival in the Colony.

I have, &c.,

GLENELG.

[Enclosure.]

Memorial of  
F. C. Waldron  
claiming  
remission  
money in  
purchase of  
land and  
compensation  
for delay.

THE Memorial of Francis Charles Waldron, late a Lieutenant in the 30th or Cambridgeshire Regiment of Foot,

To The Right Honorable The Secretary of State for the Colonial Department, etca., etca., etca.,

Humbly sheweth That

In June, 1837, your Memorialist arrived in the Colony of New South Wales purposing to settle here, under the provisions of the Colonial order issued in August, 1831, relative to retired Officers.

In prosecution of this design, your Memorialist was at considerable expense for his passage and outfit, amounting to more than one hundred and fifty pounds.

On your Memorialist's arrival, he applied to the Governor to be allowed the priveleges granted to officers settling here, but was refused.



On the arrival of the present Governor, Your Memorialist again applied, and renewed his application at a subsequent period (July, 1838), but with the same ill success; the reply your Memorialist begs to annex a copy of, and at the same time to state to your Lordship that your Memorialist's Certificate and recommendation from the Horse Guards is dated July 18th, 1834, prior to the promulgation of the order of the 15th August, 1834, which *Order* expressly provides that "no obstruction is to be offered by it to *previous* recommendations of the Commander in Chief."

Your Memorialist, having no prospect of obtaining a Concession of his claim here, throws himself entirely on your Lordship's kind consideration and sense of Justice, Praying that you will be pleased to order that the remission in the purchase of land be allowed him: also that your Lordship will order a compensation to be allowed him, either in money or land, in consideration of the delay which has (already) taken place (12 months), and the consequent deterioration of his prospects. In elucidation of this deterioration, Your Memorialist suggests in the first instance his expense in coming to the Colony; 2ndly, his expenses here since his arrival, his capital being originally too limited to admit of his embarking as a Settler without the remission. 3rdly, The disadvantages under which he will labour, even when your Lordship may be pleased to make an order in his favor, owing to lands, valuable from their contiguity to Sydney or other local advantages being now occupied, which at the time of your Memorialist's arrival were available to him as a purchaser. Lastly your Memorialist begs to urge, on behalf of his being allowed a compensation, that, had his just right been conceded to him (that is, remission money in the purchase of land), he would since have been residing on his land; and he feels justified in saying that the improved value of this land would exceed £300 at this time. Your Memorialist therefore humbly trusts that your Lordship will accede to the prayers of his Memorial, and grant him, in addition to his claim to remission money, compensation for the delay and injury thereby sustained, either in money or land, to the amount of £300, or whatever your Lordship may think just; and your Memorialist as in duty bound will ever pray, which is submitted.

F. C. WALDRON,

late a Lieutenant, 30th Regiment.

Wollongong, Illiwarra, New South Wales, 14th July, 1838.

[Sub-enclosure.]

MR. T. C. HARRINGTON TO MR. F. C. WALDRON.

Colonial Secretary's Office,

Sydney, 11th July, 1838.

Sir,

I duly received and submitted to the Governor your letter of the 1st Instant, renewing your claim to remission money in the purchase of Land as a retired Military Officer, together with the documents enclosed, herewith returned; and, in reply, am directed by His Excellency to refer you to the 6th Clause of the Regulations, issued from the Colonial Office on the 15th Augt., 1834, by which you will perceive that your certificate ought to have been produced in this Colony within one year from the date thereof, and to inform you that His Excellency has no power under those regulations to comply with your present request.

I have, &c.,

E. V. HARRINGTON.

1839.  
17 Jan.

Memorial of  
F. C. Waldron  
claiming  
remission  
money in  
purchase of  
land and  
compensation  
for delay.

Refusal of  
remission  
money to  
F. C. Waldron.

1839.  
17 Jan.

SIR GEORGE GIPPS TO LORD GLENELG.  
(Despatch No. 17, per ship Hygeia.)

My Lord, Government House, 17th Jany., 1839.

Despatch  
acknowledged.

I have had the honor to receive your Lordship's Despatch of the 12th July last, No. 152, enclosing to me a Petition from Mary Cooper, the wife of a soldier named William Cooper, formerly of the 4th but now of the 80th Regt., and lately serving with the Mounted Police force of this Colony, in which the said Mary Cooper prays that a passage may be allowed to herself and children to enable them to join her husband in New South Wales; and I beg to report that, having communicated on this subject with Lt. Coll. Baker, the Commanding officer of the 80th Regt., I have received a letter from the Lt. Colonel, by which I am informed that William Cooper must from the state of his health be shortly invalided, and that, as it is his intention thereupon to return to England, he does not wish his wife and family to join him in this country.

I have, &c.,

GEO. GIPPS.

Passage for  
M. Cooper  
and family  
unnecessary.

SIR GEORGE GIPPS TO LORD GLENELG.  
(Despatch No. 18, per ship Roslyn Castle.)

19 Jan.

My Lord, Government House, 19th Jany., 1839.

Despatch  
acknowledged.

My Despatch of the 14th instt., No. 14, was scarcely on board ship, when I had the honor to receive your Lordship's Despatch of the 3rd Sept. last, No. 207, conveying to me the decision of the General Assembly of the Church of Scotland in the case of the Revd. Dr. Lang, and your Lordship's orders consequent thereupon.

Copy submitted  
to Revd.  
J. D. Lang.

I lost no time in furnishing Dr. Lang with a copy of this despatch, and the delay which has occurred in the sailing of the "Roslyn Castle" enables me to report that I have done so.

Withdrawal  
of stipends  
form dissenting  
clergy.

I have also informed Dr. Lang, and the Revd. gentlemen who joined him in forming a Synod in New South Wales, that the Salaries will immediately be discontinued, which have been paid to them under the Local Act\* of the last Session of Council (2 Vict., No. 16) as I consider the decision of Her Majesty's Government in their case to be a virtual disallowance of that Act.

I have stated to your Lordship, in my Despatch of the 14th Inst., that the act was passed solely to preserve the religious peace of the Colony, until a decision respecting Dr. Lang's proceedings could be obtained from England, and its having had this effect will I hope carry with your Lordship a justification of the policy which adopted it.

I have, &c.,

GEO. GIPPS.

\* Note 134.

SIR GEORGE GIPPS TO LORD GLENELG.

1839.  
20 Jan.(Despatch No. 19, per ship Hope; acknowledged by  
lord John Russell, 7th November, 1839.)

My Lord, Government House, 20th Jany., 1839.

With reference to my Despatches of the 29th Sept. last, No. 153, and 22d Novr., No. 189, respecting the placing in Quarantine of the ships "William Roger" and "Maitland," I beg leave to report that the last of the Emigrants by these ships were released on the 3rd Instt. and the Quarantine Establishment for the present broken up.

Release of  
immigrants  
from  
quarantine.

The number of deaths in Quarantine were:

	Adults.	Children.
"William Roger" .. .. .	26	18
"Maitland" .. .. .	2	3
	—	—
Total .. .. .	28	21

Mortality in  
quarantine.

I beg further to report to your Lordship that, considering the disasters which have marked the voyages of both these vessels, the dirty state in which the Emigrants by the "Maitland" were reported to be on their arrival, and the enormous expenses which have fallen on the Colony by their long detention in Quarantine, I have not judged it proper to issue Gratuities to the Surgeon of the "William Roger" or to the Surgeon or officers of the "Maitland"; though, as the Master of the "William Roger" died in Quarantine, I have not withheld his Gratuity from his Widow. If the result of the voyage is not to be taken into consideration in the payment of Gratuities, I would respectfully submit to your Lordship that there can be no sufficient reason for making any part of the remuneration of the Surgeon's a contingent one; for it will be scarcely ever possible to prove misconduct or inefficiency against a Surgeon, unless indeed it be of a nature to call for a far heavier punishment than the mere stoppage of a Gratuity.

Non-payment  
of gratuities.

I have no positive charge of misconduct to prefer against either of the Surgeons of these two vessels; but the enterprise, in which they engaged, has been signally unfortunate. The loss of their expected Gratuities is also the less heavy upon them, as, in addition to their full pay, they have received the following sums for their services in Quarantine, vizt.:

Payment to  
surgeons for  
services in  
quarantine.

	£	s.	d.
The Surgeon of the "William Roger" ..	64	10	0
"          "          "Maitland" ..	46	0	0

I have, &c.,  
GEO. GIPPS.

1839.

22 Jan.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 13, per ship Fergusson; acknowledged by Sir George Gipps, 11th November, 1839.)

Sir, Downing Street, 22nd January, 1839.

Advance to  
agent general.

The Lords Commissioners of the Treasury have directed a further advance of £5,805 to be made to the Agent General for New South Wales on account of the current services of the Colony; I have therefore to desire that the necessary steps may be taken for the repayment of that amount to the Military Chest on the Station.

I have, &c.,  
GLENELG.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 14, per ship Fergusson.)

Sir, Downing Street, 22nd January, 1839.

Approval  
of payment  
for seamen  
on H.M. ship  
*Conway*.

With reference to my dispatch No. 7 of the 4th Inst. respecting the attack which the Natives of one of the Feejee Islands had made on the "Sir David Ogilby," I transmit to you the Copy of a further letter from the Board of Treasury, sanctioning the payment which you had authorized to be made to three of the men of that vessel, under the circumstances stated in your dispatch.

I have, &c.,  
GLENELG.

[Enclosure.]

MR. F. BARING TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 21st January, 1839.

In reply to your Letter of 8th Instant enclosing Copy of a Despatch from the Governor of New South Wales reporting a fatal attack, which the Natives of one of the Feejee Islands had made on the "Sir David Ogilby," a British Schooner, and recommending that three of the wounded men of that vessel, who were selected to proceed to those Islands in Her Majesty's Ship "Conway" should be paid a remuneration at the average rate of Seamen's wages in the Port of Sydney, out of The Queen's Chest, I have it in command from the Lords Commissioners of Her Majesty's Treasury to acquaint you, for the information of Lord Glenelg, that my Lords will not object to sanction the payment from the Military Chest in New South Wales reported by Sir George Gipps, subject to any directions it may hereafter be necessary to give as to the Fund out of which the expense should eventually be defrayed.

I have, &c.,  
F. BARING.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 20, per ship Hope; acknowledged by lord John Russell, 6th May, 1840.)

22 Jan.

My Lord, Government House, 23rd Jany., 1839.

I have the honor to forward herewith, for the approval of Her Most Gracious Majesty, an Act passed in the late Session

of the Legislative Council of New South Wales to regulate the Distillation of Spirits, and the issue of Licences for Distilling, Rectifying, and compounding Spirits in the Colony.

1839.  
23 Jan.  
Submission of  
distillery act.

The importance of the Act causes me to make it the subject of a separate Despatch, and, in so doing, I beg to report to your Lordship that, though the want of a Law to regulate Distillation has been long acknowledged, the immediate necessity of the Act now submitted for approval was not felt, until it was reported to me by the Officers of Customs, late in the last session of the Council, that a very serious defalcation in the duties on imported Spirits had arisen from the increase of illicit distillation in the Colony from Sugar, the produce of the Mauritius. Previous to the passing of this Act, the duties chargeable on Spirits imported into, or made in the Colony, were (under a local act, passed in 1830, 11 Geo. IV, No. 9) as follows:—

Necessity for  
passing of act.

Former duties  
on spirits.

	Per Imperial Gallon.
	s. d.
On Spirits, distilled from Grain the produce of the Colony .....	3 0
On Spirits, the produce either of Great Britain or the West Indies, imported direct from Great Britain .....	7 9½
On all other Spirits, whether imported or made in the Colony .....	10 2½

Spirits made in the Colony from Sugar were therefore by Law chargeable with the latter duty; but, being deemed excessive, it has never been levied; and indeed the levying of it was impossible, as no powers were given by the act to the Officers of Government, similar to those which Excise officers possess in England, and no penalties laid upon persons evading payment of it. In two Distilleries situated in Sydney, the smaller duty of 3s. per gallon was levied, but the amount of all duties, paid on Spirits distilled in the Colony, was on the average of three years, ending with 1837, only £1,118 0s. 11d.

Average  
annual  
revenue  
from duties.

In proposing to the Legislative Council a new Law upon this subject, I did not overlook the Despatch of Secretary Mr. Spring Rice, dated the 25th July, 1834, in which a tax upon Sugar was recommended instead of one on Distilled Spirits. The apprehended unpopularity of a tax upon Sugar was probably the cause why that Despatch was never acted on by my Predecessor; and the objections, which might in 1834 have been urged against the tax, have greatly increased since, by the increased practice among the Settlers of giving Sugar to their Convict Servants as a reward for good behaviour. A tax upon Sugar, sufficient even to check the use of it in Distilleries, would put an entire stop to the issue of it to Convict Servants; and your Lordship must be well aware how desirable it is to encourage, among this

Objections  
to tax on  
sugar.

1839.  
23 Jan.

Objections  
to tax on  
sugar.

class of the People, a taste for a beverage made from tea and sugar instead of fermented liquors.

Sugar from the Mauritius pays only an ad valorem duty of 5 per Cent., whilst Rum from the same Colony pays 10s. 2d. per gallon, and from the West Indies (via England) 7s. 8d.; the advantage therefore of Distilling from Sugar is very great; no duty less than from 20s. to 25s. per cwt. would be sufficient to check the use of it in Distilleries, whilst such a duty, or anything approaching to it, would be sufficient to stop entirely the issue of it to Convict Servants.

Inability to  
prevent illicit  
distillation  
from sugar.

The idea of taxing Sugar being therefore abandoned, the next question was whether, by any other means, illicit Distillation from Sugar could be stopped, or even checked, without materially reducing the duty on Spirits the produce of it; and it appeared both to myself and the Council that, in a Country like New South Wales, this was not to be hoped for; but that, whilst the duty on spirits distilled from Sugar remained so high as 10s. 2d. per gallon, all the power of Government would not suffice to stop illicit Distillation. It seemed to us equally impossible to stop distillation altogether, whether from Grain or Sugar, even by the severest penalties; though we have since found that this has been attempted in Van Diemen's Land. A comparatively low duty on Spirits distilled from Sugar was therefore considered the most advisable; and, after a lengthened enquiry before the whole Council, that of 4s. 6d. per gallon was proposed and adopted, the duty on Spirits distilled from Grain being left at 3s. as it was before, and the duties on imported spirits also remaining unchanged.

Reduction of  
duty on spirits  
distilled from  
sugar.

Provisions in  
act of council.

Your Lordship will perceive that adequate powers are given by the Act to the officers, who are to carry it into execution, and penalties also imposed on persons who contravene it.

Comparative  
statement  
of revenue  
from duties.

I subjoin, for your Lordship's information, a Comparative Statement of the produce of the duties on imported spirits during the years 1837 and 1838, shewing a defalcation in the latter year of more than £20,000, notwithstanding the great increase that has taken place in our Population; and, in a separate Despatch, I shall have the honor to explain that a still further loss is sustained by the Local Treasury by the way in which Drawbacks have hitherto been paid to the Commissary General on Rum supposed to be issued to the Troops.

Hoping that this Act (which has only been passed for two years) may meet Her Majesty's most gracious approval,

I have, &c.,

[Enclosure No. 1.]

GEO. GIPPS.

[This was a copy of the act of council, 2 Vict., No. 24.]

## [Enclosure No. 2.]

COMPARATIVE Statement, referred to in the foregoing Despatch.

	1838.			1837.			Comparative statement of revenue from duties.
	£	s.	d.	£	s.	d.	
Duties paid on Imported Spirits.							1839. 23 Jan.
From 6th Jany. to 5th April ..	30,283	2	7	31,948	3	5	
6th April to 5th July ...	30,426	1	5	35,393	11	9	
6th July to 10th Octr. ..	27,519	19	4	36,994	1	2	
11th Octr. to 5th Jany. ..	21,404	19	3	25,318	6	4	
	£109,634	2	7	£129,654	2	8	

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 21, per ship Hope; acknowledged by Lord John Russell, 7th May, 1840.)

My Lord, Government House, 23rd Jany., 1839.

In connection with my Despatch of this day's date on the subject of the Distillery Laws of the Colony, and the injury which the Local Treasury has sustained from the extent to which illicit Distillation has been practised, I beg to draw your Lordship's attention to another very serious loss, which arises out of the way in which the Drawback on Rum, supposed to be issued to the Troops, has hitherto been paid to the Commissary General.

The Commissary General does not issue Rum to the Troops from his own Stores, but employs a Contractor to do it, paying him at the average rate of about 12s. 6d. per gallon; and, for every gallon of spirits for which he thus pays 12s. 6d., he claims and receives a drawback from the Local Treasury of 7s. 9½d. on the supposition that West India Rum alone has been issued to the Troops. But the Commissary General takes no precaution, or at least no sufficient precaution, that nothing but West India Rum shall be issued, and we have very strong reason to believe that not only adulterated Spirits are issued, but also Spirits distilled in the Colony, which have hitherto paid either no duty at all or a duty only of 3s. per gallon.

It is reported to me by the Collector of Customs that the quantity of Rum, alleged to have been issued to the Troops by the principal Contractors, has for a long time exceeded the whole quantity on which they have paid duty, notwithstanding that they supply also a vast number of Public Houses, and are largely engaged in the wholesale Spirit Trade. Papers have been put into the hands of the Attorney General, proving that, in the year ending the 30th June, 1838, the quantity issued or supposed to have been issued by the Principal Contractors (who deal as one Firm) exceeded the quantity on which they paid

Loss of revenue by drawback on rum for issue to military.

Fraudulent practices alleged against contractors.

1839.

23 Jan.

Fraudulent  
practices  
alleged  
against  
contractors.

duty by no less than 6,360 Gallons, the duty on which would amount to £2,745, notwithstanding the very large Private trade in which, as I have before stated, they are engaged; and though the Attorney General may not be able to prosecute them to conviction, no reasonable doubt can I think exist of great frauds having been practised. The universal custom of the Sydney Merchants to buy and sell Spirits in Bond, and never to any extent after the duty has been paid on them, forbids me to suppose that the parties in question can have obtained in any legal manner the great quantity of spirits issued by them, in excess over what their receipts appear to have been by the Custom House Books.

Alternative  
reforms  
proposed.

The Commissary General has himself shewn me samples of Rum made in the Colony, which cannot be distinguished even by good judges from West India Rum; if therefore the drawback on West India Rum is still to be paid to the Commissary, your Lordship will, I am sure, perceive the justice of requiring that the issue of it should be made by his own Officers, and not by means of a Contractor; or, if the issue continue to be made by a Contractor, that the drawback demanded on it shall be only equal to the duty payable on Spirits made in the Colony, instead of that which is payable on West India Rum.

Drawback to  
be granted to  
commissary.

I have signified to the Commissary General that, from the time of the passing of the New Distillery Act, which legalizes the distillation of the Spirits from Sugar at the duty of 4s. 6d. per gallon, and from Grain at 3s., I cannot continue to pay a Drawback of 7s. 9d. on Spirits consumed by the Troops without the most clear and convincing proof that the higher rate of duty has been first paid on them; and I trust your Lordship will approve of my having so done. New South Wales is, I believe, the only part of the world, in which spirits continue to form a portion of a Soldier's Ration.

Annual  
amount of  
drawback paid  
to commissary.

The total amount of Drawback paid to the Commissary amounts to from £10,000 to £12,000 a year; your Lordship will therefore perceive the vast importance of this subject to the Colonial Revenue.

I have, &c.,  
GEO. GIPPS

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LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 15, per ship Fergusson.)

25 Jan.  
Appointment  
of Revd.  
J. J. Smith.

Sir,

Downing Street, 25th January, 1839.

The Rev. J. Jennings Smith having been recommended to me by the Society for the Propagation of the Gospel, and having been approved by the Bishop of London, I have sanctioned



his appointment to the Ecclesiastical Establishment of New South Wales, and have authorised the Colonial Agent to issue to him the usual allowance for outfit and passage.

1839.  
25 Jan.

I have, &c.,  
GLENELG.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 16, per ship Fergusson.)

Sir, Downing Street, 25th January, 1839.

I have received your despatch No. 117 of the 28th July last, and I have to convey to you the approval of Her Majesty's Government of the appointment of Mr. J. D. Pinnock to the office of Agent for Emigration at New South Wales with a Salary of £500 per annum.

Approval of  
J. D. Pinnock  
as agent for  
emigration.

I have, &c.,  
GLENELG.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 17, per ship Fergusson.)

Sir, Downing Street, 25th January, 1839.

With reference to my despatch No. 5 of the 2d Inst., I have now to signify to you Her Majesty's confirmation of the Act of the Governor and Council of New South Wales for the Investment of Monies belonging to Intestate Estates by the Supreme Court in the Sydney Savings Bank.

Allowance  
of act *re*  
investment  
of funds of  
intestate  
estates.

I have, &c.,  
GLENELG.

LORD GLENELG TO SIR GEORGE GIPPS.  
(Despatch No. 18, per ship Fergusson.)

Sir, Downing Street, 26th January, 1839.

26 Jan.

I was happy to observe that, in your answer of the 26th of June last to the Petition transmitted in your Dispatch No. 112 of the 18th July, you expressed a strong opinion in favor of the immediate discontinuance of the Assignment of Male Convicts in Sydney, and other Towns of New South Wales. The instruction conveyed to you in my Dispatch No. 147 of the 6th July last will to a great extent have embraced this, among other points on which you were directed to take measures for carrying into effect certain alterations in Convict Discipline; and my only object in again noticing the subject is to express to you the entire concurrence of Her Majesty's Government in the opinion of the expediency of adopting this change as a step towards the entire discontinuance of assignment throughout the Colony at as early a period as practicable.

Approval of  
abolition of  
assignment of  
male convicts  
in towns.

I am, &c.,  
GLENELG.

SIR GEORGE GIPPS TO LORD GLENELG.

(Despatch No. 22, per ship Hope; acknowledged by marquess of Normanby, 10th August, 1839.)

My Lord, Government House, 26th Jany., 1839.

Submission  
of acts of  
council for  
approval.

As required by the Constitutional Act of this Colony, I had the honor to forward to your Lordship by the Ship "Dryade," on the 5th Novr. last, Duplicates on Parchment of Thirty one Local Acts or Ordinances, which were passed by the Legislative Council of New South Wales in the year 1838. I have now the honor to enclose to your Lordship Printed Copies of the same, which, on account of delays on the part of the Printer, I could not forward earlier; and I have respectfully to express a hope that these acts may meet the approval of Her Majesty.

I shall now proceed to give to your Lordship a succinct account of the objects of each of them:

Act to  
extension of  
jury act.

*1 Vict. No. 1.*—"An Act to further 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.'"

This act merely continues for two years longer the existing Jury Laws of the Colony.

Act to  
continue  
bushrangers  
act.

*1 Vict. No. 2.*—"An Act further 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.'"

This act equally continues for a period of two years the act or Ordinance, known in the Colony as the "Bushrangers Act."

I entirely concur in the opinion\* respecting this act, repeatedly expressed by my Predecessor; the time is I fear however not yet arrived, when it can be dispensed with in New South Wales.

Act re  
medical  
witnesses  
at inquests.

*1 Vict. No. 3.*—"An Act to provide for the attendance of Medical Witnesses at Coroner's Inquests and Inquiries held by Justices of the Peace."

This act was passed to enforce the attendance at Coroner's Inquests of Medical Practitioners, and to fix the rate at which they should be remunerated. A subsequent Act (2 Vict., No. 22) was passed later in the Session to declare the qualifications, which should be necessary in a Medical man to make him a competent witness on such occasions.

Act re  
investment  
of funds of  
intestate  
estates.

*1 Vict. No. 4.*—"An Act for the investment of monies, belonging to Intestates' Estates, by the Supreme Court in the New South Wales Savings Bank at Sydney."

On the subject of this act, I had the honor to address your Lordship in my Despatch of the 8th July last, No. 101.

\* Note 135.

2 *Vict. No. 1.*—“An Act for the Conditional Remission of Sentences of Convicts transported to Norfolk Island and Moreton Bay, and to enforce the conditions thereof.”

1839.  
26 Jan.

Act *re*  
remission of  
sentences of  
convicts at  
Norfolk Island  
and Moreton  
Bay.

This act was prepared by Sir Richard Bourke, and submitted to the Council at a late period of the Session of 1837, but withdrawn with the intention of being brought forward again in 1838. The object of it is to reduce the number of men at Norfolk Island and Moreton Bay, and to facilitate the abandonment of the latter as a Penal Station.

It experienced some little opposition in the Council, from an apprehension that under it Cattle stealers might be brought back, who are now at Norfolk Island under sentences for Life. The act must on the same account be carried into execution with great caution, Cattle stealers being a class of Offenders extremely obnoxious to the wealthy Graziers of the Colony.

2 *Vict. No. 2.*—“An Act for regulating the Police in the Towns of Parramatta, Windsor, Maitland, Bathurst, and other Towns, respectively, and for removing and preventing nuisances and obstructions, and for the better alignment of Streets therein.”

Extension of  
police act  
to country  
towns.

The object of this act is to apply to the small Towns of the Colony the principal provisions of the Sydney Police Act (4 Wm. 4, No. 7). It appeared to me of great importance that this should be done in a timely manner, in order to prevent the growth of inconvenient local customs, and to secure an uniform system of Police, as well as to prepare the Towns themselves for Municipal Institutions.

2 *Vic. No. 3.*—“An Act to alter and amend an act intituled, ‘An Act for regulating the Police in the Town and Port of Sydney, and for removing and preventing nuisances and obstructions therein.’”

Act to amend  
Sydney  
police act.

This act was introduced to allow Placards or Handbills to be posted on houses or buildings with the consent of the Proprietors, the prohibition being absolute and total in the original act, under which a man might have been fined for posting up a Handbill on his own house.

2 *Vict. No. 4.*—“An Act to give further time to prepare and settle the Jury Lists for the District of Maitland for the year 1838.”

Act *re* jury lists  
for district  
of Maitland.

This act was rendered necessary by an accidental omission on the part of the Police Magistrate of Maitland, and is in its nature only temporary.

2 *Vict. No. 5.*—“An Act to provide for trial by Jury at the Courts of Quarter Sessions to be held at Melbourne and Port Macquarie.”

Act *re* trial  
by jury at  
Melbourne and  
Port Macquarie.

1839.  
26 Jan.

The Governor has power under a Local Act (3 Wm. 4, No. 3, Sec. 14) to appoint the places at which Quarter Sessions are to be held; but, an express act being necessary to secure the attendance of Juries, the present was passed.

*2 Vict. No. 6.*—"An Act to enable the Governor of New South Wales to order the issuing of Licences to retail fermented and spirituous Liquors for the present year in certain cases."

This act was passed to enable the Governor to grant Licences to certain Publicans, whose applications were not forwarded within the time specified by law.

*2 Vict. No. 7.*—"An Act to regulate the Temporal affairs of the Religious Societies, denominated Wesleyan Methodists, Independents, and Baptists."

The Church Act of 1836 (7 Wm. 4, No. 3) authorised the granting of assistance from the Public Funds to all denominations of Christians, and prescribed a general method of appointing Trustees for Churches or Chapels, built in part out of the Public Funds of the Colony, which way of appointing Trustees, however, has not been entirely approved of by any Sect or Denomination, and is indeed a faulty one. In 1837, Acts were passed to enable Members of the Churches of England and Scotland, to appoint Trustees in a way more agreeable to themselves, and the present act does the same for Wesleyans, Baptists, and Independents.

*2 Vict. No. 8.*—"An Act for the more effectual recovery of Fines, and enforcement of forfeited Recognizances, imposed and entered into, by and before, Justices of the Peace in New South Wales."

This act was rendered necessary by the difficulties hitherto experienced in the recovery of Fines, forfeited Recognizances, etc.

*2 Vict. No. 9.*—"An Act to authorise the abolition of certain fees, heretofore paid on the Registration of vessels in the Colony of New South Wales."

This act was introduced to relieve the Mercantile community from the payment of a fee of 1s. per ton on the Registration of vessels. In England there has been for some years no fee, and therefore the exaction of one in New South Wales was complained of. The average of the Fees collected in the last three years was only £173 per annum. This therefore will be the extent of the loss, which the Local Treasury will sustain by the abolition of this inconvenient fee.

*2 Vict. No. 10.*—"An Act for adopting certain Acts of Parliament, passed in the first year of the Reign of Her Majesty;

Special  
licensing  
act.

Act re  
temporal  
affairs of  
religious  
societies.

Act for  
recovery of  
fines, etc.

Act to abolish  
certain fees on  
registration  
of vessels.

Queen Victoria, in the administration of Justice in New South Wales, in like manner as other laws of England are applied therein."

1839.  
26 Jan.

Act to adopt certain criminal statutes.

This act was passed on the recommendation of the Judges to adopt, in New South Wales, certain acts of the English Parliament passed in the year 1837 to mitigate the severity of the Criminal Law.

2 *Vict. No. 11.*—"An Act to facilitate the apprehension of Offenders escaping from the Island of Van Diemen's Land, or from South Australia, to the Colony of New South Wales."

Act *re* apprehension of offenders escaping from Tasmania and South Australia.

This act is intended to facilitate the apprehension of Criminals, passing from one to any other of the Australian Colonies.

2 *Vict. No. 12.*—"An Act for preventing the extension of the disease, commonly called the Influenza or Catarrh, in Sheep and Lambs in the Colony of New South Wales."

Catarrh in sheep act.

This act was passed to prevent as far as possible the spreading of a very fatal disease, called the Catarrh, in Sheep, of which many thousands have died in the course of the last few years. The act is modelled upon one previously existing in the Colony to prevent the extension of the Scab in Sheep (3 Willm. 4, No. 5).

2 *Vict. No. 13.*—"An Act to authorise the marriage of Minors, without the consent of Parents or Guardians in certain cases."

Act *re* marriage of minors.

By an act of Council (7th Wm. 4, No. 6) to prevent Clandestine Marriages, Minors, whose Parents were absent from the Colony, could not be married without the consent of a Guardian appointed by the Supreme Court. This was found in many cases to be inconvenient, especially in those of young female emigrants, who frequently come to the Colony under the charge of a friend or relation. The present act was therefore passed to enable the Judges to appoint in each District of the Colony a functionary, to whom Minors might apply without the necessity of resorting to Sydney or of employing an Attorney.

2 *Vict. No. 14.*—"An Act to revive, and continue for a limited time An Act, passed in the second year of the Reign of His late Majesty, King Wm. 4, intituled, 'An Act for the relief of Debtors, in execution for Debts which they are unable to pay,' and to make certain amendments therein."

Act to revive insolvent debtors act.

The Insolvent Debtors Act (2 Wm. 4, No. 2) expiring on the 31st Augt., 1838, it became necessary either to make a new act or to continue the old one. An entirely New Law, drawn up by one of the Judges (Mr. Burton), was presented to the Council very early in the Session, and referred to a Committee. Being however a subject, on which much difference of opinion was found to exist, it became impossible to get the New Bill through the Council in sufficient time; and therefore, at the recommendation

1839.  
26 Jan.

of the Committee, the old Law has been continued, with some slight amendments, until the 31st Augt., 1840.

Appropriation  
act.

2 *Vict. No. 15.*—"An Act for applying certain sums arising from the Revenue, receivable in New South Wales, to the service thereof for the year 1839, and for further appropriating the said Revenue."

On this subject, I have addressed your Lordship in a separate Despatch, No. 160 of the 12th Oct., 1838.

Act *re*  
payment of  
stipends to  
certain  
Presbyterian  
clergy.

2 *Vict. No. 16.*—"An Act to authorise the payment of monies for the year 1839 to certain Presbyterians in New South Wales under the provisions of an Act intituled, 'An act to promote the building of Churches and Chapels, and to provide for the maintenance of Ministers of Religion in New South Wales.'"

On the subject of this act, I had the honor to address your Lordship in my Despatch of the 14th of the present month, No. 114.

Act to amend  
post-office act.

2 *Vict. No. 17.*—"An Act to amend an Act intituled 'An Act to provide for the conveyance and postage of letters.'"

This act merely regulates the postage of letters arriving by Sea, and was passed to stop an abuse, which arose in Van Diemen's Land, of putting any number of letters under one cover, instead of sending them singly through the Post Office.

Licensing  
act.

2 *Vict. No. 18.*—"An Act for consolidating and amending the Laws, relating to the Licencing of Public Houses, and for further regulating the sale and consumption of fermented and spirituous liquors in New South Wales."

The circumstances of the Colony having rendered several alterations necessary in the Licensing Act, it was thought better to pass an entirely new act, than to amend the old one. The principal novelty in the Bill is the establishment of a Wine and Beer Licence at a lower price than a Spirit Licence. The price of the Spirit Licence too is raised from £25 to £30.

Crown lands  
occupation act.

2 *Vict. No. 19.*—"An Act to continue and amend an Act, intituled, 'An Act to restrain the unauthorised occupation of Crown Lands.'"

On the subject of this act, I had the honor to address your Lordship in my Despatch No. 180 of the 7th Novr. last.

Act to amend  
act *re*  
newspapers.

2 *Vict. No. 20.*—"An Act to amend an Act intituled, 'An act for preventing the mischiefs, arising from the Printing, and publishing Newspapers, and Papers of a like nature, by persons not known, and for regulating the printing and publication of such papers in other respects; and also for restraining the abuses, arising from the Publication of blasphemous and seditious Libels.'"

This act was passed in order to relieve the Editors of Newspapers at Port Phillip, and other distant parts of the Colony, from the necessity of coming to Sydney to make certain affidavits required of them by an existing law. By this Act, they are authorised to make them before a Police Magistrate on the spot.

1839.  
26 Jan.

2 *Vict. No. 21.*—“An Act to indemnify the officers of Customs and others for having permitted the importation of Liquors, Cordials, and Spirituous Syrups, on payment of less than the accustomed duty.”

Customs  
officers  
indemnity  
act.

In the early part of the year 1837, an application was made by the officers of Customs to the Governor (Sir Richard Bourke) to allow Cordials and Spirituous Compounds to be imported at the duty only of 5 per cent. ad valorem, in lieu of the duty on Spirits, on the ground that they often contained but a very small portion of Alcohol. This request was acceded to by Sir Richd. Bourke, and accordingly no duty beyond that of 5 per cent. ad valorem was levied on them from that day forward. When however the suspension of the duty came to be known in England, an intimation was sent by the Commissioners of Customs to the Collector and Comptroller on the spot, that an act of the Legislature was necessary to repeal the duty. The question being thus again brought forward, the expediency of discontinuing the duty did not appear so clear, the duty in England on Compounds and Cordials being higher than that on Spirits, instead of lower. The old rate of duty will therefore henceforth be levied, and the present act was passed to indemnify the Officers of Customs for having allowed the importation of these cordials on payment of less than the accustomed duty.

2 *Vict. No. 22.*—“An Act to define the qualifications of Medical Witnesses at Coroners’ Inquests, and Inquiries held before Justices of the Peace in the Colony of New South Wales.”

Act *re*  
qualifications  
of medical  
witnesses.

This act is a temporary supplement to the act previously passed (1 *Vict. No. 3*). Under it, a Medical Board\* for the examination of Diplomas has been established in Sydney, to which Board may perhaps hereafter be confided the higher duty of granting Diplomas, a power which it was not judged expedient as yet to entrust them with.

2 *Vict. No. 23.*—“An Act for the more effectual appropriation of Fines and Penalties in certain cases in the Colony of New South Wales.”

Act *re*  
appropriation  
of fines and  
penalties.

By some late decisions in the Supreme Court, it was declared that, in consequence of there being no legal Poor in the Colony, nor any legal Poor’s fund, the penalties could not be levied, which

\*Note 136.

1839.  
26 Jan.

in certain English Acts of Parliament are directed to be paid to the Poor of the Parish. An act therefore was deemed expedient to declare that all such Fines should be payable to the different Benevolent Institutions in the Colony, they being the only Societies which exist for the relief of the Poor.

Distillery act.

*2 Vict. No. 24.*—"An Act to regulate the Distillation of Spirits in the Colony of New South Wales, and for the issue of Licences for distilling, Rectifying, or Compounding Spirits therein."

On the subject of this act, I had the honor to address your Lordship in my Despatch No. 20 of the 23rd Instant.

Act to amend building act for town of Sydney.

*2 Vict. No. 25.*—"An Act to amend an Act, intituled, 'An act for regulating Buildings and Party Walls, and for preventing mischiefs by Fire, in the Town of Sydney.'"

In the year 1837, a Building Act for the Town of Sydney was passed, very much upon the model of that which has long been in force in the Cities of London and Westminster. It having been found necessary to modify that Act in many particulars, the present Act was passed for that purpose.

Act for free importation of grain.

*2 Vict. No. 26.*—"An Act to exempt from duty and wharfage Rates, for a certain time, Flour and Meal and Wheat and other Grain and Pulse, imported into New South Wales."

In various Despatches I have incidentally informed your Lordship that the year 1838 was one of extreme drought, and I lament now to have to add that, in consequence of it, the Corn Crops failed very generally in the Colony. There fortunately having been an abundant harvest in Van Diemen's Land, no apprehension of Famine or even of great scarcity is entertained; but it was thought expedient, before the separation of the Council, to pass a Bill to exempt for one year Grain of all descriptions from the payment of the ad valorem duty of 5 per cent., to which it is otherwise subject, and from the payment of wharfage dues, when landed on the Public Quays.

Act to amend Union assurance company's act.

*Private Act.*—"An Act to amend an Act intituled, '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, Style, 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.'"

This act was passed in consequence of the Instructions contained in your Lordship's Despatch, marked Separate of the 19th of May, 1837.

I have, &c.,

GEO. GIPPS.



LORD GLENELG TO SIR GEORGE GIPPS.

1839.  
27 Jan.

(Despatch No. 19, per ship Fergusson; acknowledged by Sir George Gipps, 30th October, 1839.)

Sir, Downing Street, 27th January, 1839.

I have the honor to inform you that I have appointed Mr. James Croke, a Member of the Irish Bar, to be Clerk of the Crown at Port Phillip. Mr. Croke has been informed that he will receive half Salary from the date of embarkation, his full Salary at the rate of £400 a year commencing on his entering on the duties of his Office.

Appointment of J. Croke as clerk of crown at Port Phillip.

I have, &c.,  
GLENELG.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 20, per ship Fergusson; acknowledged by Sir George Gipps, 8th January, 1840.)

Sir, Downing Street, 28th January, 1839.

28 Jan.

I have received your dispatch No. 96 of the 3rd July last relative to a forgery committed on the Colonial Treasury to the amount of £159, and, having referred the question for the consideration of the Lords Commissioners of the Treasury, I now transmit to you for your information and guidance a copy of a letter, which has been received in reply, and of a report therein enclosed from the Commissrs. of Audit, and beg to call your particular attention to the renewed representation in that report with regard to the arrear in the transmission of the Accounts of your Government.

Correspondence re forgery on colonial treasury.

I have, &c.,  
GLENELG.

[Enclosure.]

MR. F. BARING TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 21st January, 1839.

The Lords Commissioners of Her Majesty's Treasury having had under their consideration the Despatch from the Governor of New South Wales and the other documents relating to a Forgery, by which the Treasury of that Colony had been defrauded of a Sum of £159, which were submitted in your Letter of 18th Ultimo, and, having referred the same for the opinion of the Commissioners of Audit, I have it in command to transmit Copy of their Report, and to request that in submitting the same to Lord Glenelg, you will state to His Lordship that my Lords entirely concur in the observations of the Commissioners respecting the apparent negligence on the part of the Treasurer's Department and want of due caution on the part of the Auditor in regard to the transaction, in which the reported Forgery and Fraud were committed, and that, before my Lords can relieve the Treasurer from responsibility for the amount obtained from the Treasury by the forged Documents, they would require much more satisfactory proof than is furnished

Decision by treasury commissioners re forgery on colonial treasury.

1839.  
28 Jan.

by the despatch and the other documents above referred to, that every due precaution had in the first instance been used by the Treasurer to prevent the imposition, and that every practicable exertion had been made, on the discovery of it, to detect and punish the offenders, and to recover the amount of the payment which had been fraudulently obtained.

I am further to request you will accordingly move Lord Glenelg to cause my Lord's decision, with respect to the responsibility of the Treasurer, to be signified to the Governor of New South Wales; and that you will also call his Lordship's attention to the concluding observations in the Report of the Commissioners of Audit, and that you will further move his Lordship to desire Sir George Gipps to give such directions both to the Auditor and to the Treasurer as will expedite the transmission of the accounts in arrear, and of the explanation required by the Commissioners of Audit, and will prevent a recurrence of the delay in either of these respects that is stated to have occurred.

I am, &c.,

F. BARING.

Instructions *re*  
transmission  
of accounts  
in arrear.

[Sub-enclosure.]

AUDIT COMMISSIONERS TO LORDS COMMISSIONERS OF  
HER MAJESTY'S TREASURY.

My Lords,

Audit Office, 10th January, 1839.

We beg leave to acknowledge a letter from Mr. Baring of the 1st Instant, with the enclosed Copies of a Despatch and accompanying papers from the Governor of New South Wales reporting a Forgery on the Colonial Treasurer to the amount of £159, and Mr. Baring having communicated to us your Lordship's desire that we should consider the above Documents with reference to the Instructions given to the Treasurer and Colonial Auditor, and submit such suggestions as may occur to us as to the claim of the Treasurer to relief, and also as to any further precautions that may tend to prevent the recurrence of frauds of this description.

We beg leave to report that it appears, by the papers herewith returned, that a sum of £159 was due to John Chapman of Benima (a place about 80 miles from Sydney) for clearing the Streets of that Township. On the 2nd November, 1837, an Order dated Benima, 23rd October, 1837, directed to C. D. Riddell, Colonial Treasurer, purporting to be signed by John <sup>his</sup> Chapman and to be <sup>mark.</sup> witnessed by James Hume, authorizing Mr. John Hunter to receive the amount (£159) due to him, Mr. Chapman, for clearing the Streets in the Township of Benima, was registered in the office of the Colonial Auditor, Mr. Lithgow, and certified on the face of it to have been so registered by J. McGibbon, a Clerk in the Auditor's Department. On the same day, a Warrant on the Colonial Treasurer, prepared in the same office, was submitted to and signified by Sir R. Bourke, then Governor of the Colony, for the payment of various Public expenses amounting together £808 5s. 8¼d., in which the sum of £159 due to John Chapman was included, the registered Order for the payment of the said Sum to "John Hunter" was then taken to the Treasurer's office and discharged as stated on the receipt of the Bearer.

Report by  
audit  
commissioners  
*re* forgery on  
colonial  
treasury.

Such being the principal circumstances of the case, we now beg leave to advert to the Instructions given to the Treasurer and to the Auditor of New South Wales in respect of payments made under assignments or Powers of Attorney.

1839.  
28 Jan.

Report by  
audit  
commissioners  
re forgery on  
colonial  
treasury.

By the 13th Article of the Instructions to the Treasurer, it is enjoined that, "whenever any Salary or other payment due to any Individual is claimed on his behalf by another person, you will require a sufficient Assignment or Authority in writing in support of such Claim, and you will, before the payment is made, cause the authority to be exhibited to the local Auditor, and registered in his office, the nature of the Authority under which such Representative Acts is to be stated in the pay list or receipts, and the Auditor will certify at the foot of the Pay List or Voucher, when examined by him, that the person receiving the payment had a regular authority for that purpose."

By the 9th Article of the Instructions to the Auditor, it is enjoined "You will see that all assignments, Power of Attorneys or other Documents, presented to you under the 13th Article of our Instructions to the Treasurer, are legally executed. You will keep a Register of them and will annex to the Receipts for all payments made under them a Certificate to the following effect":—

"I (A.B., Auditor) do certify that a sufficient authority has been shewn to me on the part of C.D. for receiving the Salary or payment due to E.F."

According to these Instructions, the Treasurer ought in the present case to have required, previously to making the payment, a "sufficient assignment or authority" in support of the claim, and the Auditor, on the order of John Chapman being exhibited to him, ought to have ascertained that it was an Instrument legally executed such as he could certify at the foot of the receipt for the Money to have been a sufficient authority to the Party exhibiting the same.

It however appears to Us that the Document in question is in no proper sense such authority as ought to have been admitted by either of these Officers in support of the claim; certainly not, at least, without some previous enquiry as to the party presenting it and the hand writing and respectability of the Witness, upon whose attestation the fact of its having been executed by Chapman alone rested; the Witness, James Hume, whose residence and occupation are not described, and John Hunter the party presenting the Power being, as it seems, wholly unknown; and although the order specifies the amount due and the description of service performed, your Lordships will observe that it does not refer either to any agreement or to any account delivered, and that it does not state, as alleged by the Treasurer Mr. Riddell in his letter to Sir George Gipps, such particulars as would generally be inserted in a regular Power, the omission of which combined with other circumstances ought to have awakened attention in both the Departments concerned. Such an Assignment, independently of all question of stamps, if produced in England to a Department either of Registration or Pay, would not have been deemed satisfactory.

It may for instance be presumed, as the forged order is dated 23rd October and the Warrant was not granted till the 2nd November, that the order was brought in for inspection and Registration some days previously to payment; and it appears to us that the Auditor ought to have suspended the Registration of the order,

1839.  
28 Jan.

Report by  
audit  
commissioners  
re forgery on  
colonial  
treasury.

and the Treasurer the payment of the money, until it should have been ascertained by a reference to Chapman whether he had really given the authority for payment. The most common prudence would, in our opinion, have dictated such a course in the case of an illiterate man, who could not sign his name.

We have presumed in the above statement that the forged Power had been brought to the Auditor's Office some days previously to the claim being inserted in the Warrant; but, if this document was first produced on the very of the Warrant being submitted to the Governor and signed, there would be stronger grounds, in our opinion, for suspecting some connivance in the fraud on the part of Persons employed in the Auditor's Department.

The Opinion, expressed by Mr. Riddell that he considers the Registration by the Auditor as a sufficient authority for him to pay any order, is wholly at variance with his Instructions, by which he is directed to require the production of sufficient assignments or authorities in support of such claim; and likewise as we apprehend with such reasonable diligence and caution as such an officer is bound to exercise, it being clearly his duty to ascertain by such means as may be in his power that the Person, he pays, is the party entitled to receive, or that he pays on the known hand writing of that party, or that he knows well the Witness to the Mark of such party and his hand writing, or at least the party presenting the Order, whereas the payment was here made to an unknown Individual on an unknown signature, which would be in our opinion an unusual degree of laxity in this Country, but certainly a most imprudent course in such a place as New South Wales.

Mr. Riddell likewise lays great stress on the circumstance of Convicts being employed in the office of the Auditor, and thinks that the Forgery was "got up" among the Clerks. We concur with Mr. Riddell in considering it is an improper practice to employ such persons in Situations of responsibility; and, although there appears to be no sufficient grounds for the Treasurer's surmise, the Individuals concerned being stated by Mr. Lithgow to have been employed in his Department with credit to themselves for upwards of seven years, and being in his opinion, after a strict enquiry, entirely free from suspicion of being implicated in the fraud, we think that the duty of examining and registering Assignments for money ought not to be left as in the present instance to a Convict Clerk; and we find, by Mr. Lithgow's letter, that he intends to use greater caution in future; that the registration of such documents is to be authenticated by himself or his chief clerk, and that parties, unknown to him, will in such cases be called upon in future to shew by some collateral proof that they are bona fide Assignees.

We beg leave to add, with reference to Mr. Riddell's observation as to the probability of the particulars of the claim having been obtained through the Auditor's office, that any Individual might in casual intercourse with Chapman have heard him mention the sum due to him by the Government for clearing the Streets of Benima and thus have availed himself of the information for fraudulent purposes. It might however have been expected, under the circumstances stated, that some person conversant with hand-writing should have been desired to examine the hand-writing of the Forgery, and particularly of the Witnesses Signature and to compare the same with the hand-writing of the Clerks in the Treasurer's and Auditor's offices; and if possible with that of the Mason

suspected of the Forgery and who had absconded. But it does not even appear to have been ascertained whether this suspected person could write or whether his hand-writing was known to anyone at Sidney or Benima; nor indeed do we find, from the Governor's letter or the other papers before us, that any diligent enquiry had been set on foot, or any careful investigation of the facts had taken place.

1839.  
28 Jan.

Report by  
audit  
commissioners  
re forgery on  
colonial  
treasury.

On the whole, we do not think that either the Auditor or the Treasurer have exercised a reasonable degree of caution in the case before us, or that they have sufficiently attended to their Instructions. The Treasurer in particular seems altogether to have misunderstood his proper duty, and we cannot therefore recommend to your Lordships to relieve him from the responsibility to which he has made himself liable.

With regard to any other precautions to guard against the recurrence of similar irregularities, we conceive that no regulations could prevent a Treasurer or Paymaster from acting with inattention or carelessness, and overlooking obvious defects in the acquittances taken by him. The Instructions now in force appear to us quite sufficient if properly observed for the object required.

We beg leave to take this opportunity of referring to a representation of this Board of the 3rd May, 1838, in which we noticed the tardiness both of the Treasurer and Auditor of New South Wales in replying to communications from this Office and furnishing explanations required, and also as to transmission home of the Treasurer's accounts, the latest period to which we have these accounts being March, 1836. Your Lordships were pleased to apprise us, by a letter of the 11th May, 1838, that a communication on the subject would be made to those Officers through the Secretary of State, but we have had no subsequent instruction as to the directions which may have been given, and we deem it proper now to state that the Accounts are at this time seven months more in arrear, than when we made our former Report.

Delay in  
submission  
of accounts.

We have, &c.

F. S. LARPENT.

W. L. HERRIES.

H. F. LUTTRELL.

EDWARD ROMILLY.

LORD GLENELG TO SIR GEORGE GIPPS.

(Despatch No. 21, delivered by Mr. La Trobe; acknowledged by Sir George Gipps, 4th November, 1839.)

Sir, Downing Street, 29th January, 1839.

29 Jan.

I have to acquaint you that Mr. Charles J. La Trobe has been selected for the office of Superintendent at Port Phillip, and will shortly proceed to the Colony.

Appointment of  
C. J. La Trobe  
as super-  
intendent at  
Port Phillip.

I enclose, for your information, a copy of the letter which has been addressed to him notifying his appointment.

I have to request that you will communicate fully with him on his arrival at Sydney on all points connected with the affairs of the settlement.

1839.  
29 Jan.

Instructions  
required *re*  
aborigines.

One of the most important subjects, to which his attention should be directed, is the state of the Aborigines and the relations between them and the settlers.

My despatches on this subject and the more recent information, which you will have acquired, will enable you to give Mr. La Trobe such instructions and suggestions as may be requisite for his guidance; and I have no doubt you will find him desirous of carrying into effect with zeal and energy all your directions on this and every other point connected with the interests of this rising settlement.

Allowance  
for passage  
and outfit.

Under the peculiar circumstances of the case, I have thought it right, with the concurrence of the Lords Commissioners of the Treasury, to sanction the issue from the revenues of the Colony of a moderate allowance on account of Mr. La Trobe's outfit and passage.

I have, &c.,

GLENELG.

[Enclosure.]

SIR GEORGE GREY TO MR. C. J. LA TROBE.

Sir,

Downing Street, 4th February, 1839.

Appointment of  
C. J. La Trobe.

I am directed by Lord Glenelg to notify to you your appointment to the office of Superintendent of the Settlement of Port Phillip within the Colony of New South Wales.

General  
instructions.

It will be requisite that you should proceed by way of Sydney, where you will report your arrival to the Governor, and give to him the enclosed despatch notifying your appointment. You will receive from Sir George Gipps instructions for your guidance. To him, as your immediate superior, you will make your Reports, and address all official communications; and you will follow such directions as you may from time to time receive from him.

Salary and  
allowances.

You will be entitled to a Salary at the rate of £800 a year, payable from the Colonial revenue, and which will include house rent and every other charge except the forage of two horses, for which you will receive an allowance estimated at about £70 a year.

In accordance with the general rule of the Colonial Service, you will receive half Salary from the date of your embarkation for the Colony, your full Salary commencing from the time of entering on the duties of your office. An allowance will also be made to you of £300, before you leave England, to defray the expense of your outfit and passage.

I have, &c.,

GEO. GREY.

## APPENDIX.

LORD GLENELG TO SIR RICHARD BOURKE.  
(Despatch No. 341, per ship James Pattison.)

Sir, Downing Street, 10th July, 1837.

1837.  
10 July.

I have received your Despatch No. 121 of the 12th November last, relative to the occupation of Port Phillip, in which you enclose Extracts of the Proceedings of the Executive Council in regard to the claims of the Port Philip Association, and of other parties settling in that District, in the acquisition of Land.

Despatch  
acknowledged.

In reply, I have to signify to you my approval and confirmation of the resolutions of the Council, and of the proceedings of the Local Government founded on those resolutions.

Approval of  
decisions *re*  
Port Phillip  
association.

The reasons, assigned in your Despatch and in the Report of the Council for an inflexible adherence to the principle of Sales by Auction according to the present system, are conclusive; and it is clearly shewn that a departure from that principle in the present case would involve a sacrifice of the best interests of the Australian Colonies.

Necessity for  
principle of  
sales of land  
by auction.

Another motive for adhering to this principle might have been drawn from the contiguity of Port Philip to South Australia. The granting of Land without purchase in that part of New South Wales would of course have been wholly incompatible with the prosperity of the adjacent Colony, as a competition would thus be created for Settlers and for the investment of capital, with which it would have been impossible for South Australia, where the upset price of Lands is fixed by Parliament at twelve shillings per acre, to contend.

The production of the opinions of Sir W. Follett and of Messrs. Bage and Timberton tend still more strongly to confirm me in the opinion, which I had already formed as to the extent of the rights of the Crown, and as to the invalidity of the title on which the Association relies.

In the course of the communications between the Settlers of Port Philip and your Government, I perceive that much stress is laid on the language of the letters\* which by my direction Sir George Grey addressed to Mr. Mercer. It is argued that those letters recognize a right on the part of the Settlers, first, to a priority of the purchase of the lands which they had occupied or improved, and, secondly, to a protection of all their claims and reasonable expectations. The Council, observing that priority of purchase and a Sale by Auction being wholly incompatible

Interpretation  
of negotiations  
with  
Port Phillip  
association.

\* Note 137.

1837.  
10 July.

Interpretation  
of negotiations  
with  
Port Phillip  
association.

and contradictory, understand Sir George Grey's letters as leaving it open to them to refuse the required priority. This construction is as completely in accordance with Sir George Grey's language as it is with the reason of the case. Mr. Mercer was not informed that any priority of purchase would be accorded to the Association, or that any of their claims or expectations would be admitted, excepting such as might be found fair and reasonable. On the contrary, he was distinctly informed that the Local Government of New South Wales would be directed to put up the land at Port Philip for Sale at an upset price. It appeared to me, however, that, under the circumstances of the case, there might probably be some particular spots, for example the sites of buildings, gardens, or other enclosures, which it might be reasonable to except from this general rule. But, cautious of making even that concession without the advantage of the previous enquiries and advices of the Local Government, I expressly declared that such arrangements only could be made for this purpose, "as might appear to the Governor to be reasonable." Thus the general principle of Sales by auction was distinctly affirmed, and the propriety of admitting the proposed exception from it was referred to the discretion of the Local Government. That discretion having been maturely exercised on a full consideration of all the facts of the case, and of all the principles bearing on them, I cannot admit that there is any inconsistency between the assurances conveyed to Mr. Mercer, and the ultimate decision which, in deference to the opinion of the Local Government, I now sanction and adopt.

I am, &c.,  
GLENELG.



COMMENTARY.



# COMMENTARY

ON

## DESPATCHES

July, 1837—January, 1839.

Note 1, page 13.

*A letter.*

This letter filled a column and a half of the newspaper. Complaints were made of such ill-treatment on embarkation at Cork that on the following day a request was made but refused for permission to disembark. Complaints were made against the rations, alleging that the deaths of two children were due to want; against the accommodation provided; against the confinement below decks; and against the conduct of the officers.

Note 2, page 25.

*Lord Glenely to Sir Richard Bourke.*

This despatch was received by Sir George Gipps on the 2nd of May, 1838.

Note 3, pages 37, 219 and 357.

*The Passengers Act.*

This was the statute, 5 and 6 Wm. IV, c. liii, entitled, "An Act to repeal an Act of the Ninth Year of His late Majesty for regulating the Carriage of Passengers in Merchant Vessels from the United Kingdom to British Possessions on the Continent and Islands of North America, and to make further Provision for regulating the Carriage of Passengers from the United Kingdom." It was passed on the 31st of August, 1835.

Note 4, page 41.

*The Instructions.*

These instructions were dated 20th May, 1835 (*see page 30 et seq.*, volume XVIII).

Note 5, page 43.

*A Letter.—A Despatch.*

The letter and despatch will be found on pages 679 and 605, volume XVIII.

Note 6, pages 44 and 631.

*A Resolution stating certain reasons.*

The reasons for deferring the adoption of the statute, 6-7 Wm. IV, c. cxiv, were:

"1. Because as there are at present no Commission Courts of Oyer and Terminer, or Gaol Delivery, held in the Colony, the Criminal Sessions of the Supreme Court, for the trial of felonies and other offences committed in any part of the Territory, are held in the Town of Sydney.

"2. Because the operation of the said Statute would considerably protract the Sittings of the said Criminal Sessions, and thereby cause unreasonable inconvenience to witnesses, and an additional burden to the public for the payment of their expenses; inasmuch as witnesses in criminal cases, that come from remote parts of the Colony, are frequently required to travel distances of two and three hundred miles to Sydney, which is even now felt as a great hardship, although such cases are generally brought to trial as soon as the witnesses arrive in Sydney; but the practical operation of the aforesaid Act would render the time, at which any particular cases could be tried, wholly uncertain (the average number of cases usually tried being from fifty to one hundred); and, in consequence of this uncertainty, witnesses would necessarily be detained a much longer time from their homes; and it is apprehended that so great a loss of time from their private pursuits would be calculated to deter many from giving any information that might subject them to so much inconvenience; and thus crime might go unpunished."

Note 7, page 46.

*Sir Francis Forbes.*

The knighthood conferred on Francis Forbes was the second conferred for services in the colony on the recommendation of a governor. The first was conferred on John Wylde for services as deputy judge-advocate on the recommendation of Governor Macquarie, contained in a despatch dated 5th April, 1817 (*see* page 380, volume IX). The recommendation in favour of F. Forbes was made by Sir Richard Bourke in a despatch dated 12th April, 1836 (*see* page 378, volume XVIII).

Note 8, page 47.

*The Instructions.—A service.*

The instructions 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. A note on the "service" of T. L. Mitchell will be found numbered 79 in volume XVIII.

Note 9, pages 48 and 396.

*The Report of the Committee.*

On the 9th of February, 1836, the following resolution was moved in the house of commons:—"That a Select Committee be appointed to consider what Measures ought to be adopted with regard to the Native Inhabitants of Countries, where British Settlements are made, and to the Neighbouring Tribes, in order to secure to them the due observance of Justice and the protection of their Rights, to promote the spread of Civilization among them, and to lead them to the peaceful and voluntary reception of the Christian Religion."

Note 10, page 48.

*Your Commission.*

The commission of Governor Bourke, dated 25th June, 1831, will be found on page 837 *et seq.*, volume XVI. By this commission, his jurisdiction was limited to that part of Australia lying to the east of the one hundred and twenty-ninth meridian of east longitude, which forms the eastern boundary of the modern state of West Australia. By the statute 4-5 Wm. IV, c. xcv, passed on the 15th of August, 1834, the province of South Australia was established, bounded on the north by the twenty-sixth parallel of south

latitude, on the south by the sea, on the east and on the west by the one hundred and forty-first and the one hundred and thirty-second meridians of east longitude respectively. The territory included in this province was excluded from the jurisdiction of Governor Bourke.

Note 11, page 53.

*The sum appropriated.*

The sum appropriated consisted of the following items:—£9,114 19s. 10d. to supply deficiencies in the year 1836; £48,913 18s. 3d. for the supplementary expenditure of 1837; £36,579 12s. 1d. for the civil establishment for 1838; £65,158 1s. 3d. for the departments of survey and public works for 1838; £22,174 16s. 8d. for the judicial establishments for 1838; £52,344 3s. 4d. for the police and gaol establishments for 1838; £18,820 for the church establishments for 1838; £9,916 3s. 6d. for the school establishments for 1838; £828 5s. for pensions for 1838; and £52,226 5s. for miscellaneous services for 1838.

Note 12, pages 56 and 57.

*The Govt. Proclamation.—The Colonial Proclamation.*

The details of the proclamation dated 28th October, 1835, will be found in note 116, volume XVIII.

By the proclamation dated 28th March, 1836, "the period allowed to Settlers for notifying their intention to bring out Emigrants under the Government Notice of the 28th October, 1835," was extended to the 30th of June, 1836.

Note 13, page 56.

*Her Majesty's Government have authorised.*

The authorisation was contained in a letter from Sir George Grey, dated 29th March, 1837 (*see* pages 721 and 722, volume XVIII).

Note 14, page 57.

Also pages 73, 125, 460, 484, 512 and 708.

*A copy.*

Copies of these papers are not preserved with the originals of the despatches at government house, Sydney.

Note 15, page 60.

*A copy.—The British law.*

In his finance minute, Sir Richard Bourke stated:—"For some time past it has been the practice, though rather an anomalous proceeding, to carry on the Crown Prosecutions at Quarter Sessions by the Clerk of the Peace. This arrangement cannot be longer continued without prejudice to the efficient administration of the Law, and it is therefore proposed to appoint a Crown Prosecutor for Quarter Sessions."

The British law was the statute 6-7 Wm. IV, c. xiv (*see* page 526, volume XVIII).

Note 16, page 63.

*The New Gaol.*

This was the gaol at Darlinghurst. The buildings now form a part of the East Sydney technical college.

Note 17, page 68.

*A new edition of the Journal.*

This was the second edition of a *Journey of Discovery to Port Phillip, New South Wales, in 1824 and 1825* by W. H. Hovell and H. Hume, published by James Tegg at Sydney in 1837. It was an octavo volume, containing pages viii, a dedication to Sir Thomas Brisbane and Sir Richard Bourke by William Bland, dated 17th June, 1837; a preface; ninety-three pages containing an account of the journey; five pages of appendix containing a description of Western port; and a map of the eastern part of the continent of Australia engraved by R. Clint.

The first edition was published in January, 1831, entitled, *Journey of Discovery to Port Phillip, New South Wales, by Messrs. W. H. Hovell and Hamilton Hume in 1824 and 1825*, and was printed by A. Hill, George-street, Sydney. It was an octavo volume, containing the title, a "Dedication to Sir Thomas Brisbane, Bart., K.C.B.," by W. Bland; a preface of eight pages; the journal of eighty-seven pages, and an appendix of six pages, containing extracts from a letter to H. Dumaresq by W. H. Hovell and H. Hume written in 1826; and a "Description of Western Port, 1827," by W. H. Hovell.

Note 18, page 69.

*A decision.*

The decision was contained in a despatch dated 24th July, 1830 (*see* pages 601 and 602, volume XV).

Note 19, page 71.

*An Act.*

This was the statute, 9 Geo. IV, c. lxxxiii, entitled, "An Act to provide for the Administration of Justice in New South Wales and Van Diemen's Land, and for the more effectual government thereof, and for other purposes relating thereto."

Note 20, page 71.

Also pages 226, 333, 461, 504 and 679.

*The Select Committee.*

On the 7th of April, 1837, the following resolution was moved in the house of commons:—"That a Select Committee be appointed to inquire into the System of Transportation, its Efficiency as a Punishment, its Influence on the Moral State of Society in the Penal Colonies, and how far it is susceptible of Improvement."

Note 21, page 73.

*The alterations.*

On the demise of H.M. King William IV, H.M. Queen Victoria was unable to inherit the German dominions under the Salic law. It was necessary, therefore, to alter the royal arms by the omission of the Hanoverian royal crown, which had been included by an order-in-council, dated 6th June, 1816 (*see* page 160, volume IX).

Note 22, page 74.

*The three Ministers.*

These were the reverends John Cleland, Kirkpatrick Dickson Smythe and John Garven at Portland head, Bathurst and Maitland respectively.

Note 23, page 76.

*Recent instructions.*

The "discretionary power" was contained in a letter from Sir George Grey to G. Mercer, dated 30th March, 1836, and in a despatch from Lord Glenelg to Sir Richard Bourke, dated 15th February, 1837 (*see* pages 386 and 680, volume XVIII).

Note 24, page 77.

*The accompanying statement.*

A copy of this statement is not available. This paragraph was interpolated after the despatch was drafted.

Note 25, page 79.

*Very peculiar circumstances.*

These "circumstances" were summarised in the enclosure to the despatch in reply (*see* page 421).

Note 26, page 80.

*The Government notice.*

The principal sections of this notice will be found in note 116, volume XVIII.

Note 27, pages 82, 142 and 552.

*Lunatic Asylum.*

This asylum was erected at Tarban creek and now forms a part of the hospital for insane at Gladesville.

Note 28, page 83.

*Indian Labourers.*

The committee of the legislative council recommended the introduction of Indian hill coolies "only as an immediate and temporary relief to the distresses of the settlers" from the want of labour, and, as it was not probable that more than three to five hundred Indians would be introduced, the committee concurred "in the expediency of granting a bounty of six pounds sterling (which is considered equal to about half the cost of importation) for every male Dhangar or hill laborer of Bengal, who may be embarked on or before the 31st day of December, 1838, providing his age, as nearly as can be ascertained, be not under eighteen nor above thirty, and that he be embarked under such Government Regulations as may hereafter be framed, not only for his comfort and health during the voyage and the fulfilment of the conditions under which he is engaged after his arrival here, but also for his food and treatment while in health, and maintenance and support during sickness; and providing also that security be given by the masters for lodging half-yearly in the Savings Bank ten shillings sterling for each male Dhangar, employed by them, to form a fund to cover the expense of their conveyance back to their native country at the expiration of six years from their arrival in this Colony."

Note 29, page 85.

*A former Despatch.*

The proposal to withdraw the British resident was made by Governor Bourke in two despatches dated 23rd September and 6th December, 1834 (*see* pages 545 and 597, volume XVII).

Note 30, page 91.

*Despatches named in the margin.*

These despatches were dated 27th July, 1837 (*see* page 50), and 12th August, 1837 (*see* page 67).

Note 31, pages 92, 93 and 114.

*Despatch.*

These despatches or letters were written by Sir George Gipps in England, but were entered in the letter book which is preserved at government house, Sydney.

Note 32, pages 92, 108 and 113.

*Despatch.—Received in London.*

These despatches were brought to Sydney by Sir George Gipps, and filed with the despatches at government house, Sydney.

Note 33, page 93.

*Royal Exchange Co.*

The Royal exchange company was formed with A. B. Spark as chairman and David Chambers as solicitor. Prior to the passing of the act, a committee of the legislative council reported: "that upwards of one hundred persons have formed themselves into a Joint Stock Company, for the purpose of erecting a Building to be called the Royal Exchange, and for transacting all business connected therewith; that the subscribed Capital of the said Company is Twenty Thousand Pounds, with power reserved by the Deed of Settlement to increase it if required; the number of Shares is one thousand, of twenty pounds each, which have all been appropriated; the sum of two pounds on each Share is appointed to be paid by the members of the Company, on executing the Deed of Settlement, of which upwards of thirteen hundred pounds have been already paid."

Note 34, page 93.

*The Despatch.*

The despatch was dated 29th December, 1836 (*see* page 625 *et seq.*, volume XVIII).

Note 35, pages 94 and 96.

*The opinions . . . by Colonel Breton.—The evidence of  
Mr. James Macarthur.*

Henry Breton was lieutenant-colonel of the 4th regiment, and served in the colony about four years prior to March, 1836. In commenting on the employment of soldiers as guards over gangs of convicts, he stated that the system was "a most ruinous one to the regiment; it disorganises the regiment, the officers become disgusted, and the men become reckless." In reply to questions, he stated that three years' service in New South Wales had a worse effect than ten years' service in the West Indies due to the demoralisation of the men through association with the convicts.

James Macarthur, in his four examinations before the committee, frequently referred to the difficulty of providing adequate superintendence for the convicts. On the regulation of the road gangs, he stated, "there does not exist in the colony the means of obtaining that kind of superintendence, which would be necessary to put it under an efficient system."



Note 36, page 94.

*Forced labor is a subject by no means new to me.*

In November, 1824, George Gipps, then a captain in the royal engineers, was sent to the West Indies where he remained until his return to England in December, 1829. During his sojourn in the West Indies, he had considerable experience of the forced labour of slaves and wrote important reports on the necessity for their emancipation.

Note 37, page 247.

Also pages 96, 337, 555 and 589.

*A Post on the Northern Coast.*

Two previous attempts at settlement had been made on the coast of the present Northern territory of the Commonwealth of Australia, one at Melville island and the other at Raffles bay. The former was abandoned in the month of January, 1829, and the latter in the month of August following (*see* volumes V and VI, series III). The site selected for the third attempt was at Port Essington on the Cobourg peninsula. The settlement was founded on the 12th of December, 1839, as a dependency of New South Wales, and was known as the town of Victoria (*see* volumes in series III).

Note 38, page 99.

*The decisions on his claim.*

The decisions were contained in despatches, dated 12th February, 1828 (*see* page 779, volume XIII), 18th December, 1828, and 20th March, 1829 (*see* pages 527, 528 and 683 *et seq.*, volume XIV) and 24th July, 1830 (*see* pages 601 and 602, volume XV).

Note 39, page 106.

*Her Family.*

R. Robison married Sibella, the eldest daughter of John Stephen, who was the first puisne judge of the supreme court.

Note 40, page 109.

*The Book.*

This was a small quarto volume, printed at London in 1837, entitled, *Rules and Regulations for the information and guidance of the Principal Officers and others in His Majesty's Colonial Possessions.*

Note 41, page 117.

*Colonial Surgeon James Mitchell.*

James Mitchell was appointed an assistant surgeon at the general hospital at Sydney in the year 1824, and in the following year he became senior surgeon. He held this post until his dismissal in 1837. He was the father of David Scott Mitchell, the donor of the Mitchell collection to the public library of New South Wales.

Note 42, page 126.

*Your Despatch No. 138.*

This despatch numbered 138 was written by Sir Richard Bourke and not by Sir George Gipps (*see* page 623 *et seq.*, volume XVIII).

Note 43, page 128.

*A Volume which has been published by Her Majesty's Government.*

This volume contained extracts from the reports, which were printed in the parliamentary papers.

Note 44, page 129.

*The subject.*

Lord Glenelg in his reply stated that the subject was "certain differences which had arisen between him (*i.e.*, G. M. C. Bowen) and the Ecclesiastical Authorities in New South Wales."

Note 45, page 130.

*The duties which have been lately transferred.*

Sir Richard Bourke reported the abolition of the office of collector of internal revenue and the transfer of the duties to the colonial treasurer in his despatch dated 4th January, 1837 (*see* page 641 *et seq.*, volume XVIII).

Note 46, pages 133, 134 and 139.

*A communication.—I memorialized Parliament.*

The letter dated 16th September, 1835, and the memorial to parliament will be found on pages 103 and 101, volume XVIII.

Note 47, page 141.

*Her Majesty the Queen was proclaimed.*

The accession of H.M. Queen Victoria was proclaimed on the 27th of October, 1837. The following account was printed in the *Sydney Gazette*:—"At sunrise, the Royal Standard at Government House was hoisted half-staff high, and at eleven o'clock the troops in full mourning were stationed in front of it. At twelve o'clock, the scene was exceedingly interesting; but the recent news in confirmation of the demise of his late Majesty caused a gloomy silence to prevail until the sheriff read the proclamation, when the spectators acknowledged their fealty to our Gracious Queen by hearty cheers; after which a salute was fired by the troops, the Royal Standard hoisted to the staff-head, and the band played God save the Queen. A royal salute was fired from Dawes' Battery and a *feu-de-joie* by the troops. Soon after twelve, the procession proceeded up Bridge and George-streets to the front of the Police Office, where the sheriff again read the proclamation and the procession ended. The vessels in the harbour hoisted their numerous flags, and, as seen from the front of Government House, had a most beautiful appearance. The order of the procession, which was badly arranged perhaps owing to the shortness of the notice, was as follows:—A detachment of the Mounted Police, followed by the band and a detachment of the 50th regiment. Then followed the Members of the Bar, the Members of the Executive Council, the Officers of the Commissariat, the Judges, the Members of the Legislative Council, the Clergy, Magistrates and Civil Officers. Next a train of carriages, the principal and respectable in deep mourning, followed by a detachment of the Military."

Note 48, pages 143 and 147.

*Regulations.—Rules.*

These regulations will be found on page 454 *et seq.*, volume XI, and on pages 462 and 463, volume XII.

Note 49, pages 146 and 500.

*Some correspondence.*

The circumstances of the immigration of J. Raymond to the colony were detailed by under secretary Hay in despatches, dated 14th September, 1825, and 11th July, 1827 (*see* page 59, volume XII, and page 441, volume XIII). It will be noted that in both these despatches Raymond is called John *vice* James.

Note 50, page 149.

*Bills . . . for regulating the temporal affairs of the Churches.*

These bills were:

8 Wm. IV, No. 5, entitled, "An Act to regulate the temporal affairs of Churches and Chapels of the United Church of England and Ireland in New South Wales," passed on the 6th of September, 1837.

8 Wm. IV, No. 7, entitled, "An Act to regulate the temporal affairs of Presbyterian Churches and Chapels connected with the Church of Scotland in the Colony of New South Wales," passed on the 9th of September, 1837.

Note 51, page 152.

*The power . . . of trying capital offences on the Island.*

This power was granted by the act of council, 5 Wm. IV, No. 23, passed on the 10th of June, 1835, and entitled, "An Act to establish a Court of Criminal Jurisdiction in Norfolk Island."

Note 52, page 155.

*The Tunnel.*

This tunnel extended from Hyde park to the Lachlan swamp and was upwards of two and quarter miles in length. It averaged four feet in width, and five feet in height. For about four-fifths of its length, it was excavated through solid rock. The remainder was formed through sand, and was lined with chiselled masonry without cement. It was known as "Busby's Bore."

Note 53, page 158.

*Two Printed Notices.*

These notices will be found in the emigration papers which were printed in the parliamentary papers of the house of commons.

Note 54, pages 181 and 432.

*William Buckley.*

William Buckley was born at Macclesfield in Cheshire. He served for a short period in the Cheshire militia, but was removed, on account of his splendid figure, to the 4th or King's Own regiment. He was convicted of participation in a conspiracy at Gibraltar, and sentenced to transportation. He was transported to Port Phillip, Victoria, with the expedition under lieutenant-governor Collins, which was sent to form a settlement in that locality in 1803. After the arrival of the expedition at Port Phillip, Buckley was employed as a servant to the lieutenant-governor. In the month of November, 1803, he, with two others, deserted from the camp; and, after Collins removed from Port Phillip, Buckley lived with the natives for nearly thirty-two years. He was discovered on the 12th of July, 1835, by some men who were left at Indented head, Port Phillip, by John Batman after the conclusion of his treaty with the natives.

Note 55, page 187.

Also page 461.

*A notice.*

This notice was as follows:—

“Sydney, 18th November, 1837.

“His Excellency the Governor is desirous of drawing the attention of the Colonists to the Government Notice of the 25th September, 1837, offering bounties on the introduction of Agricultural Laborers and Mechanics, and of Domestic Servants, in consequence of an intimation, received from the Right Honorable the Secretary of State for the Colonies, that it is the intention of His Majesty’s Government to discontinue at the earliest possible period the assignment of Convicts to private service; and His Excellency is instructed to point out to the Settlers generally the expediency of their looking for the future to Immigration, rather than to assignment, as the source from which they may obtain their requisite labor for the cultivation of their lands and for other purposes.”

Note 56, page 195.

*Which is necessary.*

By section one of the act of council, 9 Geo. IV, No. 6, the governor or acting governor of the colony was empowered to grant letters of denization under the seal of the colony to the subjects of foreign powers, who might “arrive in the said Colony with a recommendation to that effect from His Majesty’s Principal Secretary of State for the Colonies.”

Note 57, page 195.

*In the margin.*

The margin is blank in the copy available. The appointment of Henry Fisher was approved by the right hon. T. Spring Rice in a despatch dated 2nd August, 1834 (*see* page 493, volume XVII).

Note 58, page 196.

Also pages 577 and 712.

*A circular despatch.*

When the secretary of state received an application from a resident in the colony transmitted direct to the colonial office, the application was not considered but its receipt was notified to the governor. This notification was made in a stereotyped letter, the name of the applicant and the date and nature of the application being written in ink. In the despatch on page 196, the words in italics were those written in ink.

Note 59, page 196.

*Isaac Scott Hind.*

This is an error in the original. The applicant’s name was Nind.

Note 60, page 227.

*That dated 5th December, 1837.*

This letter or despatch will be found on page 196 (*see* also note 58).

Note 61, page 230.

*Acting Governor Snodgrass.*

Kenneth Snodgrass joined the army as lieutenant on the 9th of August, 1804, and four days later he was gazetted to the 52nd regiment. On the 20th of October, 1808, he obtained the rank of captain in the same regiment,

and, on the 21st of September, 1813, that of major in the army. He saw service in the Peninsula, for which he was created a companion of the bath and gained the cross and five medals for participating in major actions. On the 25th of October, 1814, he was attached to the Portuguese army. During his career on the Peninsula, he was severely wounded in the head. In consequence, the army medical board passed him as unfit for service in the East or West Indies, and he was placed on half pay on the 25th of December, 1816. On the 21st of June, 1817, he attained the rank of lieut.-colonel in the army. He remained on the half pay list, and in 1828, accepted the appointment of major of brigade on the staff of Governor Darling and became senior military officer in the colony.

Note 62, page 230.

*Three nominal Returns.*

These returns detailed the names of the immigrants and of their employers, the nature of their employment and the rate of wages.

Note 63, page 236.

*Sir Richard Bourke's intention.*

The details of Sir Richard Bourke's return to England will be found on page ix, volume XVI.

Note 64, page 247.

*Sir James Gordon Bremer.*

James John Gordon Bremer was born in the year 1786. At the early age of eight years, he was entered as a first-class volunteer on board the *Sandwich*, guardship at the Nore. In October, 1797, he joined the royal naval college at Portsmouth. In the year 1802, he was appointed midshipman on the *Endymion*. On the 3rd of August, 1805, he was made lieutenant, on the 13th of October, 1807, commander, and on the 7th of June, 1814, captain. During these years, he served in different parts of the world; and, on the 4th of June, 1815, he was created a companion of the bath in recognition of his services. In the year 1816, he was wrecked off Newfoundland in the frigate *Comus*. In the year 1824, he was sent in command of H.M. ship *Tamar* to form the settlement on Melville island off the north coast of Australia (see page 769 *et seq.*, volume V, series III). After leaving Melville island, he went to India and saw active service in the Burmese war. On the 25th of January, 1836, he was created a knight-commander of the Hanoverian order. After founding the settlement at Port Essington, he again went to India, where he was twice acting in command of the naval station. In the years 1840 and 1841, he had the naval command of the expedition to China, and for his services he received the thanks of parliament and was created a knight-commander of the bath on the 29th of July, 1841. In April, 1846, he was appointed second in command of the Channel squadron, and in the following November commodore superintendent of Woolwich dockyard. He obtained his flag on the 15th of September, 1849, but died shortly afterwards on the 14th of February, 1850.

Note 65, page 247.

*It is within the limits of your Government.*

The site of the proposed settlement was in Port Essington on the Cobourg peninsula, which forms a part of the present Northern territory of the Commonwealth of Australia. By his commission (see page 295 *et seq.*), Sir George Gipps 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, with the exception of the province of South Australia, which lay between the one hundred and thirty-second and one hundred and forty-first meridians and south of the twenty-sixth parallel of south latitude. The one hundred and twenty-ninth meridian now forms the eastern boundary of the present state of West Australia, and the whole of the present Northern territory was thus within the jurisdiction of Sir George Gipps.

Note 66, page 253.

*The Aboriginal Establishment at Flinders Island.*

Owing to the frequent depredations committed by the aborigines in Tasmania, lieut.-governor Arthur decided to capture them and segregate them on some island off Tasmania. By the end of the year 1830, fifty-six aborigines were taken and placed on Swan island in Bass strait, but were removed soon after to Gun Carriage or Vansittart island. This island was found unsuitable, and, in 1831, the aborigines were finally transferred to Flinders island. They were placed in the care of a commandant and surgeon, and their numbers were increased by the addition of many brought in from the bush by G. A. Robinson; but, on the island, an increased mortality and decreased birth rate prevented the success of the attempt at their civilisation and the preservation of the race. In 1835, after he had succeeded in bringing in the last party of aborigines from the bush on the mainland, G. A. Robinson was appointed to the charge of the settlement at Flinders island.

Note 67, page 253.

*A Despatch.*

A copy of this despatch will be found in a volume in series III.

Note 68, page 256.

*Letters Patent issued on the 13 October, 1833.*

This is an error in the original. The letters patent were dated 13th October, 1823 (*see* page 509 *et seq.*, volume I, series IV).

Note 69, page 274.

Also page 443.

*Certain proceedings of the Rev. Dr. Lang.*

The Reverend John Dunmore Lang returned from England on the 3rd of December, 1837, with eight Presbyterian ministers and four probationers. On his arrival, the presbytery held that, under the terms of the "declaratory act of the Church of Scotland," only ministers in charge of congregations could be admitted as members of presbyteries and thereby become entitled to the benefits of the "general church act." Thereupon Lang and nine other clergy decided to form themselves into a separate body apart from the recognised presbytery. This body was formed on the 11th of December, 1837, and was called the Synod of New South Wales, with Lang as moderator. This synod was divided into three presbyteries, Sydney, Windsor and the Hunter river; and three clergy were stationed at Sydney, one at Muswellbrook, one at Maitland, one at Windsor and Richmond, one at Campbelltown and Liverpool, one at Parramatta, and one at Brisbane water.

Note 70, page 280.

*A letter.*

This letter was dated 4th October, 1824 (*see* page 380, volume XI).

Note 71, pages 287 and 698.

*The publication of a 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 72, page 290.

*A Land Mail.*

This mail was carried by coach from Sydney to Yass, and thence on horseback to Melbourne. The stages and distances were as follows:—From Sydney to Yass, 190 miles; from Yass to the Murrumbidgee river, 65 miles; to the Murray river, 119 miles; to the Ovens river, 46 miles; to the Broken river, 28 miles; to the Goulburn river, 56 miles; and to Melbourne, 72 miles; a total of 576 miles. John Richards of Berrima was the contractor. The time occupied in the journey with the mails between Sydney and Melbourne was seventeen days; the journey between Yass and Melbourne taking fourteen days.

Note 73, page 295.

*The Commission of Sir George Gipps.*

A comparison of the commission of Sir George Gipps with that of Governor Bourke (*see* page 837 *et seq.*, volume XVI) will show that the powers of Sir George Gipps under his commission were not so wide as those of Governor Bourke. Powers to levy armed forces, to proclaim martial law, and to exercise sovereign naval powers were not granted to Sir George Gipps, and the provision for the trial of officers and seamen of the navy was omitted from his commission. His jurisdiction was reduced by the exclusion of the province of South Australia, and a necessary reference to the continuation act of the statute, 9 Geo. IV, c. lxxxiii, was made in his commission.

Note 74, page 315.

*A letter.*

A copy of this letter is not available.

Note 75, page 340.

*The first Table of Precedence.—A letter.*

The table of precedence and the letter will be found on pages 287 and 288, volume XV.

Note 76, pages 363 and 364.

*The sixth Clause.*

This clause will be found on pages 510 and 511, volume I, series IV.

Note 77, page 365.

*Two printed documents.*

These documents were published by Alexander Macleay in a pamphlet, entitled, *Correspondence with His Excellency Sir Richard Bourke, K.C.B., and other Documents relative to the removal of Alexander McLeay, Esq., from the office of Colonial Secretary of New South Wales.* The pamphlet contained iv and forty pages octavo and twenty-five pages of appendices, and was printed at Sydney in 1838.

Note 78, page 390.

*The ship "Neva" . . . was unfortunately lost.*

The details of the loss of the ship *Neva* will be found on page 135 *et seq.*, volume XVIII.

Note 79, page 392.

*A very fair report.*

This report was as follows:—

“This case was debated before His Honor Chief Justice Dowling, and a Special Jury. The action was for damages at the instance of Dr. Mitchell, late Colonial Surgeon, against Dr. Thompson, Deputy Inspector-General of Hospitals, for a letter and other documents, containing a libel against the official character of the plaintiff, subscribed by the defendant, and inserted in *The Colonist* of the 5th of October last. This letter was elicited by the appearance, in a former number of *The Colonist*, of an article reflecting on the manner in which Dr. Mitchell had been treated by Government, and on the state of management, which the Hospitals were under since the accession of Dr. Thompson to the situation of Inspector-General. In order to correct certain impressions unfavourable to him, which that article seemed calculated to produce, Dr. Thompson addressed a letter to the Editor of *The Colonist*, with certain extracts from General Orders and other official correspondence bearing upon the case of Dr. Mitchell, and containing the libel for which the present action was now instituted. The said letter and extracts accused the plaintiff of bringing unfounded charges against his superior officer, and of gross acts of insubordination; and it was therefore argued for the plaintiff that, unless the defendant was prepared to justify and prove the truth of these charges, he must submit to the damages which the Jury would award.

“1st. The defendant denied that the publication of the letter in question was authorized by him, and that he was not consequently responsible for it. 2ndly. He argued that the article in question proceeding, as it was presumed at the time, either from Dr. Mitchell or some partisan of his, afforded strong ground and occasion for Dr. Thompson’s addressing the said communication to the Editor of *The Colonist*; and it was simply with the view of vindicating his own character from the insinuations thrown out against it in the article, he submitted he had good and excusable reasons for the communication in question. And, 3rdly, Even supposing it to have been both an authorized and libellous publication, he denied that there was any proof of its being malicious; and, therefore, claimed the privilege due in a case where a man has his character publicly attacked, and has a right to vindicate it in a similar manner. Messrs. Therry and a’Beckett spoke at considerable length for the Defendant. Mr. Foster, for the Plaintiff, made an able reply. His Honor Chief Justice Dowling, in charging the Jury, reminded them that the Defendant merely denied responsibility for the publication of the letter signed by him, and on which this action was founded, on the ground of not having given express authority for its insertion in *The Colonist*. He did not plead justification, but defended the case simply on the general issue of *not guilty*. After having requested the Jury to lay aside any pre-conceived notions they might have formed concerning this case, His Honor informed them that the first point for their determination was, whether the defendant had published or was responsible for the publication of the letter in question? In regard to this point, he felt bound to state that in point of law the delivery or transmission of the said communication to Mr. Spilsbury, of *The Colonist*, and Mr. Cavenagh of *The Gazette*, must be held as *bona fide* authority to publish. It is on that presumption that all such communications are received; and in this case it might naturally be asked, for what purpose



was the letter in question sent, if it was not with a view to publication. As, therefore, the defendant imposed no restraint on the Editors, but left them to use their own discretion, His Honor held that, in point of law, he must be regarded as responsible for the publication of the said letter, in so far as it affected the character of the plaintiff. The second point, His Honor said, which the Jury had to determine, was, whether the letter in question, as bearing upon the character of the plaintiff as a public officer, was of a libellous nature or not? Here, he also felt bound to tell them that what was alleged in the said communication against the conduct and reputation of the plaintiff, in which he held the high and respectable office of Colonial Surgeon, Such as, for instance, that he had wilfully disobeyed the orders of the head of his department, and that His Excellency the late Governor had expressed his disapprobation of his conduct; this, and the rest of the allegations contained in the letter in question, he considered as very injurious to the feelings and character of the plaintiff, and, unless justified, must certainly be regarded as libellous in a high degree. The third and last question as regarded the verdict to be given was, whether the publication could be regarded as privileged or not? On this point His Honor informed the Jury that he did not consider that the publication could claim the privilege pleaded in its behalf. Had the plaintiff been the author of the article which called forth the defendant's retaliation, then perhaps some plea of justification, or at least of mitigation, might have been entertained. But in the present case no such provocation had been given by the plaintiff, and the defendant must therefore be held responsible for a wanton libel on the character of the former. The defendant could show no legitimate purpose or justifying cause for thus aspersing the plaintiff; and, as in all such cases malice *prima facie* must be inferred, His Honor held that the plaintiff was certainly entitled to a verdict at the hands of the Jury. He therefore left the Jury to determine what decision they would give, and to fix the amount of damages they considered awardable in the case before them.

"The Jury then retired for above half an hour, and, on their reappearance, they returned a verdict for the plaintiff, with damages to the amount of one hundred pounds."

Note 80, page 393.

*A copy.*

The letter bore the heading "The Hospital," and was as follows:—

"To the Editor of the Colonist,

"Sir,

"3 October, 1837.

"Having seen a paragraph in last week's Colonist, in which my name is mixed up in no very courteous manner, arising, no doubt, from a total ignorance of the real facts of the case, and of the characters of the persons implicated, I beg to submit to your notice the following extracts from public documents, by which you will perceive the propriety of exercising more caution in future, if you wish to maintain the character of your paper as an advocate for truth and justice.

"I am, Sir,

"Your obedient humble servant,

"J. V. THOMPSON, Deputy Inspector-General.

"Memorandum addressed to Alexander M'Leay, Esq., Colonial Secretary, by His Excellency the Governor, March 26, 1836.

"Inform Dr. 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,

Esq., Deputy Inspector-General of Hospitals, has been appointed to the superintendence of the Colonial and Military Hospitals in New South Wales.

“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, etc., etc.

“Instruct the Post Master-General that, from and after the last day of the present month, the office of Inspector of Colonial Hospitals is to be considered as having ceased.

“(Signed) R.B.

“(Certified a true copy):—ALEX. M’LEAY.

“(a true extract):—J. V. THOMPSON, Deputy Inspector-General.

“N.B.—The appointment will be further found notified in The Government Gazette of 30th March, 1836.”

“Extract from General Orders, Sydney, May 10, 1837.

“No. 124.—2. Adverting to those charges brought by Colonial Surgeon Mitchell against his superior officer, for many of which there appears no adequate foundation, His Excellency thinks it sufficient on this occasion to express his displeasure at so insubordinate and improper a proceeding, and to inform Surgeon Mitchell that, if any well-founded complaint of his conduct towards the Deputy-Inspector General of Hospitals shall be again brought by that officer before His Excellency, it will be visited by a measure of much greater severity.

“(Signed by Command) K. SNODGRASS,

“Lieut.-Colonel, Major Brigade.

“(A true extract):—JOHN V. THOMPSON, Deputy Inspector-General.”

“Extract of a letter from the Assistant Military Secretary To the Deputy Inspector-General of Hospitals.

“Sir,

“Sydney, 26 September, 1837.

“I am directed by the Lieut.-General Commanding to inform you that, having taken measures for ascertaining the correctness of the allegations contained in the charges brought by you against Colonial-Surgeon Mitchell, His Excellency considers that officer to have *wilfully* and *deliberately* disobeyed the order of the Head of his Department in refusing to attend punishments at Hyde Park Barracks, and in omitting to sign the orderly book when required to do so.

“You will, therefore, inform Mr. Mitchell that His Excellency has directed his name to be removed from the list of Colonial-Surgeons.

“WILLIAM HUNTER, Assistant Military Secretary.

“(A true extract):—JOHN V. THOMPSON, Deputy Inspector General.”

Note 81, page 396.

*The advice of the Council.*

The encounter between the mounted police and the aborigines was due to the spearing of one of the police, whereupon the police fired and a number of the natives were killed. The executive council recommended that an inquiry should be held by the police magistrate and bench of magistrates nearest to the site of the tragedy. The council did not think that special appointments of police magistrates were required for the inquiry nor was the assistance of a legal officer necessary; but it held that the inquiry should take the same form as any inquest on a white man.

At the same meeting, the council approved the appointment of commissioners of crown lands as protectors of the aborigines with instructions to hold an inquiry into any loss of life caused by encounters between aboriginals and white men beyond the limits of location. It also approved the issue of a notice founded on lord Glenelg’s despatch, dated 26th July, 1837.

Note 82, page 397.

Also page 511.

*A Country.*

This is the country, which forms the watersheds of the Gwydir and Macintyre rivers.

Note 83, page 398.

Also pages 402 and 510.

*Eight men killed.*

In February, 1838, George Faithfull decided to remove his stock to the fine grazing lands discovered in the modern state of Victoria. Accordingly he set out on the overland route to Port Phillip with a herd of his own cattle and a mob of his brother's (W. P. Faithfull's) sheep. He followed the overland route as far as the Ovens river. Here the convoy was divided, and Faithfull took the cattle to Oxley's plains and sent the sheep in charge of an overseer to the Broken river. Shortly after the arrival of the sheep at the Broken river, the massacre occurred, the stock were scattered through the country, and property to the value of £200 in the drays was stolen by the aborigines.

Note 84, page 402.

*The proposal of Lord Howick.*

Viscount Howick was averse to any liberal form of representation of the colonists in the proposed new council. He considered that the antagonism between the "emigrant" and "emancipist" parties was too pronounced, and that the "emancipist" party, having the greater strength at an election, would dominate the council. He was in favour of restricted representation and a restricted franchise.

Note 85, page 402.

*The 2nd Clause.*

This clause was as follows:—

"And be it further enacted, That neither the Governor or Lieutenant Governor of any Island, Colony or Settlement, or any other Person, shall give any Pardon or Ticket of Leave to any Person sentenced to Transportation, or who shall receive a Pardon on condition of Transportation, or any Order or Permission to suspend or remit the Labour of any such Persons, except in Cases of Illness, until such Person, if transported for Seven Years, shall have served Four; if transported for Fourteen years, shall have served Six; or if transported for Life, shall have served Eight Years of Labour; and that no such Person shall be capable of acquiring or holding any Property, or of bringing any Action for the Recovery of any Property, until after such Person shall have duly obtained a Pardon from the Governor or Lieutenant Governor of the Colony or Settlement, in which he or she shall have been confined. Provided that nothing herein contained shall in any Manner affect His Majesty's Royal Prerogative of Mercy."

Note 86, page 404.

*Henry Herring now claims restitution.*

The details of this property were reported by Governor Darling in a despatch dated 10th October, 1826 (*see* page 646 *et seq.*, volume XII).

Note 87, pages 412 and 413.

*H. Gould.—The work.*

H. Gould is an error in the original for J. Gould. In the years 1837 and 1838, John Gould published, in four parts imp. octavo at London, *A Synopsis of the Birds of Australia and the adjacent Islands. With Characters of several new Genera and Descriptions of thirty-six New Species, principally in the Author's Collection.* After his visit to Australia, he published, at London in 1848, his monumental work *The Birds of Australia* in seven volumes imperial folio, which were followed by a supplement published in 1869.

Note 88, page 413.

*Port Hessington.*

This is an error in the original for Port Essington.

Note 89, page 416.

*The gentlemen.*

The botanical garden and Australian museum were under the control of a committee consisting of: Alexander Macleay, J. N. Thompson, E. Deas Thomson, R. A. Wauch, P. P. King, Charles Sturt, Sir John Jamison, George Porter, George Macleay and William Macarthur, with George Bennett as secretary.

Note 90, page 418.

*This Report.*

This report is not preserved with the original of this enclosure in the office of the state governor at Sydney. A report and estimate of the cost of a suitable vessel will be found on pages 455 and 456.

Note 91, page 433.

*The speech.—The original resolution.*

On opening the session of the council, the governor read an address which contained a summary of the business to be submitted for consideration. This corresponds to the address now given by governors on the opening of parliaments; but the contents of the address were entirely at the discretion of Sir George Gipps in the year 1838, whereas the modern governor is merely the mouthpiece of the ministry in power.

The resolution was "that, during the Proceedings of the Council, strangers may be admitted under such regulations, as shall be hereafter adopted." At the same time a committee of five, including the chief justice and attorney-general, was appointed to draft the regulations. This committee drafted six regulations and adopted them unanimously; but, in presenting them to council on the 31st of May, 1838, the committee submitted "the expediency of reconsidering the Resolution, upon which they are founded, before they shall be adopted, inasmuch as they apprehend that doubts may be entertained as to the power of the Council to admit Strangers during the deliberations, consistently with Law." On the 31st of May, the full council confirmed the original resolution; and, on the 5th of June, the following regulations were adopted:—

"(1) That Strangers may be admitted to the Gallery of the Council Chamber on condition that they shall observe good order, and shall not, directly or indirectly, express any opinion on the proceedings of the Council.

"(2) That no Stranger shall be admitted to the Gallery, but on producing to the Doorkeeper an order in writing, signed by a Member of Council, setting

forth the name and address of the party seeking admission, which order shall not be transferable.

“(3) That His Excellency the Governor may, under his hand, authorise the admission to the Gallery of any number of Strangers he shall think proper.

“(4) That each Member of the Council shall be restricted to the admission, by such orders, of two Strangers only.

“(5) That, upon the motion of any Member of Council, Strangers shall withdraw forthwith.

“(6) That, upon all Divisions on any question submitted to the Council, Strangers shall withdraw as of course.”

Note 92, page 435.

*A monopoly of Coal.*

The conditions of this monopoly were notified to Governor Darling by Sir George Murray in a despatch, dated 31st July, 1828 (*see* page 272 *et seq.*, volume XIV). They were as follows:—“As the Company will have incurred a great preliminary expense for a public benefit, which expense they ought to have a fair opportunity of repaying to themselves, His Majesty’s Government deem it proper to desire that, for the next 31 years, no Governor will grant or convey any Coal Mines, or land containing any Coal Mine, without a specific exception of the Coal in such grant or conveyance, nor afford any assistance in Convict labor for the working of any Coal Mine to any other Company, or to any individual or individuals, without the previous sanction of the Government at home; a sanction which would probably be granted, if the Company should avail themselves of their monopoly to impose an exorbitant price upon Coal, the produce of their Mines.”

Note 93, page 436.

*A copy.*

A copy of this letter, dated 9th June, 1838, will be found on page 464.

Note 94, page 440.

*Sir George Grey’s letter.*

A copy of this letter will be found on page 689, volume XVIII.

Note 95, page 457.

*I tendered my resignation.*

The details of the service and resignation of Isaac Scott Nind as assistant surgeon at King George’s sound will be found in volume VI, series III.

Note 96, page 480.

*My letter.*

A copy of this letter will be found on pages 466 and 467.

Note 99, page 481.

*Any Colony in which I have ever been.*

Sir George Gipps was nearly five years in the West Indies from November, 1824, and he was one of three commissioners who were sent to Canada in the year 1835.

Note 100, pages 504 and 691.

*This Petition.—The Resolutions.*

The reasons for the protest made in the petition were: "that much of the evidence given in England is tinged by such a colouring that it presents an incorrect picture of the actual condition of the Colony; that solitary instances have been too hastily adopted by the witnesses as the bases of general principles; that effects, having their origin in causes wholly or partially obsolete, are spoken of as if those causes were still in full operation; and that evils, arising from defects of Legislation and practice, which experience and the wider diffusion of free and educated Immigrants are daily correcting, are treated as inseparable from the general system of Transportation and Assignment."

As the result of this petition, on the 17th of July, 1838, the council carried twelve resolutions for transmission to parliament. The substance of these resolutions was that the character of the colony, relating to the social and moral condition of the colonists, had unjustly suffered by misrepresentations in portions of the evidence given before the transportation committee; that the sudden discontinuance of transportation and assignment, by depriving the colonies of convict labour, would curtail their means of purchasing crown lands and consequently the supply of funds for purposes of immigration; and that the continuance of immigration in any extended form would necessarily depend on the continuance of assignment.

Note 101, page 516.

*A Notice.*

A copy of this notice will be found on page 426, volume XVIII.

Note 102, page 519.

*Mr. R. B. Dawson to Colonial Secretary.*

This letter is a copy of the same letter as is printed on page 137. It is reprinted *in extenso* as an example of the variations, which are found in different copies of the same document.

Note 103, page 525.

*The Commissioners.*

The commissioners for investigating claims to land grants were appointed under the act of council, 4 Wm. IV, No. 9, the first commissioners being Sydney Stephen, Roger Therry and T. L. Mitchell. These commissioners investigated over seven hundred claims. By the act of council, 5 Wm. IV, No. 21, the services of the commissioners were retained "for the purpose only of investigating cases referred to them by the Governor."

Note 104, pages 528 and 530.

*Any greater reward.—Your Memorialist brought before the notice.*

The reward of "a remission in the purchase of land to the amount of £100" was awarded by the executive council (*see* page 160, volume XVII). James King submitted his claims to viscount Goderich in a letter dated 10th January, 1832 (*see* page 764, volume XVI).

Note 105, pages 531 and 532.

*Again addressing your Lordship.—A Letter.*

The letter from under secretary Hay, dated 2nd October, 1832, with James King's first application as sub-enclosure No. 1, will be found on page 762 *et seq.*, volume XVI.

Note 106, page 537.

*That which was named by Lord Ripon.*

In a despatch, dated 9th January, 1831, viscount Goderich announced the intention to abolish the system of free land grants, and in future to sell crown lands by public auction. With his despatch dated 14th February, 1831, viscount Goderich transmitted instructions for this purpose. The minimum price of land was then fixed at five shillings *per acre* (*see* pages 19 *et seq.* and 80 *et seq.*, and also note 25, volume XVI).

Note 107, page 547.

*A Printed Copy of the Minute.*

After receiving the circular despatch dated 4th March, 1832 (*see* note 32, volume XVIII), which enunciated the principles for the annual appropriation of the revenue by the legislative council, Governor Bourke submitted the first estimates to the council on the 27th of September, 1832. In doing so, he submitted also a financial minute explanatory of the ways and means. This practice was continued by Governor Bourke and his successors, and was the forerunner of the financial statements of modern treasurers.

Note 108, page 553.

*A portion of Land.*

The house, in which John Batman first resided at Melbourne, was built on the hill known as Batman's hill. This hill has now been removed. It occupied the site of the modern railway offices and goods sheds at Spencer-street. The area claimed by Batman extended to the modern corner of William and Collins streets, on which corner Batman erected a second residence.

Note 109, page 554.

*The letter.—The Minute.*

It is difficult to understand the reference to a letter, dated 27th July, 1837, "the scope and meaning of which was correctly interpreted in the Minute of the Executive Council" dated 21 October, 1836. The claims of the Port Phillip association were considered by the council on the latter date (*see* page 588 *et seq.* and note 166, volume XVIII), and the letters from Sir George Grey to the representative of the Port Phillip association, dated 15th February, 30th March, and 14th April, 1836 (*see* pages 382, 386 and 390, volume XVIII), were laid before the council.

Note 110, page 567.

*A printed Statement.*

This was a pamphlet entitled, *Statement of the Case of James Mitchell, Esq., late Surgeon on the Civil Establishment of New South Wales*. It was printed for private circulation and contained fifty-two pages octavo with one hundred and seven pages of appendices.

Note 112, page 578.

*A Government Notice.*

The notice was as follows:—

“Colonial Secretary's Office,

“Sydney, 3rd September, 1838.

“His Excellency the Governor, with the advice of the Executive Council, directs it to be notified that the continuance of the existing Trade between this Colony and the Dutch East India Possessions can no longer be permitted,

it having been recently decided by Her Britannic Majesty's Government that the Commercial intercourse between the Subjects of the British and Dutch Governments in the Eastern Archipelago, allowed by the Treaty of 17th March, 1824, does not extend to New Holland.

"In pursuance of this decision, no Dutch Vessel will be admitted to Entry in the Ports of New South Wales or its Dependencies, which may sail from any Port of the Dutch East India Possessions, after the receipt of the present Notice at the Port from which she sailed; or which may arrive in New South Wales after the first day of January, 1839, whatever may be the date of her departure from any Port in the Dutch East India Possessions."

Note 113, page 580.

*A resolution.*

On the 29th of August, 1838, a resolution was carried that, "notwithstanding the able and satisfactory manner in which Mr. Commissioner Therry has administered the Duties of his Office," for purposes of economy the duties of the commissioner should be confined to the county of Cumberland, and similar powers to those vested in him should be conferred on the several benches of magistrates in the other counties.

Note 114, page 587.

*An account of the proceedings . . . in a Newspaper.*

In the issue of the *Australian* newspaper, dated 31st July, 1838, a lengthy report of the meeting was published. The meeting was held on Sunday, 29th July, after the close of the service at St. Mary's cathedral. The bishop, right revd. J. B. Polding, was in the chair and opened the proceedings with a long pastoral address. Four resolutions were carried on the motion of the reverends Lovatt, McEneroe and Murphy in protest against the remarks of Mr. Justice Willis. In concluding the meeting, the bishop stated that it had been "one of the most painful days of his existence."

Note 115, page 588.

*Documents.*

Copies of these documents will be found in a volume in series VII.

Note 116, pages 593 and 594.

*A space.—The Sites.*

The area, occupied by the barracks and the barrack square, extended from George-street on the east to Clarence-street on the west, and from Barrack-street on the south to a little north of the modern Margaret-street on the north. Near the north-eastern corner of this area, the treasury building was erected; and, with this exception, the whole area was devoted to military purposes.

The site proposed for the new barracks practically is the same as the site now occupied by the military barracks at Paddington.

Note 117, page 601.

*Some white men.*

These were the men involved in the massacre of aborigines at Myall creek (*see* page 701 *et seq.*).

Note 118, page 607.

*An Act of Appropriation.—Financial Papers.*

This was the act of council, 2 Viet., No. 15. The financial papers will be found in the *Votes and Proceedings* of the legislative council.



Note 119, page 612.

*The Resolution.*

The resolution was as follows:—"That this Council, impressed with the value of the Public Services for a period of upwards of ten years of Alexander M'Leay, Esquire, late Colonial Secretary of the Colony, are of opinion that the Pension of Two hundred and fifty pounds per annum, proposed by His Majesty's Principal Secretary of State for the Colonies, is totally inadequate as a compensation for his loss of Office; and therefore they respectfully request that His Excellency the Governor will be pleased to communicate to the Secretary of State the recommendation of this Council that, instead of the proposed Pension, a Gratuity equal to the amount of two years' Salary of his late Office be paid to Mr. M'Leay."

Note 120, page 650.

*The fourteen days allowed by the 22nd Sect.*

By the twenty-second section of the statute, 9 Geo. IV, c. lxxxiii, it was provided that every law or ordinance, passed by the council, should be transmitted within seven days to the supreme court to be enrolled and recorded; and that, at the expiration of fourteen days, such law or ordinance should have full force and effect. Within this period of fourteen days, a judge might submit a remonstrance to the governor that such law or ordinance was repugnant to the law of England. Such remonstrance was then submitted to the council. If the governor and council adhered to the law or ordinance after consideration of the remonstrance, the law and ordinance had full force and effect, but was forthwith submitted with the judge's remonstrance for the consideration of the secretary of state.

Note 121, page 652.

*Page 3 of the Appendix to Mr. James Macarthur's Book.*

In the year 1837, James Macarthur published an octavo volume, entitled, *New South Wales, its present state and future prospects, being a Statement with documentary evidence submitted in support of Petitions to His Majesty and Parliament.* On page 1 *et seq.* of the appendix, the petition was printed a copy of which will be found on page 392 *et seq.*, volume XVIII, and on page 3 the fourth paragraph of that petition was printed.

Note 122, page 657.

*A copy of a work.*

This was an octavo volume, first published at London in 1838, entitled, *An Attempt to develop the Law of Storms by means of facts arranged according to place and time, and hence to point out a cause for the variable winds; Illustrated by charts and woodcuts;* by lieutenant-colonel William Reid. A second edition was published in 1841, and a third in 1850. The receipt of this book in the colony might be said to mark the beginning of the study of the practical application of meteorology for purposes of shipping.

Note 123, page 699.

*Both the names.*

It is difficult to explain the statements in this paragraph. The "accuser" of H. F. White was William Nairn Gray, and the signatory to the memorial is quoted as Charles George Gray. All the correspondence from the police magistrate enclosed with the despatch dated 13th April, 1838 (*see* page 366 *et seq.*), was signed "W. N. Gray." Therefore, the confusion with the name "Charles George Gray" is inexplicable. In the year 1838, both C. G. Gray and W. N. Gray were magistrates.

Note 124, page 700.

*Bishop Pompallier.*

When the French ship *La Favorite* visited New Zealand in October, 1831, it was reported that it was intended to send a French Roman Catholic bishop on a mission to the Maoris. In 1838, Bishop Pompallier with two priests arrived and settled at Hokianga. The mission prospered and further priests and lay-brethren arrived, all being of French descent. The headquarters of the mission were subsequently removed to Kororeka, and thence, in 1845, to Auckland.

Note 125, page 702.

*Three of the ablest Counsel.*

The counsel for the prisoners were William Foster, Richard Windeyer and William A'Beckett.

Note 126, page 709.

*The advice of the Council.*

Two French priests were deported from Tahiti, and A. Du Petit Thouars was sent to demand satisfaction from Pomarre, queen of Tahiti. On his arrival at the island, Thouars demanded a letter of apology and the payment of an indemnity of two thousand dollars within twenty-four hours, and a salute of twenty-one guns by the Tahitian government to the French flag when it was hoisted on a certain island. Failing compliance with these demands, hostilities were to commence forthwith. On the advice and with the assistance of George Pritchard, Queen Pomarre paid the indemnity and complied with the demands. Thouars thereupon appointed a French consul on the island, and concluded a treaty with Queen Pomarre. Pritchard stated that the Tahitians thought they were under British protection, and he desired frequent visits of British ships of war.

Note 127, page 714.

*The unanimous resolution.*

A copy of this resolution will be found on page 571.

Note 128, page 719.

*The renewal.*

The statute, 9 Geo. IV, c. lxxxiii, expired on the 31st of December, 1836, or at the end of the next session of parliament. It was extended for periods of twelve months each by successive statutes, 6-7 Wm. IV, c. xlvi, 7 Wm. and 1 Vict., c. xlii, and 1 and 2 Vict., c. 1.

Note 129, page 719.

*The opinions of my Predecessor.*

The opinions of Governor Bourke were contained in two despatches, dated 25th December, 1833, and 26th December, 1835 (*see* page 302 *et seq.*, volume XVII, and page 246 *et seq.*, volume XVIII).

Note 130, page 722.

Also page 739.

*Clause I.*

By these clauses, the following provisions were made:—

Clause I—that courts of judicature be established in New South Wales and Tasmania, and that judges be appointed.

Clause V—that all issues of fact on every information by the attorney-general be tried by one or more judges and seven commissioned officers of the navy or army.

Clause X—that the governors be authorised to extend and apply the form of proceeding by grand or petit juries.

Clause XI—that the supreme courts be courts of equity.

Clause XIII—that the King be authorised to appoint circuit courts.

Clause XVII—that the governors be authorised to appoint courts of general and quarter sessions.

Clause XVIII—that the governors be authorised to appoint courts of civil jurisdiction.

Clause XXII—that laws and ordinances be enrolled in supreme court; and that a judge be authorised to submit to the governor a remonstrance, which remonstrance was to be considered by the council, that such law or ordinance was in his opinion repugnant to the law of England.

Clause IX—that the governors be empowered to revoke assignments and to grant temporary or partial remissions of sentences to convicts.

Clause XXXIII prescribed regulations for remissions of sentences of transportation; and

Clause VIII prescribed the system for the trial of issues.

Note 131, page 748.

*The application of certain Individuals.*

This was the application from C. Swanston and his partners (*see* pages 435 and 436).

Note 132, page 748.

*The Under Secretary of State's Letter.*

A copy of this letter is not available. The conditions imposed on the Australian agricultural company were reported by Sir George Murray to Governor Darling in a despatch, dated 31st July, 1828 (*see* page 272 *et seq.*, volume XIV).

Note 133, page 751.

*562,898 acres only were exchanged.*

By this exchange, the Australian agricultural company acquired the area of land adjoining the modern town of Tamworth, which was afterwards transferred to the Peel river estates company and is known as Goonoo Goonoo.

Note 134, page 755.

Also page 766.

*An act.*

This was the act of council, 2 Vict., No. 16, entitled, "An Act to authorise the payment of moneys for the year one thousand eight hundred and thirty-nine to certain Presbyterians in New South Wales under the provisions of an Act intituled, '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 135, page 774.

*The opinion.*

Governor Bourke submitted reports on the "bushrangers act" in despatches, dated 15th September, 1834, and 14th September, 1836 (*see* page 520 *et seq.*, volume XVII, and page 536, volume XVIII).

Note 136, page 779.

*A Medical Board.*

By section two of this act of council, the first board was permanently established in Australia for the examination of qualifications of candidates desirous of practising a profession. By this section, it was enacted, "That it shall and may be lawful for the Governor or Acting Governor for the time being to appoint a Committee, consisting of not less than three Members being of the Medical Profession, one of whom shall be nominated President, together with a Secretary, under the style and description of 'The New South Wales Medical Board'; and it shall be lawful for the said Governor or Acting Governor for the time being to remove the said Members or any of them, and, upon the removal, death or resignation of the said Member or any of them, to appoint such other person or persons as he shall think fit; and any person, desirous of being declared a legally qualified Medical Practitioner as aforesaid, shall submit his degree, diploma or certificate, or proof of his being so duly qualified, for the examination and approval of the said Medical Board, and shall obtain from the said Medical Board a certificate of his being so qualified."

In the year 1808, lieut.-colonel Foveaux, who administered the government for a term after the deposition of Governor Bligh, established a board to examine the qualifications as surgeons of William Redfern and Edward Luttrell (*see* page 647, volume VI). For a number of years, this system was extended to an examination of all who commenced medical practice in the colony. Anyone failing to pass such examination was gazetted and ordered to desist from practice.

Note 137, page 787.

*The letters.*

Copies of these letters will be found on pages 382, 386 and 390, volume XVIII.

# SYNOPSIS.



# SYNOPSIS OF DESPATCHES

The reference to the despatches marked "a" in the sixth column will be found on pages 631-2, volume XVIII.

From	To	Dated	Despatch endorsed	Transmitted per—	See page	Acknowledged by—	Date of acknow- ledgment.
Bourke, Sir Richard	Glenelg, Lord	1837, 1 July	No. 57	Ship Thomas Lowry	1	Glenelg, Lord	1837, 10 Nov.
Do	do	2 July	No. 58	do	4		
Glenelg, Lord	Bourke, Sir Richard	3 July	No. 335	Ship James Pattison	4	Bourke, Sir Richard	3 Dec.
Do	do	4 July	No. 335	do	5		
Do	do	5 July	No. 337	do	6	Bourke, Sir Richard	7 Nov.
Do	do	6 July	No. 338	do	8		
Do	do	7 July	No. 339	do	10		
Bourke, Sir Richard	Glenelg, Lord	7 July	No. 59	Ship Thomas Lowry	11	Glenelg, Lord	1838, 29 March, 7 June.
Do	do	7 July	No. 60	do	21	do	
Do	do	8 July	No. 61	do	a		
Glenelg, Lord	Bourke, Sir Richard	10 July	No. 340	Ship James Pattison	787		
Do	do	10 July	No. 341	do	22		
Do	do	11 July	No. 342	do	22		
Do	do	14 July	No. 343	Ship Waterloo	22		
Do	do	14 July	No. 344	Ship Neptune	23	Snodgrass, Acting Gov- ernor.	17 Feb.
Do	do	14 July	No. 62	do	25		
Bourke, Sir Richard	Glenelg, Lord	20 July	No. 62	do	a		
Glenelg, Lord	Bourke, Sir Richard	21 July	No. 345	Ship Asia	25	Gilpin, Sir George	8 Nov.
Do	do	21 July	No. 346	do	a		
Do	do	21 July	No. 347	do	26		
Bourke, Sir Richard	Glenelg, Lord	21 July	No. 63	Ship Caroline	49		
Do	do	22 July	No. 64	do	a		
Glenelg, Lord	Bourke, Sir Richard	23 July	No. 348	Ship Waterloo	41		
Bourke, Sir Richard	Glenelg, Lord	23 July	No. 65	Ship Caroline	a		
Glenelg, Lord	Bourke, Sir Richard	24 July	No. 349	Ship Waterloo	43		
Do	do	24 July	No. 350	do	44		
Bourke, Sir Richard	Glenelg, Lord	24 July	No. 66	Ship Caroline	44	Glenelg, Lord	26 Oct.
Glenelg, Lord	Bourke, Sir Richard	25 July	No. 351	Ship Waterloo	a		
Do	do	25 July	No. 352	do	46		
Bourke, Sir Richard	Glenelg, Lord	25 July	No. 67	Ship Caroline	a		
Glenelg, Lord	Bourke, Sir Richard	26 July	No. 353	Ship Waterloo	47		
Bourke, Sir Richard	Glenelg, Lord	26 July	No. 68	Ship Caroline	50		
Do	do	27 July	No. 69	do	50	Glenelg, Lord	1837, 11 Dec.

From	To	Dated	Despatch endorsed	Transmitted per—	See page	Acknowledged by—	Date of acknow- ledgment.
		1837.					
Glenelg, Lord	Bourke, Sir Richard	28 July	No. 354	Ship Waterloo	51	Gipps, Sir George.	1838.
Bourke, Sir Richard	Glenelg, Lord	28 July	No. 70	Ship Caroline.	52	Glenelg, Lord	2 March.
Glenelg, Lord	Bourke, Sir Richard	29 July	No. 355	Ship Waterloo	54		30 Jan.
Bourke, Sir Richard	Glenelg, Lord	29 July	No. 71	Ship Caroline.	54		6 Aug.
Do	do	30 July	No. 72	do	55		.....
Glenelg, Lord	Bourke, Sir Richard	31 July	No. 356	Ship Emma Eugenia	56		.....
Do	do	1 Aug.	No. 357	Ship Waterloo	57		.....
Bourke, Sir Richard	Glenelg, Lord	1 Aug.	No. 73	Ship Sarah and Elizabeth	a		.....
Do	do	1 Aug.	No. 74	do	60		.....
Glenelg, Lord	Bourke, Sir Richard	2 Aug.	No. 358	Ship Waterloo	61		5 Jan.
Bourke, Sir Richard	Glenelg, Lord	2 Aug.	No. 74	Ship Sarah and Elizabeth	61		.....
Do	do	3 Aug.	No. 75	do	62		.....
Do	do	4 Aug.	No. 76	do	62		.....
Glenelg, Lord	Bourke, Sir Richard	10 Aug.	No. 359	Ship Waterloo	65		30 Dec.
Do	do	11 Aug.	No. 360	do	a		.....
Do	do	12 Aug.	No. 361	do	66		.....
Bourke, Sir Richard	Glenelg, Lord	12 Aug.	No. 77	Ship Sarah and Elizabeth	67		.....
Do	do	13 Aug.	No. 78	do	a		.....
Do	do	14 Aug.	No. 79	do	68		.....
Glenelg, Lord	Bourke, Sir Richard	15 Aug.	No. 363	Ship Waterloo	68		1838.
Do	do	17 Aug.	No. 364	do	69		2 June.
Do	do	19 Aug.	No. 365	do	69		1837.
Do	do	20 Aug.	No. 366	do	70		11 Dec.
Bourke, Sir Richard	Glenelg, Lord	20 Aug.	No. 80	Ship City of Edinburgh	a		.....
Glenelg, Lord	Bourke, Sir Richard	23 Aug.	No. 367	Ship Waterloo	70		.....
Do	do	25 Aug.	No. 368	do	71		.....
Do	do	28 Aug.	No. 369	Ship Emma Eugenia	71		.....
Do	do	29 Aug.	No. 370	Ship Waterloo	72		.....
Do	do	31 Aug.	Circular	Ship Emma Eugenia	73		.....
Bourke, Sir Richard	Gipps, Sir George	1 Sept.	No. 81	Ship City of Edinburgh	73		6 Feb.
Do	do	5 Sept.	No. 82	do	75		9 May.
Do	do	6 Sept.	No. 83	do	75		.....
Do	do	7 Sept.	No. 84	do	79		18 May.
Do	do	8 Sept.	No. 85	do	80		.....
Do	do	9 Sept.	No. 86	do	84		.....



From	To	Dated	Despatch endorsed	Transmitted per—	See page	Acknowledged by—	Date of acknowledgment.
Bourke, Sir Richard	Glenelg, Lord	1837.	No. 87	Ship Hebe	86	Glenelg, Lord	1838.
Do	do	10 Sept.	No. 88	do	87	do	28 Feb.
Do	do	11 Sept.	No. 89	do	89	do	3 April.
Do	do	12 Sept.	No. 90	do	90	do	do
Do	do	13 Sept.	No. 91	do	90	Glenelg, Lord	29 May.
Do	do	14 Sept.	No. 92	do	a	do	do
Do	do	15 Sept.	No. 93	do	91	do	do
Do	do	19 Sept.	Separate	do	92	do	do
Gipps, Sir George	Gipps, Sir George	20 Sept.	Circular	do	92	do	do
Glenelg, Lord	Glenelg, Lord	20 Sept.	No. 94	Ship Hebe	93	Glenelg, Lord	27 Feb.
Bourke, Sir Richard	do	20 Sept.	Separate	do	93	do	do
Bourke, Sir George	do	20 Sept.	No. 95	do	97	do	do
Bourke, Sir Richard	Bourke, Sir Richard	22 Sept.	No. 371	Ship Hebe	97	Glenelg, Lord	26 May.
Glenelg, Lord	Glenelg, Lord	23 Sept.	No. 371	Ship Emma Eugenia	97	do	do
Bourke, Sir Richard	Bourke, Sir Richard	23 Sept.	No. 96	Ship Hebe	98	Glenelg, Lord	7 March.
Glenelg, Lord	Bourke, Sir Richard	26 Sept.	No. 372	Ship Waterloo	98	do	do
Do	do	27 Sept.	No. 373	do	90	do	do
Do	do	28 Sept.	No. 374	do	100	do	do
Do	do	29 Sept.	No. 375	do	100	do	do
Do	do	29 Sept.	No. 376	do	102	do	do
Do	do	29 Sept.	No. 377	do	103	do	do
Do	do	30 Sept.	No. 378	do	105	do	do
Do	do	30 Sept.	No. 379	do	107	do	do
Do	do	30 Sept.	No. 379	Ship Upton Castle	108	do	do
Do	Gipps, Sir George	— Sept.	Circular	do	109	do	do
Do	do	30 Sept.	No. 380	Ship Emma Eugenia	110	do	do
Do	Bourke, Sir Richard	2 Oct.	No. 381	Ship Upton Castle	111	Gipps, Sir George	24 Aug.
Do	do	3 Oct.	No. 382	do	111	do	do
Do	do	4 Oct.	No. 382	do	112	do	do
Do	do	5 Oct.	Separate	do	113	Gipps, Sir George	1839.
Gipps, Sir George	Gipps, Sir George	9 Oct.	No. 97	Ship Enterprise	113	do	11 Dec.
Bourke, Sir Richard	Glenelg, Lord	10 Oct.	No. 98	do	115	do	do
Do	do	11 Oct.	No. 98	do	116	do	do
Do	do	12 Oct.	No. 99	Ship Abel Gower	117	do	do
Do	do	13 Oct.	No. 1	Ship Upton Castle	118	do	do
Glenelg, Lord	Gipps, Sir George	14 Oct.	No. 2	do	118	do	do
Do	do	14 Oct.	No. 3	do	118	Gipps, Sir George	1838.
Do	do	14 Oct.	No. 4	do	119	do	29 Aug.
Do	do	14 Oct.	No. 5	do	120	do	do

From	To	Dated	Despatch endorsed	Transmitted per—	See page	Acknowledged by—	Date of acknowledgment.
Glenelg, Lord	Gipps, Sir George	1837. 14 Oct.	Circular ...	Ship Emma Eugenia ...	124	.....	1838.
Do	do	16 Oct.	No. 7	do	125	.....	.....
Do	do	21 Oct.	No. 8	do	126	Gipps, Sir George.....	12 April.
Do	do	21 Oct.	No. 9	do	127	do	23 Aug.
Do	do	21 Oct.	Circular	.....	128	.....	.....
Bourke, Sir Richard	Glenelg, Lord	21 Oct.	No. 100	Ship Earl Stanhope.....	128	.....	.....
Do	do	21 Oct.	No. 101	do	129	Glenelg, Lord	20 June.
Glenelg, Lord	Gipps, Sir George	22 Oct.	No. 10	Ship Emma Eugenia	129	.....	.....
Do	do	22 Oct.	No. 11	do	a	.....	.....
Bourke, Sir Richard	Glenelg, Lord	22 Oct.	No. 102	Ship Earl Stanhope	130	Glenelg, Lord	16 June.
Glenelg, Lord	Gipps, Sir George	23 Oct.	No. 12	Ship Emma Eugenia	131	.....	.....
Do	do	24 Oct.	No. 13	do	131	.....	.....
Do	do	24 Oct.	No. 14	do	132	.....	.....
Bourke, Sir Richard	Glenelg, Lord	25 Oct.	No. 103	Ship North Briton	133	.....	.....
Glenelg, Lord	Gipps, Sir George	26 Oct.	No. 15	Ship Emma Eugenia	133	.....	.....
Do	do	26 Oct.	No. 16	do	140	Gipps, Sir George.....	27 Aug.
Bourke, Sir Richard	Glenelg, Lord	28 Oct.	No. 104	Ship North Briton	141	.....	.....
Glenelg, Lord	Gipps, Sir George	30 Oct.	No. 17	Ship Emma Eugenia	a	Gipps, Sir George.....	24 Aug.
Do	do	31 Oct.	No. 18	do	142	Glenelg, Lord	7 Aug.
Bourke, Sir Richard	Glenelg, Lord	1 Nov.	No. 105	Ship North Briton	143	.....	.....
Do	do	2 Nov.	No. 106	do	a	.....	.....
Do	do	3 Nov.	No. 107	do	146	Glenelg, Lord	16 July.
Do	do	4 Nov.	No. 108	do	148	.....	.....
Do	do	5 Nov.	No. 109	do	150	.....	.....
Do	do	6 Nov.	No. 110	do	155	Glenelg, Lord	23 Aug.
Do	do	7 Nov.	No. 111	do	156	do	9 Oct.
Do	do	9 Nov.	No. 19	Ship Fergusson	a	.....	.....
Glenelg, Lord	Gipps, Sir George	10 Nov.	No. 20	do	158	.....	.....
Do	do	10 Nov.	No. 21	do	159	.....	.....
Do	do	11 Nov.	No. 22	Ship Orontes	160	.....	.....
Do	do	13 Nov.	No. 23	Ship Fergusson	163	.....	.....
Do	do	14 Nov.	No. 24	do	164	.....	.....
Do	do	15 Nov.	No. 25	do	164	.....	.....
Do	do	15 Nov.	No. 112	Ship North Briton	165	Glenelg, Lord	22 June.
Bourke, Sir Richard	Glenelg, Lord	16 Nov.	No. 26	Ship Fergusson	174	.....	.....
Glenelg, Lord	Gipps, Sir George	16 Nov.	No. 113	Ship North Briton	174	Glenelg, Lord	13 June.
Glenelg, Lord	Gipps, Sir George	17 Nov.	No. 27	Ship Fergusson	180	.....	.....
Bourke, Sir Richard	Glenelg, Lord	17 Nov.	No. 114	Ship North Briton	180	Glenelg, Lord	13 June.
Do	do	17 Nov.	No. 116	do	181	do	4 June.

From	To	Dated	Despatch endorsed	Transmitted per—	See page	Acknowledged by—	Date of acknowledgment.
Glenelg, Lord	Gipps, Sir George	1888.	No. 28	Ship Ferguson	182		1888.
Bourke, Sir Richard	Glenelg, Lord	18 Nov.	No. 115	Ship North Briton	183	Glenelg, Lord	10 Aug.
Glenelg, Lord	Gipps, Sir George	20 Nov.	Separate	Ship Ferguson	184		
Do	do	20 Nov.	No. 29	do	184		
Bourke, Sir Richard	Glenelg, Lord	20 Nov.	No. 117	Ship North Briton	185	Glenelg, Lord	13 June.
Glenelg, Lord	Gipps, Sir George	21 Nov.	No. 30	Ship Ferguson	a		
Bourke, Sir Richard	Glenelg, Lord	21 Nov.	No. 118	Ship North Briton	186	Glenelg, Lord	30 Aug.
Do	do	22 Nov.	No. 119	do	187	do	30 June.
Glenelg, Lord	Gipps, Sir George	23 Nov.	No. 31	Ship Ferguson	188		
Bourke, Sir Richard	Glenelg, Lord	23 Nov.	No. 120	Ship North Briton	188		
Glenelg, Lord	Gipps, Sir George	24 Nov.	No. 32	Ship Ferguson	189		
Do	do	24 Nov.	No. 33	do	189		
Bourke, Sir Richard	Glenelg, Lord	24 Nov.	No. 121	Ship North Briton	190		
Glenelg, Lord	Gipps, Sir George	25 Nov.	No. 34	Ship Ferguson	a		
Bourke, Sir Richard	Glenelg, Lord	25 Nov.	No. 122	Ship North Briton	191		
Glenelg, Lord	Gipps, Sir George	26 Nov.	No. 35	Ship Ferguson	a		
Bourke, Sir Richard	Glenelg, Lord	26 Nov.	No. 123	Ship North Briton	191		
Glenelg, Lord	Gipps, Sir George	27 Nov.	No. 36	Ship Ferguson	192		
Bourke, Sir Richard	Glenelg, Lord	27 Nov.	No. 124	Ship North Briton	193		
Do	do	2 Dec.	No. 125	do	193		
Do	do	3 Dec.	No. 126	do	194		
Glenelg, Lord	Gipps, Sir George	4 Dec.	No. 37	Ship Ferguson	a		
Bourke, Sir Richard	Glenelg, Lord	4 Dec.	No. 127	Ship North Briton	a		
Do	do	4 Dec.	No. 128	do	a		
Do	do	4 Dec.	No. 129	do	194	Glenelg, Lord	1 June.
Do	do	4 Dec.	No. 130	do	195	do	9 June.
Do	do	4 Dec.	No. 131	do	a		
Do	do	4 Dec.	No. 132	do	a		
Do	do	4 Dec.	No. 133	do	a		
Glenelg, Lord	Gipps, Sir George	5 Dec.	Circular	Ship Ferguson	a		
Do	do	6 Dec.	No. 38	do	196	Gipps, Sir George	16 May.
Do	do	11 Dec.	No. 39	do	199		
Do	do	11 Dec.	No. 45	do	199	Gipps, Sir George	24 Aug.
Do	do	12 Dec.	No. 40	do	a		
Do	do	12 Dec.	No. 41	do	a		
Do	do	12 Dec.	No. 42	do	a		
Do	do	13 Dec.	No. 43	do	a		
Do	do	13 Dec.	No. 44	do	201		
Do	do	14 Dec.	No. 46	do	202	Gipps, Sir George	28 July.

From	To	Dated	Despatch endorsed	Transmitted per—	See page	Acknowledged by—	Date of acknowledgment.
Glenelg, Lord	Gipps, Sir George.	1837.	Private ..	Ship Ferguson.....	205	.....	1839.
Do	do	14 Dec.	No. 47 ..	do .....	206	Gipps, Sir George.....	12 April.
Do	do	16 Dec.	No. 48 ..	do .....	207	.....	.....
Do	do	18 Dec.	No. 49 ..	do .....	209	Gipps, Sir George.....	9 Dec.
Do	do	19 Dec.	No. 50 ..	do .....	209	.....	.....
Do	do	19 Dec.	No. 51 ..	do .....	210	.....	.....
Do	do	21 Dec.	No. 52 ..	do .....	211	.....	.....
Do	do	21 Dec.	.....	do .....	212	.....	.....
Do	do	29 Dec.	No. 54 ..	Ship Maria .....	214	.....	.....
Do	do	30 Dec.	No. 53 ..	Ship Duncan .....	214	.....	.....
Do	do	30 Dec.	No. 55 ..	Ship Maria .....	223	.....	.....
Do	do	30 Dec.	No. 56 ..	do .....	223	.....	.....
Do	do	30 Dec.	No. 57 ..	do .....	225	.....	.....
Do	do	30 Dec.	No. 58 ..	do .....	226	.....	.....
Do	do	1838.	No. 59 ..	do .....	229	.....	.....
Snodgrass, Acting Governor ..	Glenelg, Lord	1 Jan.	No. 1 ..	Ship North Briton .....	228	.....	1838.
Glenelg, Lord	Gipps, Sir George.	2 Jan.	No. 60 ..	Ship Maria .....	229	Gipps, Sir George.....	28 Aug.
Snodgrass, Acting Governor ..	Glenelg, Lord	2 Jan.	No. 2 ..	Ship North Briton .....	230	.....	.....
Glenelg, Lord	Gipps, Sir George.	3 Jan.	No. 61 ..	Ship Maria .....	230	Gipps, Sir George.....	3 Sept.
Snodgrass, Acting Governor ..	Glenelg, Lord	3 Jan.	No. 3 ..	Ship North Briton .....	228	.....	.....
Glenelg, Lord	Gipps, Sir George.	4 Jan.	No. 62 ..	Ship Maria .....	227	.....	.....
Snodgrass, Acting Governor ..	Glenelg, Lord	4 Jan.	No. 4 ..	Ship North Briton .....	233	.....	.....
Glenelg, Lord	Gipps, Sir George.	5 Jan.	No. 63 ..	Ship Maria .....	234	Gipps, Sir George.....	15 Aug.
Snodgrass, Acting Governor ..	Glenelg, Lord	5 Jan.	No. 5 ..	Ship North Briton .....	228	.....	.....
Do	do	6 Jan.	No. 6 ..	do .....	228	.....	.....
Do	do	7 Jan.	No. 7 ..	do .....	235	.....	.....
Do	do	8 Jan.	No. 8 ..	do .....	235	.....	.....
Do	do	8 Jan.	Separate ..	do .....	236	.....	.....
Do	do	9 Jan.	No. 9 ..	Ship Augusta Jessie .....	236	.....	.....
Do	do	10 Jan.	No. 64 ..	Ship Maria .....	227	.....	.....
Glenelg, Lord	Gipps, Sir George.	10 Jan.	No. 10 ..	Ship Augusta Jessie .....	238	Glenelg, Lord .....	5 July.
Snodgrass, Acting Governor ..	Glenelg, Lord	10 Jan.	No. 11 ..	do .....	240	.....	.....
Do	do	11 Jan.	No. 12 ..	do .....	243	.....	.....
Do	do	12 Jan.	No. 13 ..	do .....	243	.....	.....
Do	do	13 Jan.	No. 14 ..	do .....	244	Glenelg, Lord .....	.....
Glenelg, Lord	Gipps, Sir George.	19 Jan.	No. 65 ..	Ship Maria .....	227	.....	30 July.

From	To	Dated	Despatch endorsed	Transmitted per—	See page	Acknowledged by—	Date of acknow- ledgment
Snodgrass, Acting Governor.	Glenelg, Lord	1838.	No. 14	Ship Isabella	245	.....	1838.
Glenelg, Lord	Gipps, Sir George.	25 Jan.	No. 66	Ship Maria	247	.....	.....
Do	do	26 Jan.	No. 67	do	247	Gipps, Sir George.	24 Aug.
Do	do	27 Jan.	No. 68	do	250	do	6 Aug.
Do	do	27 Jan.	No. 69	do	250	.....	.....
Do	do	29 Jan.	No. 70	do	251	Gipps, Sir George.	25 Aug.
Do	do	30 Jan.	No. 71	do	252	do	1839.
Do	do	31 Jan.	No. 72	do	252	.....	2 Jan.
Snodgrass, Acting Governor.	Glenelg, Lord	1 Feb.	No. 15	Ship Isabella	255	.....	.....
Do	do	2 Feb.	No. 16	do	256	Glenelg, Lord	1838.
Do	do	3 Feb.	No. 17	do	261	do	18 July.
Do	do	4 Feb.	No. 18	do	228	.....	11 July.
Do	do	5 Feb.	No. 19	do	263	Glenelg, Lord	.....
Do	do	6 Feb.	No. 73	do	263	.....	15 Dec.
Glenelg, Lord	Gipps, Sir George.	6 Feb.	No. 20	Ship Maria	266	.....	.....
Snodgrass, Acting Governor.	Glenelg, Lord	7 Feb.	No. 21	Ship Isabella	270	Glenelg, Lord	16 July.
Do	do	7 Feb.	No. 22	do	271	do	25 Aug.
Do	do	7 Feb.	No. 23	do	271	do	6 July.
Do	do	8 Feb.	No. 24	do	271	do	31 Aug.
Glenelg, Lord	Gipps, Sir George.	10 Feb.	No. 74	Ship Maria	272	.....	.....
Snodgrass, Acting Governor.	Glenelg, Lord	17 Feb.	No. 24	Ship Isabella	274	Glenelg, Lord	3 Sept.
Do	do	18 Feb.	No. 25	do	275	do	16 July.
Glenelg, Lord	Gipps, Sir George.	19 Feb.	No. 75	do	275	Gipps, Sir George.	19 Oct.
Snodgrass, Acting Governor.	Glenelg, Lord	19 Feb.	No. 26	Ship Amelia Thompson.	276	.....	.....
Glenelg, Lord	Gipps, Sir George.	20 Feb.	No. 50	Ship Isabella	276	.....	.....
Snodgrass, Acting Governor.	Glenelg, Lord	20 Feb.	No. 75	Ship Amelia Thompson.	276	Glenelg, Lord	16 July.
Glenelg, Lord	Gipps, Sir George.	21 Feb.	No. 27	Ship Isabella	287	Gipps, Sir George.	14 Dec.
Do	do	21 Feb.	No. 77	Ship Amelia Thompson.	227	Glenelg, Lord	23 July.
Snodgrass, Acting Governor.	Glenelg, Lord	22 Feb.	No. 78	do	288	.....	.....
Glenelg, Lord	Gipps, Sir George.	22 Feb.	No. 28	Ship Isabella	290	.....	.....
Snodgrass, Acting Governor.	Glenelg, Lord	23 Feb.	No. 79	Ship Amelia Thompson.	228	.....	.....
Do	do	23 Feb.	No. 29	Ship Isabella	290	Glenelg, Lord	21 July.
Glenelg, Lord	Gipps, Sir George.	23 Feb.	Separate	do	301	Gipps, Sir George.	14 July.
Do	do	23 Feb.	No. 80	Ship Amelia Thompson.	303	.....	.....
Glenelg, Lord	Gipps, Sir George.	24 Feb.	No. 81	do	303	.....	.....
Do	do	26 Feb.	No. 30	Ship Isabella	306	.....	.....
Gipps, Sir George.	Glenelg, Lord	27 Feb.	No. 82	Ship Amelia Thompson.	306	.....	.....
Glenelg, Lord	Gipps, Sir George.	27 Feb.	No. 83	do	306	.....	.....
Do	do	28 Feb.	No. 83	do	306	.....	.....

From	To	Dated	Despatch endorsed	Transmitted per—	See page	Acknowledged by—	Date of acknowledgment.
Gipps, Sir George.....	Glenelg, Lord .....	1838.	No. 31 .....	Ship Alfred.....	307	Glenelg, Lord .....	1838.
Do .....	do .....	3 Mar. ....	No. 32 .....	do .....	307	do .....	26 June.
Do .....	do .....	3 Mar. ....	No. 33 .....	do .....	308	do .....	27 June.
Do .....	do .....	5 Mar. ....	No. 34 .....	do .....	300	do .....	.....
Glenelg, Lord .....	Gipps, Sir George.....	7 Mar. ....	No. 84 .....	Ship Amelia Thompson.	310	do .....	.....
Do .....	do .....	8 Mar. ....	No. 85 .....	do .....	311	Gipps, Sir George.....	13 July
Do .....	do .....	9 Mar. ....	No. 86 .....	do .....	312	Glenelg, Lord .....	31 July.
Gipps, Sir George.....	Glenelg, Lord .....	9 Mar. ....	No. 35 .....	Ship Alfred.....	313	do .....	1839.
Glenelg, Lord .....	Gipps, Sir George.....	10 Mar. ....	No. 87 .....	Ship Amelia Thompson.	314	Gipps, Sir George.....	5 July.
Gipps, Sir George.....	Glenelg, Lord .....	11 Mar. ....	No. 36 .....	Ship Alfred.....	315	Glenelg, Lord .....	1838.
Glenelg, Lord .....	Gipps, Sir George.....	12 Mar. ....	No. 88 .....	Ship Amelia Thompson.	315	Glenelg, Lord .....	17 July.
Gipps, Sir George.....	Glenelg, Lord .....	12 Mar. ....	No. 37 .....	Ship Alfred.....	316	do .....	.....
Glenelg, Lord .....	Gipps, Sir George.....	13 Mar. ....	No. 89 .....	Ship Amelia Thompson.	318	Glenelg, Lord .....	20 July.
Gipps, Sir George.....	Glenelg, Lord .....	13 Mar. ....	No. 38 .....	Ship Alfred.....	318	do .....	.....
Glenelg, Lord .....	Gipps, Sir George.....	14 Mar. ....	No. 90 .....	Ship Amelia Thompson.	321	Glenelg, Lord .....	29 June.
Gipps, Sir George.....	Glenelg, Lord .....	14 Mar. ....	No. 39 .....	Ship Alfred.....	324	do .....	.....
Do .....	do .....	19 Mar. ....	No. 40 .....	Ship Jessie .....	327	Glenelg, Lord .....	7 July.
Do .....	do .....	20 Mar. ....	No. 41 .....	do .....	330	do .....	22 Aug.
Do .....	do .....	22 Mar. ....	No. 42 .....	do .....	332	do .....	31 Aug.
Glenelg, Lord .....	Gipps, Sir George.....	23 Mar. ....	No. 91 .....	Ship Bengal Merchant.	332	do .....	28 Aug.
Do .....	do .....	26 Mar. ....	No. 92 .....	do .....	337	Gipps, Sir George.....	12 Sept.
Gipps, Sir George.....	Glenelg, Lord .....	25 Mar. ....	No. 43 .....	Ship Jessie .....	339	Glenelg, Lord .....	28 Aug.
Glenelg, Lord .....	Gipps, Sir George.....	26 Mar. ....	No. 93 .....	Ship Lord Lyndock .....	227	do .....	.....
Do .....	do .....	26 Mar. ....	No. 94 .....	do .....	227	do .....	.....
Gipps, Sir George.....	Glenelg, Lord .....	27 Mar. ....	No. 44 .....	Ship Jessie .....	341	Glenelg, Lord .....	28 Aug.
Glenelg, Lord .....	Gipps, Sir George.....	29 Mar. ....	No. 95 .....	Ship Lord Lyndock .....	342	do .....	.....
Gipps, Sir George.....	Glenelg, Lord .....	29 Mar. ....	No. 45 .....	Ship Jessie .....	344	Glenelg, Lord .....	28 Aug.
Glenelg, Lord .....	Gipps, Sir George.....	30 Mar. ....	No. 96 .....	Ship Lord Lyndock .....	346	do .....	.....
Do .....	do .....	31 Mar. ....	No. 97 .....	do .....	348	do .....	.....
Gipps, Sir George.....	Glenelg, Lord .....	31 Mar. ....	No. 46 .....	Ship Jessie .....	348	Glenelg, Lord .....	29 Aug.
Do .....	do .....	2 April .....	No. 47 .....	do .....	350	do .....	24 Aug.
Glenelg, Lord .....	Gipps, Sir George.....	3 April .....	No. 98 .....	Ship John Renwick .....	353	do .....	.....
Gipps, Sir George.....	Glenelg, Lord .....	3 April .....	No. 48 .....	Ship Jessie .....	354	do .....	.....
Do .....	do .....	4 April .....	No. 49 .....	do .....	228	do .....	.....
Glenelg, Lord .....	Gipps, Sir George.....	5 April .....	No. 99 .....	Ship John Renwick.....	356	do .....	.....
Gipps, Sir George.....	Glenelg, Lord .....	6 April .....	No. 50 .....	Ship Jessie .....	359	Glenelg, Lord .....	28 Aug.

From	To	Dated	Despatch endorsed	Transmitted per—	See page	Acknowledged by—	Date of acknowledgment.
Gipps, Sir George.....	Glenelg, Lord	1838.	No. 51	Ship, Jessie	228	.....	1838.
Do	do	6 April	No. 52	do	228	.....	.....
Do	do	6 April	No. 53	do	228	.....	.....
Glenelg, Lord	Gipps, Sir George.....	7 April	No. 100	Ship, John Renwick.....	361	.....	.....
Gipps, Sir George.....	Glenelg, Lord	7 April	No. 54	Ship, Jessie.....	361	Glenelg, Lord	28 Aug.
Do	do	9 April	No. 55	do	363	do	28 Aug.
Do	do	10 April	No. 56	do	365	.....	.....
Do	do	10 April	No. 57	do	365	Glenelg, Lord	11 Oct.
Do	do	12 April	No. 58	do	365	do	25 Aug.
Do	do	13 April	No. 59	do	366	do	28 Aug.
Glenelg, Lord	Gipps, Sir George.....	14 April	No. 101	Ship, John Renwick.....	383	Gipps, Sir George.....	1839.
Gipps, Sir George.....	Glenelg, Lord	14 April	No. 60	H. M. ship Buffalo	385	Glenelg, Lord	1838.
Do	do	16 April	No. 61	do	385	do	8 Nov.
Glenelg, Lord	Gipps, Sir George.....	17 April	No. 102	Ship, John Renwick.....	388	.....	7 Nov.
Do	do	17 April	Circular	do	388	Gipps, Sir George.....	3 Dec.
Gipps, Sir George.....	Glenelg, Lord	17 April	No. 62	H. M. ship Buffalo	380	Glenelg, Lord	9 Nov.
Do	do	18 April	No. 63	do	390	.....	.....
Do	do	20 April	No. 64	do	390	.....	.....
Do	do	23 April	No. 65	do	391	Glenelg, Lord	27 Nov.
Do	do	24 April	No. 66	do	394	do	27 Nov.
Do	do	25 April	No. 67	do	396	do	16 Nov.
Do	do	27 April	No. 68	do	397	do	16 Nov.
Do	do	27 April	Separate	do	399	.....	.....
Glenelg, Lord	Gipps, Sir George.....	1 May	No. 103	Ship, Maitland.....	227	.....	.....
Gipps, Sir George.....	Glenelg, Lord	1 May	Confidential	H. M. ship Buffalo	400	Glenelg, Lord	16 Nov.
Do	do	1 May	No. 69	do	402	.....	.....
Do	do	3 May	No. 70	do	405	Glenelg, Lord	7 Nov.
Do	do	4 May	No. 71	do	406	Normanby, Marquess of...	1839.
Do	do	5 May	No. 72	do	407	Glenelg, Lord	1838.
Glenelg, Lord	Gipps, Sir George.....	7 May	No. 104	Ship, Maitland	407	.....	.....
Gipps, Sir George.....	Glenelg, Lord	7 May	No. 73	Ship, Minerva.....	410	.....	15 Dec.
Glenelg, Lord	Gipps, Sir George.....	9 May	No. 105	Ship, Maitland	410	.....	.....
Gipps, Sir George.....	Glenelg, Lord	9 May	No. 74	Ship, Minerva.....	411	.....	.....
Glenelg, Lord	Gipps, Sir George.....	10 May	No. 106	.....	412	Glenelg, Lord	30 Oct.

From	To	Dated	Despatch endorsed	Transmitted per—	See page	Acknowledged by—	Date of acknowledgment.
Gipps, Sir George.....	Glenelg, Lord .....	1838, 11 May .....	No. 75 .....	Ship Minerva.....	413	Glenelg, Lord .....	1838, 30 Oct. ....
Do .....	do .....	14 May .....	No. 76 .....	do .....	416	do .....	5 Nov. ....
Glenelg, Lord .....	Gipps, Sir George.....	15 May .....	No. 107 .....	Ship Matland .....	417	Gipps, Sir George.....	1839, 3 May. ....
Do .....	do .....	16 May .....	No. 108 .....	do .....	419	do .....	1840, 8 Jan. ....
Gipps, Sir George.....	Glenelg, Lord .....	16 May .....	No. 77 .....	Ship Minerva.....	420	Glenelg, Lord .....	1838, 26 Oct. ....
Glenelg, Lord .....	Gipps, Sir George.....	17 May .....	No. 109 .....	Ship Matland .....	420	do .....	.....
Do .....	do .....	18 May .....	Circular .....	do .....	421	do .....	.....
Do .....	do .....	18 May .....	No. 110 .....	do .....	421	do .....	.....
Gipps, Sir George.....	Glenelg, Lord .....	18 May .....	No. 78 .....	Ship Minerva.....	228	do .....	.....
Glenelg, Lord .....	Gipps, Sir George.....	20 May .....	Circular .....	Ship Matland .....	422	Gipps, Sir George.....	1839, 29 May. ....
Do .....	do .....	21 May .....	No. 111 .....	do .....	424	do .....	1840, 8 Jan. ....
Gipps, Sir George.....	Glenelg, Lord .....	21 May .....	No. 79 .....	Ship Minerva.....	228	do .....	.....
Do .....	do .....	23 May .....	No. 80 .....	do .....	228	do .....	.....
Do .....	do .....	25 May .....	No. 81 .....	do .....	425	do .....	.....
Glenelg, Lord .....	Gipps, Sir George.....	26 May .....	No. 112 .....	Ship Matland .....	426	do .....	.....
Do .....	do .....	29 May .....	No. 113 .....	do .....	426	do .....	.....
Do .....	do .....	31 May .....	Circular .....	do .....	428	do .....	.....
Do .....	do .....	1 June .....	No. 114 .....	do .....	428	do .....	.....
Gipps, Sir George.....	Glenelg, Lord .....	2 June .....	No. 82 .....	Ship Spartan .....	428	Glenelg, Lord .....	1838, 10 Nov. ....
Glenelg, Lord .....	Gipps, Sir George.....	4 June .....	No. 115 .....	Ship Matland .....	432	do .....	.....
Gipps, Sir George.....	Glenelg, Lord .....	5 June .....	No. 83 .....	Ship Spartan .....	433	Glenelg, Lord .....	5 Nov. ....
Glenelg, Lord .....	Gipps, Sir George.....	7 June .....	No. 116 .....	Ship Matland .....	434	do .....	.....
Gipps, Sir George.....	Glenelg, Lord .....	7 June .....	No. 84 .....	Ship Spartan .....	435	do .....	.....
Glenelg, Lord .....	Gipps, Sir George.....	8 June .....	No. 117 .....	Ship Matland .....	437	Gipps, Sir George.....	1839, 23 Feb. ....
Do .....	do .....	9 June .....	No. 118 .....	do .....	437	do .....	19 Dec. ....
Do .....	do .....	12 June .....	No. 119 .....	do .....	438	do .....	1838, .....
Gipps, Sir George.....	Glenelg, Lord .....	12 June .....	No. 85 .....	Ship Spartan.....	442	Glenelg, Lord .....	7 Nov. ....
Do .....	do .....	12 June .....	No. 86 .....	do .....	443	do .....	.....
Glenelg, Lord .....	Gipps, Sir George.....	13 June .....	No. 120 .....	Ship Matland .....	445	do .....	.....
Do .....	do .....	13 June .....	No. 121 .....	do .....	445	do .....	.....



FROM	TO	Dated	Despatch endorsed	Transmitted per—	See page	Acknowledged by—	Date of acknowledgment.
Glenelg, Lord	Gipps, Sir George	1838.	No. 122	Ship Maitland	446		1838.
Do	do	13 June	No. 123	do	446		.....
Do	do	14 June	No. 124	do	447		.....
Do	do	14 June	No. 125	do	447		.....
Do	do	16 June	No. 126	do	447		.....
Do	do	18 June	No. 127	do	227		.....
Gipps, Sir George	Glenelg, Lord	18 June	No. 87	Ship Spartan	228		.....
Glenelg, Lord	Gipps, Sir George	19 June	No. 128	Ship Maitland	448		.....
Do	do	20 June	No. 129	do	448		.....
Do	do	20 June	No. 130	do	450		.....
Do	do	20 June	No. 131	do	450		.....
Do	do	20 June	No. 132	do	451		.....
Gipps, Sir George	Glenelg, Lord	20 June	No. 88	Ship Spartan	228	Gipps, Sir George	22 June.
Do	do	20 June	No. 89	do	452	Glenelg, Lord	.....
Glenelg, Lord	Gipps, Sir George	21 June	No. 133	Ship Maitland	454	Gipps, Sir George	1838.
Do	do	21 June	No. 134	do	456	do	5 Nov.
Gipps, Sir George	Glenelg, Lord	21 June	No. 90	Ship Spartan	228		1839.
Do	do	21 June	No. 91	do	456		3 May.
Glenelg, Lord	Gipps, Sir George	22 June	No. 135	Ship Earl Grey	458		23 Feb.
Gipps, Sir George	Glenelg, Lord	22 June	No. 92	Ship Spartan	459		.....
Glenelg, Lord	Gipps, Sir George	23 June	No. 136	Ship Earl Grey	227		.....
Gipps, Sir George	Glenelg, Lord	23 June	No. 93	Ship Spartan	228		.....
Glenelg, Lord	Gipps, Sir George	23 June	No. 137	Ship Portsea	460		.....
Do	do	26 June	Circular	Ship Earl Grey	460		.....
Do	do	27 June	No. 138	do	460		.....
Do	do	27 June	No. 139	Ship Portsea	461		.....
Do	do	29 June	No. 140	Ship Earl Grey	461		.....
Do	do	30 June	No. 141	do	461		.....
Gipps, Sir George	Glenelg, Lord	1 July	No. 94	Ship Superb	228		.....
Do	do	2 July	No. 95	do	402		.....
Do	do	3 July	No. 96	do	402	Glenelg, Lord	1839.
Glenelg, Lord	Gipps, Sir George	4 July	No. 142	Ship Earl Grey	463		24 Jan.
Gipps, Sir George	Glenelg, Lord	4 July	No. 97	Ship Superb	463		.....

From	To	Dated	Despatch endorsed	Transmitted per—	See page	Acknowledged by—	Date of acknowledgment.
Glenelg, Lord	Gipps, Sir George.	1838, 5 July	No. 143	Ship Earl Grey	465	.....	1839.
Do	do	5 July	No. 144	Ship Lady Nugent	465	.....	.....
Gipps, Sir George.	Glenelg, Lord	5 July	No. 98	Ship Superb	228	.....	.....
Glenelg, Lord	Gipps, Sir George.	6 July	No. 145	Ship Earl Grey	468	.....	.....
Do	do	6 July	No. 146	Ship Portsea	468	.....	.....
Do	do	6 July	No. 147	do	468	Gipps, Sir George.	29 March.
Gipps, Sir George.	Glenelg, Lord	6 July	No. 99	Ship Superb	469	.....	.....
Glenelg, Lord	Gipps, Sir George.	7 July	No. 148	Ship Earl Grey	469	.....	.....
Gipps, Sir George.	Glenelg, Lord	7 July	No. 100	Ship Superb	470	.....	.....
Do	do	8 July	No. 101	do	471	Glenelg, Lord	2 Jan.
Glenelg, Lord	Gipps, Sir George.	9 July	No. 149	Ship Earl Grey	475	.....	.....
Gipps, Sir George.	Glenelg, Lord	9 July	No. 102	Ship Superb	476	Glenelg, Lord	1838.
Glenelg, Lord	Gipps, Sir George.	10 July	No. 150	Ship Earl Grey	227	.....	21 Dec.
Gipps, Sir George.	Glenelg, Lord	10 July	No. 103	Ship Superb	477	.....	.....
Glenelg, Lord	Gipps, Sir George.	11 July	No. 151	Ship Earl Grey	477	Glenelg, Lord	14 Dec.
Gipps, Sir George.	Glenelg, Lord	11 July	No. 104	Ship Superb	228	.....	.....
Glenelg, Lord	Gipps, Sir George.	12 July	No. 152	Ship Earl Grey	478	Gipps, Sir George.	1839.
Do	do	12 July	Circular	Ship Alfred.	479	do	17 Jan.
Gipps, Sir George.	Glenelg, Lord	12 July	No. 105	Ship Superb	228	.....	1840.
Glenelg, Lord	Gipps, Sir George.	13 July	No. 153	Ship Lady Nugent	479	.....	27 Jan.
Gipps, Sir George.	Glenelg, Lord	13 July	No. 106	Ship Superb	480	Normanby, Marquess of...	1839.
Glenelg, Lord	Gipps, Sir George.	14 July	No. 154	Ship Earl Grey	482	.....	5 April.
Gipps, Sir George.	Glenelg, Lord	14 July	No. 107	Ship Superb	483	.....	.....
Glenelg, Lord	Gipps, Sir George.	15 July	No. 163	Ship Portsea	484	Normanby, Marquess of...	19 April.
Gipps, Sir George.	Glenelg, Lord	15 July	No. 108	Ship Superb	485	Glenelg, Lord	4 Jan.
Do	do	15 July	No. 109	do	496	do	2 Jan.
Glenelg, Lord	Gipps, Sir George.	16 July	No. 155	Ship Earl Grey	498	.....	.....
Do	do	16 July	No. 156	do	498	.....	.....
Do	do	16 July	No. 157	do	499	.....	.....
Do	do	16 July	No. 158	do	500	.....	.....
Gipps, Sir George.	Glenelg, Lord	16 July	No. 110	Ship Superb	502	Glenelg, Lord	1838.
Glenelg, Lord	Gipps, Sir George.	17 July	No. 159	Ship Earl Grey	502	.....	14 Dec.
Gipps, Sir George.	Glenelg, Lord	17 July	No. 111	Ship Superb	502	Glenelg, Lord	10 Dec.

From	To	Dated	Despatch endorsed	Transmitted per—	See page	Acknowledged by—	Date of acknowledgment.
		1838.					1838.
Glenelg, Lord	Gipps, Sir George	18 July	No. 169	Ship Earl Grey	503		
Gipps, Sir George	Glenelg, Lord	18 July	No. 112	Ship Superb	504	Glenelg, Lord	3 Dec.
Glenelg, Lord	Gipps, Sir George	19 July	No. 161	Ship Earl Grey	505		
Gipps, Sir George	Glenelg, Lord	19 July	No. 113	Ship Superb	228		
Glenelg, Lord	Gipps, Sir George	20 July	No. 162	Ship Portsea	505		
Gipps, Sir George	Glenelg, Lord	20 July	No. 114	Ship Superb	506	Glenelg, Lord	4 Dec.
Glenelg, Lord	Gipps, Sir George	21 July	No. 164	Ship Portsea	508		
Gipps, Sir George	Glenelg, Lord	21 July	No. 115	Ship Superb	508	Glenelg, Lord	21 Dec.
Glenelg, Lord	Gipps, Sir George	23 July	No. 165	Ship Portsea	511		
Do	do	24 July	No. 166	do	511		
Gipps, Sir George	Glenelg, Lord	26 July	No. 116	Ship Superb	228		
Glenelg, Lord	Gipps, Sir George	28 July	No. 167	Ship Alfred	513		
							1839.
Gipps, Sir George	Glenelg, Lord	28 July	No. 117	Ship Kinnear	513	Glenelg, Lord	25 Jan.
Glenelg, Lord	Gipps, Sir George	30 July	No. 168	Ship Alfred	513		
Do	do	31 July	No. 169	do	514		
Do	do	31 July	No. 170	do	515		
Gipps, Sir George	Glenelg, Lord	1 Aug.	No. 171	do	516	Gipps, Sir George	23 Feb.
Glenelg, Lord	Gipps, Sir George	2 Aug.	No. 118	Ship Marinus	516	Normanby, Marquess of	3 March.
Do	do	3 Aug.	No. 172	Ship Alfred	227		
Gipps, Sir George	Glenelg, Lord	3 Aug.	No. 173	do	517		
Glenelg, Lord	Gipps, Sir George	6 Aug.	No. 119	Ship Marinus	517	Normanby, Marquess of	6 March.
Gipps, Sir George	Glenelg, Lord	6 Aug.	No. 174	Ship Alfred	520		
Glenelg, Lord	Gipps, Sir George	6 Aug.	No. 120	Ship Marinus	521	Normanby, Marquess of	6 March.
Gipps, Sir George	Glenelg, Lord	7 Aug.	No. 175	Ship Alfred	526		
Gipps, Sir George	Glenelg, Lord	8 Aug.	No. 121	Ship Marinus	527	Normanby, Marquess of	7 March.
Glenelg, Lord	Gipps, Sir George	9 Aug.	No. 176	Ship Alfred	527	Gipps, Sir George	1 April.
Do	do	10 Aug.	No. 177	do	538		
Gipps, Sir George	Glenelg, Lord	10 Aug.	No. 122	Ship Marinus	540	Normanby, Marquess of	10 March.
Glenelg, Lord	Gipps, Sir George	11 Aug.	No. 178	Ship Alfred	227		
Gipps, Sir George	Glenelg, Lord	13 Aug.	No. 123	Ship Marinus	544	Normanby, Marquess of	12 March.
Do	do	15 Aug.	No. 124	do	545	do	12 March.
Do	do	17 Aug.	No. 125	do	547		
Do	do	19 Aug.	No. 126	Ship Kinnear	547		
Do	do	20 Aug.	No. 127	do	548		
Glenelg, Lord	Gipps, Sir George	22 Aug.	No. 179	Ship Marinus	548	Normanby, Marquess of	13 March.
Do	do	22 Aug.	No. 180	Ship Alfred	227		
Do	do	22 Aug.	No. 181	do	549		
					550		

From	To	Dated	Despatch endorsed	Transmitted per—	See page	Acknowledged by—	Date of acknowledgment.
		1838.					1839.
Gipps, Sir George.....	Glenelg, Lord .....	22 Aug.	No. 128	Ship Marinus.....	550	Normanby, Marquess of...	15 March.
Glenelg, Lord .....	Gipps, Sir George.....	23 Aug.	No. 182	Ship Alfred.....	551	.....	.....
Do .....	do .....	23 Aug.	No. 183	do .....	227	.....	.....
Gipps, Sir George.....	Glenelg, Lord .....	23 Aug.	No. 129	Ship Marinus.....	228	.....	.....
Glenelg, Lord .....	Gipps, Sir George.....	24 Aug.	No. 184	Ship Alfred.....	551	.....	.....
Do .....	do .....	24 Aug.	No. 185	do .....	552	.....	.....
Do .....	do .....	24 Aug.	Circular	do .....	552	.....	.....
Gipps, Sir George.....	Glenelg, Lord .....	24 Aug.	No. 130	Ship Marinus.....	552	.....	.....
Glenelg, Lord .....	Gipps, Sir George.....	25 Aug.	No. 186	Ship Alfred.....	553	.....	.....
Do .....	do .....	25 Aug.	No. 187	do .....	553	.....	.....
Do .....	do .....	25 Aug.	No. 188	do .....	553	Gipps, Sir George.....	30 July.
Gipps, Sir George.....	Glenelg, Lord .....	25 Aug.	No. 131	Ship Marinus.....	554	.....	.....
Glenelg, Lord .....	Gipps, Sir George.....	27 Aug.	No. 189	Ship Alfred.....	555	.....	.....
Gipps, Sir George.....	Glenelg, Lord .....	27 Aug.	No. 132	Ship Marinus.....	556	.....	.....
Glenelg, Lord .....	Gipps, Sir George.....	28 Aug.	No. 190	Ship Alfred.....	227	.....	.....
Do .....	do .....	28 Aug.	No. 191	do .....	557	.....	.....
Do .....	do .....	28 Aug.	No. 192	do .....	557	.....	.....
Do .....	do .....	28 Aug.	No. 193	do .....	557	.....	.....
Do .....	do .....	28 Aug.	No. 194	do .....	558	.....	.....
Do .....	do .....	28 Aug.	No. 195	do .....	558	.....	.....
Do .....	do .....	28 Aug.	No. 196	do .....	559	Gipps, Sir George.....	17 Sept.
Do .....	do .....	28 Aug.	No. 197	do .....	560	.....	.....
Do .....	do .....	28 Aug.	No. 198	do .....	561	.....	.....
Do .....	do .....	28 Aug.	No. 199	do .....	561	Gipps, Sir George.....	22 Feb.
Do .....	do .....	28 Aug.	No. 200	do .....	562	Normanby, Marquess of...	4 April.
Do .....	do .....	28 Aug.	No. 133	Ship Marinus.....	564	.....	.....
Gipps, Sir George.....	Glenelg, Lord .....	29 Aug.	No. 201	Ship Alfred.....	565	.....	.....
Glenelg, Lord .....	Gipps, Sir George.....	29 Aug.	No. 134	Ship Marinus.....	565	Gipps, Sir George.....	11 July.
Gipps, Sir George.....	Glenelg, Lord .....	30 Aug.	No. 202	Ship Alfred.....	566	do .....	23 Feb.
Glenelg, Lord .....	Gipps, Sir George.....	31 Aug.	No. 203	do .....	566	.....	.....
Do .....	do .....	31 Aug.	No. 204	do .....	566	.....	.....
Do .....	do .....	31 Aug.	No. 205	do .....	567	.....	.....
Gipps, Sir George.....	Glenelg, Lord .....	31 Aug.	No. 135	Ship Marinus.....	567	Normanby, Marquess of...	14 March.
Glenelg, Lord .....	Gipps, Sir George.....	1 Sept.	No. 206	Ship Alfred.....	568	.....	.....
Do .....	do .....	3 Sept.	No. 207	do .....	569	Gipps, Sir George.....	14 Jan.
Gipps, Sir George.....	Glenelg, Lord .....	3 Sept.	No. 136	Ship Marinus.....	573	.....	.....
Glenelg, Lord .....	Gipps, Sir George.....	4 Sept.	No. 208	Ship Alfred.....	574	.....	.....
Do .....	do .....	4 Sept.	Circular	do .....	577	.....	.....

From	To	Dated	Despatch endorsed	Transmitted per—	See page	Acknowledged by—	Date of acknow- ledgment.
Gipps, Sir George	Glenelg, Lord	1838.	No. 137	Ship Marinus	225	.....	1839.
Glenelg, Lord	Gipps, Sir George	4 Sept.	No. 209	Ship Alfred	578	.....	23 March.
Gipps, Sir George	Glenelg, Lord	5 Sept.	No. 138	Ship Marinus	578	.....	16 April.
Glenelg, Lord	Gipps, Sir George	6 Sept.	No. 210	Ship Theresa	579	.....	.....
Gipps, Sir George	Glenelg, Lord	7 Sept.	No. 139	Ship Marinus	579	.....	.....
Do	do	8 Sept.	No. 140	do	228	.....	.....
Do	do	10 Sept.	No. 141	do	228	.....	.....
Do	do	12 Sept.	No. 142	do	580	.....	2 April.
Do	do	14 Sept.	No. 143	do	582	.....	5 March.
Do	do	15 Sept.	No. 211	Ship Theresa	584	.....	.....
Glenelg, Lord	Gipps, Sir George	17 Sept.	No. 212	do	586	.....	3 March.
Do	do	17 Sept.	No. 144	Ship Marinus	586	.....	.....
Gipps, Sir George	Glenelg, Lord	18 Sept.	Circular	Ship Theresa	227	.....	.....
Glenelg, Lord	Gipps, Sir George	19 Sept.	No. 145	Ship Marinus	589	.....	4 March.
Gipps, Sir George	Glenelg, Lord	19 Sept.	No. 146	do	528	.....	.....
Do	do	20 Sept.	No. 147	do	589	.....	26 Feb.
Do	do	22 Sept.	No. 213	Ship Theresa	591	.....	.....
Glenelg, Lord	Gipps, Sir George	24 Sept.	No. 213	Ship Marinus	591	.....	6 April.
Gipps, Sir George	Glenelg, Lord	24 Sept.	No. 148	do	592	.....	21 Aug.
Do	do	25 Sept.	No. 149	do	592	.....	.....
Do	do	26 Sept.	No. 150	do	594	.....	.....
Do	do	27 Sept.	No. 151	do	594	.....	.....
Do	do	28 Sept.	No. 152	do	597	.....	21 Aug.
Do	do	29 Sept.	No. 153	do	598	.....	.....
Glenelg, Lord	Gipps, Sir George	1 Oct.	No. 214	Ship Planter	599	.....	17 Sept.
Gipps, Sir George	Glenelg, Lord	1 Oct.	No. 154	Ship Marinus	599	.....	9 March.
Do	do	1 Oct.	Confidential	do	600	.....	.....
Do	do	3 Oct.	No. 155	do	602	.....	.....
Do	do	3 Oct.	No. 156	do	602	.....	3 March.
Do	do	5 Oct.	No. 157	do	603	.....	3 March.
Do	do	6 Oct.	No. 158	Ship Dryade	603	.....	11 June.
Do	do	8 Oct.	No. 159	do	603	.....	.....
Do	do	9 Oct.	No. 215	Ship Planter	604	.....	.....
Glenelg, Lord	Gipps, Sir George	9 Oct.	No. 216	do	605	.....	11 Nov.
Do	do	10 Oct.	No. 217	do	227	.....	.....
Do	do	10 Oct.	No. 159	Ship Dryade	605	.....	18 May.
Gipps, Sir George	Glenelg, Lord	11 Oct.	No. 218	Ship Planter	606	.....	.....
Glenelg, Lord	Gipps, Sir George	11 Oct.	No. 160	Ship Dryade	607	.....	.....
Gipps, Sir George	Glenelg, Lord	12 Oct.	No. 161	do	609	.....	.....
Do	do	12 Oct.	No. 161	do	609	.....	.....
Do	do	13 Oct.	No. 162	do	611	.....	20 June.

From	To	Dated	Despatch endorsed	Transmitted per—	See page	Acknowledged by—	Date of acknowledgment.
Gipps, Sir George.....	Glennelg, Lord	1838, 13 Oct.	No. 163	Ship Dryade	611	Normanby, Marquess of...	1839, 25 June.
Do	do	13 Oct.	No. 164	do	613	do	21 May.
Glennelg, Lord	Gipps, Sir George.....	15 Oct.	No. 219	Ship Planter	614	.....	.....
Gipps, Sir George.....	Glennelg, Lord	15 Oct.	No. 165	Ship Dryade	616	.....	.....
Do	do	16 Oct.	No. 166	do	619	.....	.....
Do	do	18 Oct.	No. 167	do	620	Normanby, Marquess of...	22 May.
Do	do	19 Oct.	No. 168	do	625	Gipps, Sir George.....	12 April.
Glennelg, Lord	Gipps, Sir George.....	20 Oct.	No. 220	Ship John Barry	625	.....	.....
Gipps, Sir George.....	Glennelg, Lord	20 Oct.	No. 169	Ship Dryade	628	.....	.....
Glennelg, Lord	Gipps, Sir George.....	22 Oct.	No. 221	Ship Planter	627	.....	.....
Do	do	22 Oct.	No. 222	do	629	.....	.....
Do	do	22 Oct.	Circular	do	629	.....	.....
Gipps, Sir George.....	Glennelg, Lord	22 Oct.	No. 170	Ship Dryade	629	Normanby, Marquess of...	21 May.
Do	do	23 Oct.	No. 171	do	628	.....	.....
Do	do	24 Oct.	No. 172	do	628	.....	.....
Do	do	25 Oct.	No. 173	do	630	.....	.....
Do	do	26 Oct.	No. 223	Ship Planter	631	.....	.....
Glennelg, Lord	Gipps, Sir George.....	26 Oct.	No. 224	do	632	.....	.....
Do	do	26 Oct.	No. 225	do	632	.....	.....
Gipps, Sir George.....	Glennelg, Lord	26 Oct.	No. 174	Ship Dryade	632	Normanby, Marquess of...	17 May.
Do	do	27 Oct.	No. 175	do	633	do	18 May.
Do	do	29 Oct.	No. 176	do	637	do	10 May.
Glennelg, Lord	Gipps, Sir George.....	30 Oct.	No. 226	Ship John Barry	638	.....	.....
Do	do	30 Oct.	No. 227	do	638	.....	.....
Gipps, Sir George.....	Glennelg, Lord	31 Oct.	No. 177	Ship Dryade	638	Normanby, Marquess of...	28 May.
Do	do	2 Nov.	No. 178	do	642	.....	.....
Glennelg, Lord	Gipps, Sir George.....	3 Nov.	No. 228	Ship John Barry	227	.....	.....
Gipps, Sir George.....	Glennelg, Lord	3 Nov.	Separate	Ship Dryade	643	.....	.....
Glennelg, Lord	Gipps, Sir George.....	5 Nov.	No. 229	Ship John Barry	646	.....	.....
Do	do	5 Nov.	No. 230	do	646	.....	.....
Do	do	5 Nov.	No. 231	do	646	.....	.....
Gipps, Sir George.....	Glennelg, Lord	5 Nov.	No. 179	Ship Dryade	647	Normanby, Marquess of...	3 June
Glennelg, Lord	Gipps, Sir George.....	7 Nov.	No. 232	Ship John Barry	648	.....	.....
Do	do	7 Nov.	No. 233	do	648	.....	.....
Do	do	7 Nov.	No. 234	do	648	.....	.....
Do	do	7 Nov.	No. 235	do	649	.....	.....
Gipps, Sir George.....	Glennelg, Lord	7 Nov.	No. 180	Ship Dryade	649	Normanby, Marquess of...	17 May.
Do	do	7 Nov.	Separate	do	651	.....	.....

FROM	TO	Dated	Despatch endorsed	Transmitted per—	See page	Acknowledged by—	Date of acknowledgment.
Glenelg, Lord	Gipps, Sir George	1838, 8 Nov.	No. 237	Ship John Barry	652	.....	1839.
Do	do	8 Nov.	No. 238	do	227	.....	.....
Gipps, Sir George	Glenelg, Lord	8 Nov.	No. 181	Ship Dryade	653	Normanby, Marquess of...	13 June.
Do	do	8 Nov.	No. 182	do	655	.....	.....
Glenelg, Lord	Gipps, Sir George	9 Nov.	No. 239	Ship John Barry	656	.....	18 June.
Gipps, Sir George	Glenelg, Lord	9 Nov.	No. 183	Ship Dryade	656	Normanby, Marquess of...	10 Dec.
Glenelg, Lord	Gipps, Sir George	10 Nov.	No. 236	Ship John Barry	657	Gipps, Sir George.....	1840.
Do	do	10 Nov.	No. 240	do	659	do	7 May.
Do	do	10 Nov.	No. 241	Ship Asia	668	.....	1839.
Gipps, Sir George	Glenelg, Lord	10 Nov.	No. 184	Ship Dryade	668	Normanby, Marquess of...	20 May.
Glenelg, Lord	Gipps, Sir George	12 Nov.	No. 242	Ship Asia	669	Gipps, Sir George.....	11 Nov.
Gipps, Sir George	Glenelg, Lord	12 Nov.	No. 185	Ship Dryade	228	.....	.....
Glenelg, Lord	Gipps, Sir George	13 Nov.	Circular	Ship John Barry	670	.....	.....
Do	do	14 Nov.	No. 243	Ship Asia	674	.....	.....
Gipps, Sir George	Glenelg, Lord	14 Nov.	No. 186	Ship Dryade	675	Normanby, Marquess of...	5 July.
Glenelg, Lord	Gipps, Sir George	16 Nov.	No. 244	Ship Asia	677	.....	.....
Do	do	16 Nov.	Confidential	do	679	.....	.....
Do	do	16 Nov.	No. 245	do	680	.....	.....
Gipps, Sir George	Glenelg, Lord	16 Nov.	No. 187	Ship Dryade	680	Normanby, Marquess of...	10 June.
Glenelg, Lord	Gipps, Sir George	17 Nov.	No. 246	Ship Asia	681	.....	.....
Gipps, Sir George	Glenelg, Lord	19 Nov.	No. 188	Ship Dryade	228	.....	.....
Glenelg, Lord	Gipps, Sir George	21 Nov.	No. 247	Ship Asia	682	.....	.....
Gipps, Sir George	Glenelg, Lord	22 Nov.	No. 189	Ship Dryade	683	.....	.....
Do	do	24 Nov.	No. 190	do	685	.....	.....
Glenelg, Lord	Gipps, Sir George	27 Nov.	No. 248	Ship Asia	680	.....	.....
Do	do	28 Nov.	No. 249	do	227	.....	.....
Gipps, Sir George	Glenelg, Lord	28 Nov.	No. 191	Ship Florentia	686	.....	.....
Glenelg, Lord	Gipps, Sir George	29 Nov.	Circular	Ship Asia	687	.....	.....
Do	do	30 Nov.	Circular	do	689	Gipps, Sir George.....	21 Dec.
Gipps, Sir George	Glenelg, Lord	30 Nov.	No. 192	Ship Florentia	228	.....	.....
Glenelg, Lord	Gipps, Sir George	1 Dec.	No. 250	Ship Asia	680	.....	.....
Do	do	1 Dec.	No. 251	do	690	.....	.....
Do	do	3 Dec.	No. 252	do	691	.....	.....
Gipps, Sir George	Glenelg, Lord	3 Dec.	No. 193	Ship Florentia	691	.....	.....
Glenelg, Lord	Gipps, Sir George	4 Dec.	No. 253	Ship Asia	692	.....	.....
Gipps, Sir George	Glenelg, Lord	5 Dec.	No. 194	Ship Florentia	228	.....	.....

From	To	Dated	Despatch endorsed	Transmitted per—	See page	Acknowledged by—	Date of acknowledgment.
Glenelg, Lord	Gipps, Sir George	1838. 8 Dec.	No. 254	Ship Asia	227	Gipps, Sir George	1839. 20 June.
Do	do	8 Dec.	No. 255	do	692	do	do
Do	do	8 Dec.	No. 256	do	227	do	do
Do	do	8 Dec.	No. 257	do	693	do	do
Gipps, Sir George	Glenelg, Lord	8 Dec.	No. 195	Ship Florentia	694	Normanby, Marquess of	25 June.
Glenelg, Lord	Gipps, Sir George	10 Dec.	No. 258	Ship Asia	695	do	do
Gipps, Sir George	Glenelg, Lord	10 Dec.	No. 196	Ship Florentia	695	do	do
Do	do	12 Dec.	No. 197	do	696	do	31 July.
Glenelg, Lord	Gipps, Sir George	13 Dec.	No. 259	Ship Asia	227	Normanby, Marquess of	do
Do	do	14 Dec.	No. 260	do	697	do	do
Do	do	14 Dec.	No. 261	do	698	do	do
Gipps, Sir George	Glenelg, Lord	14 Dec.	No. 198	Ship Florentia	698	Normanby, Marquess of	26 July.
Glenelg, Lord	Gipps, Sir George	15 Dec.	No. 262	Ship Asia	698	Gipps, Sir George	17 Sept.
Do	do	15 Dec.	No. 263	do	699	do	do
Gipps, Sir George	Glenelg, Lord	17 Dec.	No. 199	Ship Florentia	700	do	do
Do	do	19 Dec.	No. 200	do	700	Normanby, Marquess of	17 July.
Do	do	20 Dec.	No. 201	do	704	do	17 July.
Do	do	21 Dec.	No. 205	Ship Asia	706	do	do
Do	Gipps, Sir George	21 Dec.	No. 206	do	707	do	do
Do	do	21 Dec.	No. 204	do	708	do	do
Do	do	21 Dec.	No. 207	Ship Asia	708	Gipps, Sir George	10 June.
Gipps, Sir George	Glenelg, Lord	21 Dec.	No. 202	Ship Florentia	709	do	do
Do	do	27 Dec.	No. 203	do	710	Normanby, Marquess of	19 June.
Do	do	29 Dec.	No. 204	do	228	do	do
Glenelg, Lord	Gipps, Sir George	1839. 1 Jan.	No. 1	Ship Ferrusson	713	do	do
Gipps, Sir George	Glenelg, Lord	1 Jan.	No. 1	Ship Florentia	719	do	do
Glenelg, Lord	Gipps, Sir George	2 Jan.	No. 2	Ship Fergalsson	724	do	do
Do	do	2 Jan.	No. 3	do	725	do	do
Do	do	2 Jan.	No. 4	do	725	Gipps, Sir George	24 Dec.
Do	do	2 Jan.	No. 5	do	728	do	do
Do	do	2 Jan.	No. 6	do	728	do	do
Gipps, Sir George	Glenelg, Lord	2 Jan.	No. 2	Ship Hygeia	731	Russell, Lord John	1840. 4 Sept.
Do	do	3 Jan.	No. 3	do	734	do	1839. 16 Dec.
Glenelg, Lord	Gipps, Sir George	4 Jan.	No. 7	Ship Fergusson	736	do	do
Gipps, Sir George	Glenelg, Lord	4 Jan.	No. 4	Ship Hygeia	712	do	do



From	To	Dated	Despatch enclosed	Transmitted per—	See page	Acknowledged by—	Date of acknow- ledgement.
Gipps, Sir George	Glenelg, Lord	1839, 5 Jan.	No. 5	Ship Hygeia	736	Normanby, Marquess of...	1839, 8 Jnly.
Do	do	6 Jan.	No. 6	do	737	do	1 Aug.
Do	do	7 Jan.	No. 7	do	738	do	do
Do	do	8 Jan.	No. 8	do	739	do	do
Do	do	9 Jan.	No. 9	do	739	Russell, Lord John	29 Oct.
Do	do	10 Jan.	No. 10	do	740	Normanby, Marquess of...	6 July.
Glenelg, Lord	Gipps, Sir George.	11 Jan.	No. 8	Ship Fergusson.	743	do	do
Gipps, Sir George.	Glenelg, Lord	11 Jan.	No. 11	Ship Hygeia	712	do	do
Glenelg, Lord	Gipps, Sir George.	12 Jan.	No. 9	Ship Fergusson.	744	do	do
Do	do	12 Jan.	Circular	do	754	do	do
Gipps, Sir George.	Glenelg, Lord	12 Jan.	No. 12	Ship Hygeia	712	Normanby, Marquess of...	12 July.
Do	do	13 Jan.	No. 13	do	755	do	do
Do	do	14 Jan.	No. 14	do	756	do	do
Do	do	15 Jan.	No. 15	do	756	do	3 Aug.
Do	do	16 Jan.	No. 16	do	759	do	13 Aug.
Glenelg, Lord	Gipps, Sir George.	17 Jan.	No. 10	Ship Fergusson.	761	do	do
Do	do	17 Jan.	No. 11	do	764	do	do
Gipps, Sir George.	Glenelg, Lord	17 Jan.	No. 17	Ship Hygeia	766	do	do
Do	do	19 Jan.	No. 18	Ship Roslyn Castle	766	do	do
Do	do	19 Jan.	No. 19	Ship Hope	767	Russell, Lord John	7 Nov.
Glenelg, Lord	Gipps, Sir George.	21 Jan.	No. 12	Ship Fergusson.	711	do	do
Do	do	22 Jan.	No. 13	do	768	Gipps, Sir George.	11 Nov.
Do	do	22 Jan.	No. 14	do	768	do	do
Gipps, Sir George.	Glenelg, Lord	23 Jan.	No. 20	Ship Hope	768	Russell, Lord John	1840, 6 May.
Do	do	23 Jan.	No. 21	do	771	do	7 May.
Glenelg, Lord	Gipps, Sir George.	25 Jan.	No. 15	Ship Fergusson.	772	do	do
Do	do	25 Jan.	No. 16	do	773	do	do
Do	do	25 Jan.	No. 17	do	773	do	do
Do	do	26 Jan.	No. 18	do	773	do	do
Gipps, Sir George.	Glenelg, Lord	26 Jan.	No. 22	Ship Hope	774	Normanby, Marquess of...	1839, 10 Aug.
Glenelg, Lord	Gipps, Sir George.	27 Jan.	No. 19	Ship Fergusson.	781	Gipps, Sir George.	30 Oct. 1840.
Do	do	28 Jan.	No. 20	do	781	do	8 Jan. 1839.
Do	do	29 Jan.	No. 21	do	785	do	4 Nov.
Gipps, Sir George.	Glenelg, Lord	29 Jan.	No. 23	Ship Hope	712	do	do



# INDEX.

## Abel Gower, ship

despatch *per*, 117.

## Aberdeen, Alexander

complaint by, of ill-treatment, 13.  
passenger *per* ship *Lady McNaghten*, 12.

## Aberdeen, Farquhar

passenger *per* ship *Lady McNaghten*, 12.

## Aborigines

appointment of superintendent of agriculture for mission to, at Wellington valley, 303 *et seq.*, 661.

approval—

by Glenelg, lord, of notice *re*, 678.  
of action of Gipps, Sir G., *re*, 706.

association of servants of A.A. company with females of, 745, 746, 747.

attacks by—

on cattle stations, 398, 400.  
on overlanding party to Port Phillip, 398, 400, 510.  
on survey party, 398, 400.

civilisation of, considered by house of commons, 252.

confession of guilt by murderers of, at Myall creek, 739.

difficulties *re* females of, 662.

difficulty in checking outrages on, 398.

duties of protectors of, 254, 255.

education of children of, 661, 662.

effects of European colonisation on, 663.

employment of at Wellington valley, 662.

encounter with, by mounted police under Nunn, J. W., 396, 397, 399, 510.

execution of murderers of, at Myall creek, 701, 703.

expenditure on, from land revenue, 644.

food and clothing to be provided for, 254.

inability to grant protection to settlers against, 509.

inquiry *re* encounter of Mitchell, T. L., with, on exploring expedition, 47 *et seq.*

instructions to police *re* capture of, 706.

legal opinion *re* attack on, by expedition under Mitchell, T. L., 390.

localities of outrages by, 510.

massacre of, at Myall creek, 701 *et seq.*

memorial from settlers at Port Phillip *re* outrages by, 509.

mission—

stations established for, 9.  
to, at Wellington valley, 660 *et seq.*

## Aborigines

missionaries for, procured from Lutheran church, 8 *et seq.*

money subscribed for defence of murderers of, at Myall creek, 704.

murder of, by white men at Myall creek, 601, 701 *et seq.*

necessity for—

mission to, at Moreton bay, 9, 10.

notice *re* policy towards, 707.

thorough inquiries *re* outrages on or by, 678.

notice proposed—

*re* inquests on, 397, 398.

*re* retention by white men of women of, 398.

objections to transfer of, from Flinders island to Port Phillip, 601, 668.

participation of Scott, R., in defence of murderers of, at Myall creek, 704, 705.

prevention of collisions with, policy for, 678.

principles to be adopted in policy towards, 48, 49.

protectors appointed for, 253, 254, 669.

punitive measures proposed against, 509.

removal of, proposed from Tasmania, 253.

report by committee of council *re*, 668, 669.

salaries and allowances for protectors of, 254.

sensation at arrest of murderers of, at Myall creek, 704.

tact required in action *re*, 399.

translation of Bible into language of, 662.

transmission of proposals *re* civilisation of, from Maconochie, A., 196.

trials of murderers of, at Myall creek, 701, 702, 703.

## Adam Lodge, ship

arrival of, 50, 230.

departure of, from Ireland with immigrants, 30.

employment of immigrants *per*, 51.

## Adamson, Frederick

letter from, to Glenelg, lord, 659.

## Adelaide, H.M. Queen dowager

address of condolence to—

from inhabitants of Sydney, 309, 461, 475.

from R.C. clergy, 331, 332.

**Agent, colonial**

See also "Elliot, Thomas Frederic."

advance from English treasury to, for purposes of immigration, 51, 250, 383, 384, 437, 456, 566, 605, 648, 669, 768.

repayment of advance to, 307.

statement of accounts of, 384.

system proposed for providing funds for, 51, 52.

**Agent general**

See "Agent, colonial."

**Aide-de-camp**

instructions *re*, for Gipps, Sir G., 108, 109.

**Alderson, James**

memorial from, soliciting land grant, 267 *et seq.*

**Alfred, ship**

despatch *per*, 307, 308, 309, 313, 315, 316, 318, 324, 479, 513, 514, 515, 516, 517, 520, 526, 537, 538, 549, 550, 551, 552, 553, 555, 557, 558, 559, 560, 561, 562, 565, 566, 567, 568, 569, 574, 577, 578.

**Algar, John Mortimer**

authority for conditional pardon for, 227.

**Allan, Reverend James**

stipend for—

application *re*, 264, 265.

authorised, 73.

claimed on arrival, 73, 263.

**Allen, George**

judgment obtained by, against Harris, S. L., 65.

**Alligator, H.M. ship**

departure of, to found settlement in north Australia—

from England, 247.

from Sydney, 589.

**Alloyd, George**

address of, to Victoria, H.M. Queen, 327.

**Allyn**

clergyman required at, 245.

**Amelia Thompson, ship**

despatch *per*, 275, 276, 287, 290, 301, 303, 306, 310, 311, 312, 314, 315, 318, 321.

**American Transport, ship**

request for rescue of survivors from wreck of, 251.

**Anderson, J. (major, 50th regt.)**

services of, as commandant at Norfolk island, 152.

**Anderson, James**

memorial from, requesting appointment as superintendent of botanic garden, 237, 238.

testimony in favour of, 237, 238.

**Anderson, Matthew (colonial surgeon)**

application by, for retiring pension, 539, 540.

removal of, from list of naval surgeons, 540.

testimony in favour of, 183.

transmission of letter from, 183.

**Andrews, Joseph**

undertaking given by, *re* passage money as schoolmaster, 6.

**Appin**

clergyman required at, 245.

**Arbuthnot, Henry**

letter from, to treasury, commissioners of, 103, 384, 563.

**Architect**

salary of, increased by legislative council, 608.

**Arms, royal**

order-in-council *re* alteration of, 73.

**Arnold, —**

deputy assistant commissary-general at Norfolk island, 151.

**Arnold, William Thomas**

appointment of, as French consular agent at Sydney, 513.

**Arthur, John**

letter from, to assistant commissary-general of accounts, 104.

letter to, from Montagu, J., 104, 249, 250.

**Arthur, Sir George**

opinions of, *re* road gangs for convicts, 95.

**Asia, ship**

despatch *per*, 25, 26, 668, 669, 674, 677, 679, 680, 681, 682, 686, 687, 689, 690, 691, 692, 693, 695, 697, 698, 699, 706, 707, 708.

**Atkins, Reverend Thomas**

clerical status of, 564.

disallowance of charge for robes for, as chaplain at Norfolk island, 229, 230.

employment of, in colony, 564.

inability to compel refund by, 564.

letter from, to Thomson, E. D., 564.

regret by Glenelg, lord, at result of resignation of, 174.

statement by, *re* clerical robes at Norfolk island, 564.

**Audit commissioners**

- copies of finance papers required by, 311, 419.
- letter from, to treasury, commissioners of, 103, 384, 563, 729, 782.

**Augusta Jessie, ship**

- arrival of, at Sydney with immigrants, 128.
- departure of, from England with immigrants, 30.
- despatch *per*, 236, 238, 240, 243, 244.

**Australia, north**

See also "Port Essington."

- detachment of military required in, 96, 337.
- objects of settlement in, 247.
- settlement proposed in, 96, 247.

**Australian agricultural company**

- association with black women of servants of, 745, 747.
- condition of convicts assigned to, 745, 746.
- deficiency in convicts assigned to, 752.
- employment by—
  - of Burnett, W., 261, 262.
  - of Henderson, J., 316, 317.
- exchange of land proposed by, 750 *et seq.*
- inability—
  - of commissioner of, to modify agreement *re* coal-mining, 464.
  - to authorise full supply of convict labour for, 753.

instructions *re* deeds for land grants to, 361.

interpretation of agreement with, *re* coal-mining, 744, 745.

letter to commissioner of, from Harington, T. C., 747.

monopoly of coal-mining granted to, 435, 436, 464, 748, 749.

policy of, *re* moral improvement of employees, 745.

proposal for withdrawal of assigned convicts from, 746, 747, 753.

protest by, against granting permission for coal-mining, 748 *et seq.*

refusal by Glenelg, lord, to decide *re* exchange of land with, 753.

report by Perry, S. A., *re* proposed exchange of land with, 752.

**Australian gaslight company**

- request for decision on act of council *re*, 647.

**Australian subscription library**

librarian of, 524, 526.

**Baker, John Thomas**

address of, to Victoria, H.M. Queen, 327.

**Balmain, John**

undertaking given by, *re* passage money as schoolmaster, 6.

**Bank of Australasia**

- appointment of inspector of, 629.
- authority for increase of capital of, 743, 744.

**Banks**

- instructions *re* interest on public money lodged in, 566.
- interest paid by, on government money, 187.
- interest received by officials on public money deposited in, 186, 187, 565.

**Baptist church**

act *re* temporal affairs of, 776.

**Bargo**

clergyman required at, 245.

**Baring, F.**

- letter from—
  - to secretary of ordnance, 208.
  - to Stephen, J., 164, 287, 347, 575, 615, 626, 708, 725, 727, 768, 781.
- letter to—
  - from Barrow, Sir J., 455.
  - from Stephen, J., 357.

**Barnard, E.**

- advance to, 51, 52, 250, 383, 384, 437, 456, 566, 605, 648, 669, 768.
- letter from, to Spearman, A. Y., 383.
- repayment of advance to, 307.

**Barnes, William**

commutation of death sentence on, 713.

**Barney, F. T.**

letter from, to officer commanding in Tasmania, 124.

**Barney, George (captain, royal engineers)**

- approval of salary for, for civil services, 100.
- proposal by, *re* disposal of land occupied by military barracks at Sydney, 594.
- reports by, *re* water supply for Sydney, 155.
- repurchase of allotments by, for military purposes, 597, 598.
- request for approval of salary voted for, 41.

**Barracks**

- at Newcastle—
  - purchase of land for, 595.
  - sale of land occupied by, 595, 596.
- at Sydney—
  - adjustments proposed *re* land occupied by, 596.
  - area of land occupied by, 593.
  - claim by ordnance department *re* land occupied by, 594, 595.
  - opposition to sale of land occupied for, by ordnance officers, 593.
  - problem of disposal of land occupied by, 594.
  - proposal by Barney, G., for disposal of land occupied by, 594.
  - value of land occupied by, 594.
  - transmission of warrant for regulation of, 754.

**Barrow, Sir John**

letter from—  
to Baring, F., 455.  
to Spearman, A. Y., 540, 727.  
to Stephen, J., 54, 310, 691.

**Barton, William**

memorial received by Glenelg, lord, from, 182.  
reasons for confirming previous refusal of land grant for, 182, 183.

**Bathurst**

appointment of clergyman at, 245.

**Batman, John**

allowance to, for value of improvements on land, 554, 698.  
application by, to purchase land at Melbourne, 553.  
approval of decision *re* house and garden for, at Melbourne, 102.  
memorial from, received by Glenelg, lord, 102.  
objections by Fawkner, J. P., to land grant for, 502.  
report required *re* land granted to, 196.

**Beaumont, Andrew**

money withdrawn by, from savings bank, 404.

**Beddek, Francis**

land grant to wife of, as marriage portion, 411.  
letter to, from Harington, T. C., 412.  
memorial from, to Glenelg, lord, 411.  
refusal of land grant for, 412, 638.  
report by land board *re* claim of, to land grant, 411.

**Belcher, William Redmond**

clerk in office of superintendent of convicts, 338.

**Bell, E.**

letter from, to D'Urban, Sir B., 215.

**Bell, John**

clerk in office of superintendent of convicts, 338.

**Bell, Thomas**

instructions for employment of, 448.  
reappointment of, to charge of female factory, 589.  
supercession of, as keeper of female factory, 156.  
testimony in favour of, 156.

**Bell, Thomas (surgeon, R.N.)**

criticism of report of, *re* sickness on ship *Prince George*, 223 *et seq.*

**Bengal Merchant, ship**

transmission of assignment of convicts *per*, 227.

**Bennett, Sarah**

passenger *per* ship *Lady McNaghten*, 12.

**Bermuda**

reports *re* control of convicts at, 94.

**Berner, John Henry**

letter to, from Harington, T. C., 361.  
memorial from, soliciting grant of town allotment, 360, 361.  
order for town allotment for, 361.  
refusal of land grant for, 557.  
report *re* claim of, to town allotment, 359.

**Bethune, Charles Drinkwater**

captain of H.M. ship *Conway*, 486.  
letter from, to Thomson, E. D., 496.  
letter to, from Thomson, E. D., 495.  
payment to, for passage of bishop, 727.  
request to, to visit Fijian islands, 495, 496.  
search to be made for Durant, T., by, 554.  
visit of, to Fiji islands after attack on schooner *Sir David Ogilby*, 486.

**Biddle, Henry**

murder of, by Maori in New Zealand, 602, 603.

**Biddulph, Edward**

address of, to Victoria, H.M. Queen, 327.

**Bidwell, Frederick**

address of, to Victoria, H.M. Queen, 327.

**Bigg, F.**

report required *re* free pardon proposed for, 712.

**Bingham, Henry**

commissioner of crown lands at Cassilis, 625.  
letter from, to Thomson, E. D., 625.  
passenger *per* ship *Lady McNaghten*, 12.

**Bingle, A. B.**

judgment obtained by, against Harris, S. L., 65.

**Bingle, John**

refusal to reinstate, in commission of peace, 132.

**Bishop of Australia**

*See* "Broughton, Right Revd. William Grant."  
appointment of, as executive councillor, 306.  
precedency of, 476.

**Blair, Reverend Robert**

appointment of, as minister of Presbyterian church, 23 *et seq.*

- Blaxland, John**  
 protest by, *re* appropriations by council, 609.
- Bolson, George**  
 address of, to Victoria, H.M. Queen, 327.
- Bolton, Charles**  
 passenger *per* ship *Lady McNaghten*, 12.
- Bolton, Reverend R. T.**  
 appointment of, as C. of E. clergyman, 693.
- Botanic garden**  
 committee of, 238.  
 memorial from Anderson, J., requesting appointment as superintendent of, 237, 238.  
 negotiations with Cunningham, A., *re* superintendence of, 416.  
 separation of fruit and vegetable gardens from, 416, 417.  
 transmission of report on, 416.
- Boulton, Reverend William**  
 appointment of, as clergyman, 214.
- Bourchier, Charles**  
 letter from, to Spearman, A. Y., 435.
- Bourke**  
 approval of, as name of district at Port Phillip, 354.
- Bourke, Sir Richard (governor)**  
 acceptance of resignation of, 4, 194.  
 approval of—  
   name of, for district of Port Phillip, 354.  
   policy of, *re* encounter of Mitchell, T. L., with natives on exploring expedition, 47.  
 commendation of services of, 4.  
 departure of, 197, 236.  
 instructions to—  
   *re* government house, 111, 112.  
   *re* medical establishments, 100 *et seq.*  
   *re* rewards for public service, 98.  
   *re* treatment of pauper patients, 103 *et seq.*  
 journey intended by, from Valparaiso, 236.  
 letter from—  
   to Glenelg, lord, 1, 4, 11, 21, 40, 44, 50, 52, 54, 55, 60, 61, 62, 67, 68, 73, 75, 79, 80, 84, 86, 87, 89, 90, 91, 93, 97, 98, 115, 116, 117, 128, 129, 130, 133, 141, 143, 146, 148, 150, 155, 156, 165, 165, 174, 180, 181, 183, 185, 186, 187, 189, 190, 191, 193, 194, 195, 512, 762.  
 letter to—  
   from bishop of Australia, 244.  
   from Curtoys, J. A., 195.  
   from Glenelg, lord, 4, 5, 6, 8, 10, 22, 23, 25, 26, 41, 43, 44, 46, 47, 51, 54, 56, 57, 61, 65, 66, 68, 69, 70, 71, 72, 97, 98, 99, 100, 102, 103, 105, 107, 110, 111, 112.
- Bourke, Sir Richard (governor)**  
 letter to—  
   from Grey, Sir G., 512.  
   from Raymond, J., 147.  
 memorial to—  
   from Buckley, W., 182,  
   from Duguid, L., 280.  
   from Glennie, A., 548, 549.  
   from Henry, W., 623.  
 passage proposed for, from colony on ship of war, 54.  
 policy of, towards Thicrry, C. de, 133.  
 proposal for departure of, 194.  
 reluctance of, to hold inquiry *re* encounter of Mitchell, T. L., with natives, 47.  
 system proposed by—  
   for administration of medical establishments, 762, 763.  
   for providing funds for colonial agent, 51, 52.
- Bowen, George Meares Countess**  
 refusal by Glenelg, lord, to interfere in case of, 450.  
 transmission of memorial from, 129.
- Bowen, William**  
 address of, to Victoria, H.M. Queen, 327.
- Bowler, John William (surgeon, R.N.)**  
 promotion granted to, 180.  
 transfer of, from H.M. ship *Rattlesnake* to ship *Lady McNaghten*, 12.
- Bowman, James (inspector of colonial hospitals)**  
 decision *re* salary of, 652.  
 instructions *re* claims of, on reduction, 164, 165.  
 removal of, from monthly pay list, 385.
- Boyle, —**  
 command of brig *Governor Phillip* assumed by, 694.
- Boyter, David (surgeon, R.N.)**  
 gratuity to, for immigrants *per* ship *John Barry*, 193.  
 instructions to, for selection of immigrants, 35.  
 letter from—  
   to Elliot, T. F., 221, 441.  
   to Macdonald, J., 753.  
 letter to—  
   from Elliot, T. F., 200.  
   from Grey, Sir G., 35.  
 report by—  
   *re* ship *John Barry*, 441.  
   *re* ship *William Nicholl*, 221, 222.
- Brackenrig, James**  
 address of, to Victoria, H.M. Queen, 327.
- Bradly, H. B.**  
 appointments held by, 567.  
 leave of absence granted to, 567.

**Brady, Reverend John**

address from—  
 to Adelaide, H.M. Queen dowager, 331.  
 to Victoria, H.M. Queen, 330.  
 appointment of, as R.C. chaplain for Norfolk island, 110.  
 arrival of, 361.  
 duty assigned to, at Windsor, 362.  
 reasons for appointment of, 560.  
 reduction in allowance of passage money to, 213.

**Brebner, James**

address of, to Victoria, H.M. Queen, 327.

**Bremer, Sir James John Gordon**

arrival of, at Sydney, 590.  
 commission—  
 granted to, as commandant, 590.  
 to be given to, by Gipps, Sir G., 247.  
 departure of, from Sydney for Port Essington, 589.  
 search to be made for Durant, T., by, 554.  
 settlement proposed under, in north Australia, 96, 247.

**Brenan, John Ryan**

appointment of, as third police magistrate, 365.  
 claims of, to employment, 520.  
 confirmation of appointment of, as third police magistrate, 553.  
 disappointment of, *re* non-appointment as superintendent of convicts, 55, 521.  
 employment of, as coroner, 55, 366.  
 letter from, to Thomson, E. D., 696.  
 letter to, from Thomson, E. D., 337.  
 proposal for appointment of, at Port Phillip, 521.  
 protest by, *re* demand for refund of over-paid salary, 696, 697.  
 salaries proposed for, 366.  
 transmission of letter from, 54.

**Brennan, Reverend Michael**

appointment of, as R.C. clergyman, 315.

**Brigstocke, Reverend C. F.**

appointment of, as C. of E. chaplain, 348.

**Brilliant, ship**

sailing of, from Hebrides with immigrants, 112, 113.

**Brisbane, Sir Thomas Makdougall**

conditions for land grant to, 322.  
 expenditure of, as governor, 323.  
 inability of agent of, to obtain possession of reserve, 322, 323.  
 instructions *re* claims of, 322, 324.  
 land granted to and reserved for, 322.  
 letter from, to Glenelg, lord, 322.  
 opinion by Darling, R., *re* claims of, to land grant, 630.  
 orders for land for, 629.

**Brisbane, Sir Thomas Makdougall**

report by Gipps, Sir G., adverse to additional land grant for, 630.  
 sale by—  
 of land grant, 323, 630.  
 of land reserved, 323.  
 selection of land for, by agent, 630.

**Brisbane water**

clergyman required at, 245.

**Bristol**

proposal for sailing of ship from, with immigrants, 27, 28, 32.

**British museum**

request by trustees of, for specimens of natural history, etc., 124, 125.

**Britomart, H.M. ship**

sailing of, from Sydney with expedition for Port Essington, 589.

**Brock, H. G.**

account for purchases by, 467.  
 report *re* purchases by, at Cape of Good Hope, 466, 467.

**Brooks, William**

murder of, by Fijians, 485, 488, 489.

**Broughton, Right Reverend William Grant**

application by, for eighteen additional clergy, 244, 245, 513, 514.  
 instructions to, *re* passages on ships during visitations, 727, 728.  
 letter from, to Bourke, Sir R., 244.  
 opinion of—  
*re* claim of Duguid, L., to land grant, 279, 499.  
*re* new form of government, 402.  
 payment for passage of, on H.M. ship *Conway*, 727.  
 protest by, *re* sale of clergy and school estates, 739, 740.

**Brown, Thomas**

address of, to Victoria, H.M. Queen, 327.

**Brownrigg, J. S.**

letter from, to Glenelg, lord, 745, 748.  
 letter to, from Grey, Sir G., 744, 753.

**Buchanan, John Cross**

letter from, to Glenelg, lord, 658.

**Buckles, Bagster and Buckle**

report by, *re* value of sand discovered by King, J., 535.

**Buckley, William**

career of, 181.  
 memorial from, soliciting land grant, 182.  
 pension recommended for, 182.  
 refusal of land grant or pension for, 432.  
 salary granted to, 181.



- Buffalo, H.M. ship**  
despatch *per*, 385, 389, 390, 391, 394, 396,  
397, 399, 400, 402, 405, 406, 407.
- Bungonia**  
clergyman required at, 245.
- Bunker, Eber**  
refusal of secondary land grant for, 68, 69.
- Bunn, George**  
judgment obtained by, against Harris, S. L.,  
65.  
money held by, for Dawson, R., 137.
- Burke, John**  
address of, to Victoria, H.M. Queen, 327.
- Burnett, W. (physician-general)**  
report by, *re* sickness on ship *Prince George*,  
223 *et seq.*
- Burnett, William**  
memorial from, soliciting land grant, 261,  
262.  
refusal of land grant for, 478.  
testimony in favour of claims of, 262, 263.
- Burrogorang**  
clergyman required at, 245.
- Burton, William Westbrooke (judge)**  
application by, *re* retiring pension, increase  
of salary, and precedence of puisne  
judges, 256 *et seq.*, 309, 310.  
appointment of, as second puisne judge, 46.  
leave of absence for, 71.  
letter from—  
to Gipps, Sir G., 472, 532, 741.  
to Glenelg, lord, 256.  
letter to, from Manning, J. E., 473.  
motives of opinions given by, 651.  
opinion of—  
*re* crown lands occupation act, 649, 650,  
651.  
*re* illegality of land sales without parlia-  
mentary consent, 651, 652.  
*re* necessity for repeal of statute for re-  
covery of debts, 532 *et seq.*  
*re* new form of government, 402.  
precedency for, 503, 504.  
refusal of increased salary and retiring pen-  
sion for, 503.  
relations of, with Gipps, Sir G., 652.  
report by—  
*re* fine imposed on Catterall, J., for con-  
tempt of court, 741.  
*re* trial of McConnell, T., 89.
- Busby, James**  
abolition of office of, as British resident,  
690.  
apprehension by, *re* French settlement in  
New Zealand, 642, 643.
- Busby, James**  
employment proposed for, 690.  
letter from, to Thomson, E. D., 700.  
proposal by, for military in New Zealand,  
85.  
report by, *re* affairs in New Zealand, 85.  
transmission of report from, *re* trial and  
execution of Maori for murder, 602.
- Busby, John**  
allowance to, for supervision of tunnel for  
water supply of Sydney, 551.  
claim by, for remuneration for services, 156.  
tunnel for water supply of Sydney con-  
structed by, 155.
- Busby, William**  
allowance to, for supervision of tunnel for  
water supply of Sydney, 551.
- Bushrangers act**  
act of council for extension of, 774.
- Bussell, Bourn**  
address of, to Victoria, H.M. Queen, 327.
- Bussorah Merchant, ship**  
engagement of, to sail from Cork with  
immigrants, 34.  
report *re* outbreak of small-pox and measles  
on, 449.
- Butler, G.**  
letter from, to Spearman, A. Y., 127, 627.
- Byham, R.**  
letter from, to Stephen, J., 333, 408.  
letter to—  
from Spearman, A. Y., 120, 207.  
from Stephen, J., 333.
- Byrne, Ann**  
details of sentence on, 711.  
inquiry *re* sentence on, 712.
- Byrne, Michael**  
report transmitted *re* deceased estate of,  
233.
- Byron, John**  
transmission of report *re* immorality of, as  
master of female convict ship, 223.
- Callaghan, John**  
address of, to Victoria, H.M. Queen, 327.
- Campbell, J.**  
legal opinion by, *re* disposal of property  
of deceased convicts, 731.
- Campbell, John**  
address of, to Victoria, H.M. Queen, 327.
- Campbell, Pieter Laurentz**  
complaints by, against Clapham, J., 405.  
reply by, to statements by Clapham, J.,  
470.  
visiting magistrate at female factory, 470.

**Campbell, Reverend A. M.**

letter from, to Grey, Sir G., 10, 514.  
letter to, from Grey, Sir G., 10, 514.

**Campbell, Robert**

undertaking given by, *re* passage money as schoolmaster, 6.

**Campbell, Robert**

address of, to Victoria, H.M. Queen, 327.

**Campbell, Robert**

legal action proposed against, 191.  
objections to, as member of council, 192.  
refusal by, to refund over-payment, 191.  
relationship of, with Close, E. C., 332.

**Cape of Good Hope**

arrival at—  
of ship *Platina*, 215.  
of ship *William Nicholl*, 215 *et seq.*

**Carmichael, Reverend Henry**

extract from lecture by, at opening of school of arts, 536.  
statement by, *re* pottery established by King, J., 531.  
vice-president of school of arts, 531.

**Caroline, ship**

despatch *per*, 40, 44, 50, 52, 54, 55.

**Carter, —**

allowance for passage of, as schoolmistress, 517.

**Carter, William**

judgment obtained by, against Harris, S. L., 65.

**Cassilis**

commissioner of crown lands at, 625.

**Castle hill**

clergyman required at, 245.

**Catterall, Joseph**

complaint by, *re* fine imposed for contempt of court, 740.  
report *re* fine imposed on—  
by Burton, W. W., 741.  
by Plunkett, J. H., 741 *et seq.*

**Caulfield, Dennis**

free pardon for, 711.

**Cecille, —**

application by, for advance to refit, 313.  
approval of advance to, 515.  
commander of French corvette *L'Heroine*, 313.  
letter from, to Gipps, Sir G., 313.

**Ceylon**

instructions *re* administration of customs at, 670 *et seq.*

**Chaplains**

*See* "Clergy."

**Chapman, John**

forgery of order for, on treasury, 462, 463, 781 *et seq.*

**Charter, John**

address of, to Victoria, H.M. Queen, 327.

**Chetwode, — (lieut., R.N.)**

acting commander of H.M. sloop *Pelorus*, 603.

**Chief justice**

appointment by, of officers of supreme court, 567.  
precedency of, 476, 707.

**Chili**

approval of admission of cargo of wheat from, 107, 108.

**Church missionary society**

application by, for land grant, 303, 304.  
engagement by, of superintendent of agriculture on mission lands at Wellington valley, 303 *et seq.*

**Church of England**

act of council *re* temporal affairs of, 149.  
annual appropriation in aid of, 740.  
appointment of clergy for, 214, 348, 514, 693.  
church given by, for settlement at Port Essington, 589, 590.  
proposal *re* clergy for, 244, 245.

**Churches**

approval of grants for maintenance of, 148.  
free sittings in, 149.

**City of Edinburgh, ship**

despatch *per*, 73, 75, 79, 80, 84.

**Civil officers**

criticism of claims of, to land grants, 500.  
instructions *re* system for promotion of, 458, 459.  
memorial from, soliciting land grant, 267 *et seq.*  
objections to dual appointments for, 437.  
practise *re* land grants to, 258, 267, 268.  
refusal of land grants to, 500.  
regulations—  
*re* pensions for, 259.  
*re* salaries for, 270.  
renewal of appointments of, on accession of H.M. Queen Victoria, 484.  
right of dismissal of, by government, 607.

**Clapham, John**

allowance for passage money to, 7.  
appointment of, as steward in female factory, 6.  
criticism of instructions to, 92.

- Clapham, John**  
 dismissal of, as steward at female factory, 405, 406, 470.  
 dispute of, with matron of factory, 321, 406, 471.  
 duties and salary of, 7.  
 removal of, threatened by Gipps, Sir G., 321.  
 reply by Campbell, P. L., to statements by, 470.  
 testimony in favour of, 7.  
 transmission of letters from, 470.
- Clarence town**  
 clergyman required at, 245.
- Clarke, Reverend W. B.**  
 appointment of, as C. of E. clergyman, 693.
- Clergy**  
 allowances for passage money of, 212, 213.  
 appointments of, proposed for C. of E., 245.  
 arrivals of, 149.  
 conditions for appointment of, 264, 568.  
 disallowance of charge for robes of chaplain at Norfolk island, 229, 230.  
 ecclesiastical offences of, instructions *re* cognizance of, 681, 682.  
 legal opinion *re* jurisdiction over offences of, 682.  
 necessity for notification of leave of absence granted to, 388.  
 practice *re* land grants to, 239.  
 proposal *re*, for church of England, 244, 245.  
 returns required *re*, by house of commons, 389.  
 stipends for—  
   amount of, 148, 149.  
   appropriations for, 74.  
   approval of appropriations for, 148.  
   claimed on arrival, 73, 263.  
   date for commencement of, 10.  
   objections to proposals of, 74.  
   principles *re* issue of, 570.
- Clift, Samuel**  
 address of, to Victoria, H.M. Queen, 327.
- Close, Benjamin**  
 address of, to Victoria, H.M. Queen, 327.
- Close, Edward Charles**  
 address of, to Victoria, H.M. Queen, 327.  
 letter from, to Thomson, E. D., 605.  
 relationship of, with Campbell, R., 332.  
 resignation of, as member of council, 605, 606.
- Coady, Edward**  
 report transmitted *re*, 228.
- Coal-mining**  
 authority for, at Western port, 711.  
 interpretation of agreement with A.A. company *re*, 744, 745, 748, 749.  
 monopoly of, granted to A.A. company, 435, 436, 464, 749, 750.  
 proposal for, at Western port, 435, 436, 464, 748.
- Coates, Reverend Dandeson**  
 letter from, to Glenelg, lord, 303, 660.  
 letter to, from Grey, Sir G., 667.
- Cobb, John**  
 address of, to Victoria, H.M. Queen, 327.
- Cohen, Sam**  
 address of, to Victoria, H.M. Queen, 327.
- Cohen, T. J.**  
 address of, to Victoria, H.M. Queen, 327.
- Collector of internal revenue**  
 interest received by, on money deposited in banks, 186, 187, 565.
- Colo**  
 clergyman required at, 245.
- Colquhoun, Malcolm**  
 undertaking given by, *re* passage money as schoolmaster, 6.
- Commissariat**  
 instructions for transfer of articles *ex* government ships to, 230 *et seq.*  
 loss of revenue by drawback on rum issued to military by, 771, 772.
- Commons, house of**  
 consideration by, of civilisation of aborigines, 252.  
 debates in legislative council *re* evidence given before transportation committee of, 504, 505.  
 preparation of returns for, 655, 656.  
 resolutions to be laid before, 691.  
 returns required by, 25, 26, 226, 388, 389, 691.
- Connolly, Thomas**  
 librarian of Australian subscription library, 524, 526.
- Connors, Hugh**  
 report transmitted *re*, 228.
- Consul, British**  
 proposed appointment of, in New Zealand, 690.
- Consular agent**  
 appointment of, for French government at Sydney, 513.

**Convicts**

- See also "Road gangs."*
- abolition of assignment of, proposed, 188, 461, 679.
- act of council *re* remission of sentences on, at Norfolk island and Moreton bay, 775.
- advantage of supervision of, by military, 188.
- appointment of chaplain to, at Sydney, 656, 657.
- arrival of ship *Lord Lyndoch* with scurvy amongst, 547, 591.
- assignment of—
- abolition of males in towns and as domestic servants, 604, 773.
  - abuse of preference in, to new settlers, 604.
  - expected abolition of, 616.
  - objections to tickets of leave by masters holding, 604.
  - preference in, to new settlers, 603.
  - transmission of regulations *re*, 603.
- charge for removal of military as, 109, 110.
- clothing for, proposal *re* payment for, 619, 620.
- cost of conveyance of, by sea, 193, 194.
- defects in law *re* banishment of, 152.
- disposal of—
- articles *ex* transport ships for, 230 *et seq.*
  - property of, 403.
- expenditure on—
- establishment for, 580 *et seq.*
  - necessity for adoption of general principle *re*, 617.
- inconveniences of disability of, to hold property, 402 *et seq.*
- inferiority of equipment of ships with, from Ireland, 425, 426.
- instructions—
- re* discipline of convicts, 463, 469.
  - re* expenditure and payments for services of, 120 *et seq.*
  - re* general musters and returns of, 113, 114.
  - re* requisitions for stores for, 127.
  - re* restoration of property to, 728 *et seq.*
  - re* returns of deceased estates of, 314.
- legal opinion *re* disposal of—
- deceased estates of, 314.
  - property of, 731.
- limitation of sums to be restored to, 729.
- maintenance of, employed by town surveyor, 555, 556, 616 *et seq.*
- necessity for returns of absolute and conditional pardons to, 229.
- number of—
- at Sydney, 657.
  - required on public works, 187.
- possibility of—
- cessation of transportation of, 461.
  - loss of warrant for pardons of, for machine-breaking, 635, 686.

**Convicts**

- problem of disposal of property of, on decease, 729.
- problems *re*, in adoption of statute for defence of felons by counsel, 45, 631.
- proposal for remuneration of, 96.
- proposals for alteration in law *re* punishment of, 153.
- rates of mortality amongst, on convict ships, 225.
- rations for, on convict ships, 224.
- report—
- required—
    - re* disposal of religious books *ex* ships with, 708.
    - re* gratuities to females amongst, of good character, 578.
    - re* sickness amongst, on ship *Prince George*, 223 *et seq.*
- request for indent of, *per* ship *Neva*, 390.
- return of sums issued to, from savings bank, 405.
- returns—
- of punishments by flogging of, 653, 654.
  - required—
    - by house of commons *re*, 226.
    - re* floggings of, 26.
    - re* secondary punishment of, 26.
- salaries voted for military overseers of, 40.
- statement *re*, transported for machine-breaking, 635, 686.
- status of, on receipt of pardons, 723.
- statutory amendments proposed *re* tickets of leave and pardons for, 723.
- supply of, to ordnance department, 409, 410.
- want of—
- information in England *re*, 114.
  - moral effect on, of banishment to Norfolk island, 151, 152.

**Convicts, superintendent of**

- clerks in office of, 337, 338, 581, 676.
- duties in office of, 677.
- expenditure in office of, 581, 582, 676.
- query by treasury *re* increased expenditure in office of, 337.

**Conway, H.M. ship**

- departure of, for Fiji islands, 486.

**Coode, John**

- letter from, to Grey, Sir G., 251.

**Cook's river**

- clergyman required at, 245.

**Cooper and Levy**

- judgment obtained by, against Harris, S. L., 65.

**Cooper, George**

- appointment of, as collector of customs at Melbourne proposed, 90, 91.
- letter from, to Thomson, E. D., 759, 760.
- letter to, from Thomson, E. D., 760.
- refusal of appointment of, as collector of customs at Port Phillip, 427.

**Cooper, Mary**

memorial from, soliciting passage to colony, 478, 479.  
 passages for self and family unnecessary, 766.

**Cooper, William**

memorial from wife of, 478.  
 private in mounted police, 478.  
 proposed return of, to England, 766.

**Corcoran, Reverend James V.**

appointment to fill vacancy caused by death of, 315.

**Corlette, James**

memorial from, as executor of Henderson, J., soliciting land grant, 316, 317.

**Coulsten (Coulston), Lawrence Christian**

deposition by, *re* attack by Fijians on schooner *Sir David Ogilby*, 493.

**Coulson, Henry**

address of, to Victoria, H.M. Queen, 327.

**Coulson, John**

address of, to Victoria, H.M. Queen, 327.

**Coulson, Robert**

address of, to Victoria, H.M. Queen, 327.

**Coulson, Thomas**

address of, to Victoria, H.M. Queen, 327.

**Council, executive**

inquiry by, *re* encounter by Mitchell, T. L., with natives on exploring expedition, 47 *et seq.*

minute of, *re* refusal of gratuity to Murray, A., on reduction, 453, 454.

## oaths—

taken by members of, 305.

to be taken by members of, 297.

## opinion of—

*re* claim of Duguid, L., to land grant, 277, 278, 279.

*re* claims of Dawson, R., to land grant, 518.

*re* gratuities to surgeons on immigrant ships, 406, 407.

*re* reward to King, J., for discovery of sand for glass, 532, 534.

*re* salaries of Presbyterian clergy, 274.

power of Gipps, Sir G., to suspend and appoint members of, 297, 298.

proclamation of members of, 306.

reference of schism in Presbyterian church to, 443.

**Council, legislative**

abolition of veto of judges over acts of, 722.  
 act of—

*re* abolition of certain shipping fees, 776.

*re* adoption of criminal statutes, 777.

**Council, legislative**

*re* amendment of—

post-office act, 778.

Sydney police act, 775.

*re* apprehension of offenders from Tasmania and South Australia, 777.

*re* appropriation, 778.

*re* appropriation of fines and penalties, 779.

*re* building act for town of Sydney, 780.

*re* catarrh in sheep, 777.

*re* continuance of bushrangers act, 774.

*re* crown lands occupation, 778.

*re* distilleries, 768 *et seq.*, 780.

*re* extension of—

jury act, 774.

police act to country towns, 775.

*re* free importation of grain, 780.

*re* indemnity of customs officers, 779.

*re* insolvent debtors, 777.

*re* investment of funds of intestate estates, 472, 728, 773, 774.

*re* jury lists for district of Maitland, 775.

*re* marriages of minors, 777.

*re* medical witnesses at inquests, 774.

*re* newspapers, 778.

*re* payment of salaries to Presbyterian ministers, 755, 756, 778.

*re* qualifications of medical witnesses, 779.

*re* recovery of fines, etc., 776.

*re* sentences of convicts at Norfolk island and Moreton bay, 775.

*re* special licenses, 776.

*re* spirit licenses, 778.

*re* temporal affairs of religious societies, 776.

*re* trial by jury at Melbourne and Port Macquarie, 775.

*re* Union assurance company's act, 780.

act to be passed by, *re* validity of land grants after demise of William IV, 447.

admission of public to debates of, 433, 646.

appointment of, 298.

claim by, to appropriation of land revenue, 643, 645.

confirmation of acts of, 72.

consideration by, of bill for vesting military lands in ordnance officers, 592, 593.

constitution proposed for, 720.

debates in, *re* evidence given before transportation committee, 504, 505.

elective members proposed for, 719, 720, 721.

emancipists and expirées proposed as electors for, 721.

inadequacy of, as constituted, 719.

method proposed for initiation of measures in, 721.

nominee members of, proposal for removal of, 721.

**Council, legislative**

objections by members of—  
 to appropriation bill for 1839, 600.  
 to expenditure on police and gaols, 609, 610.  
 to prisoners' counsel bill, 44, 45, 631.  
 to system of pensions, 611.  
 passing of distilleries bill by, 600.  
 possibility of passing ordnance bill through, 596.  
 powers of legislation by, 298.  
 procedure proposed for, 721.  
 proposal—

by, for gratuities in lieu of pensions, 611, 612, 735.  
 for exclusion of governor, judges and clergy from, 721.

proposals by—

committee of, *re* immigration, 83.

Gipps, Sir G., for reform of, 719 *et seq.*

protest by judges *re* crown lands occupation act passed by, 649 *et seq.*

provision proposed for representation of minorities in, 720.

qualifications—

of electors proposed for, 720.

of members proposed for, 721.

reasons of Gipps, Sir G., for not proposing grant by, to Lewis, C. M., 592.

relationship of members of, 332.

report by committee of—

*re* aborigines, 668, 669.

*re* system for immigration, 83, 639 *et seq.*

resignation of Close, E. C., as member of, 605.

resolution by—

in favour of Therry, R., 580.

*re* claims of Snodgrass, K., for remuneration for civil services, 681.

salaries—

increased by, in 1839, 608.

voted by—

for assistant engineers, 40.

for Barney, G., 41.

for military overseers of convicts, 40.

salary for clerk to clerk of, 608.

system of elections proposed for, 720.

transmission of acts of, for 1837, 647.

**Courier, Dutch vessel**

interpretation of treaty with king of Netherlands *re* reciprocity of trade in connection with admission of, 346, 347.

**Cowper, Charles**

lands granted to, 269.

**Cowper (Cooper), Reverend William**

letter from, to Thomson, E. D., 574.

letter to, from Watson, Revd. W., 665.

religious books received by, *ex* convict ships, 232, 233, 574.

**Cox, T. B.**

address of, to Victoria, H.M. Queen, 327.

**Cox, James**

address of, to Victoria, H.M. Queen, 327.

**Cragg, Robert**

report transmitted *re*, 228.

**Craig, Reverend William**

letter from, to Glenelg, lord, 24.

letter to, from ———, 25.

**Croasdill, William**

memorial from, as executor of Henderson, J., soliciting land grant, 316, 317.

**Croft, Jonathan (deputy purveyor)**

storekeeper required by, 42.

**Croke, James**

appointment of, as clerk of crown at Port Phillip, 781.

**Croker, John J.**

address of, to Victoria, H.M. Queen, 327.

**Cross, William**

letter from, to Glenelg, lord, 658.

letter to, from Grey, Sir G., 658.

**Crown prosecutor**

criticism by Glenelg, lord, of appointment of, at quarter sessions, 252.

proposal for appointment of, at quarter sessions, 60, 61.

report *re* necessity for, 731 *et seq.*

**Cullen, Thomas**

report *re* sentence on, 711.

request for particulars of sentence on, 228.

**Cunningham, Allan**

negotiations with, *re* superintendence of botanic garden, 416, 646, 647.

resignation of, as superintendent of botanic garden, 416.

**Cumming, R. P.**

address of, to Victoria, H.M. Queen, 327.

**Cummings, Andrew**

third mate on ship *Lady McNaghten*, 12.

**Curtoys, J. A.**

application by, for letters of denization, 194, 195.

letter from, to Bourke, Sir R., 195.

letters of denization authorised for, 428.

letters of denization to be granted to, 195.

**Customs, collector of**

interest received by, on money deposited in banks 183, 187, 565.

**Customs department**

- appointment of officers of, at Port Phillip, 760 *et seq.*
- approval of admission of cargo from Chili by, 107, 108.
- establishment of—
  - clerks proposed for, 75.
  - proposed at Port Phillip, 90, 91, 427.
- instructions *re* appointments to vacancies in, 670 *et seq.*
- necessity for fixing scale for salaries of clerks in, 75.
- objections to salary proposed for chief clerk in, 75.
- refusal to alter system for salaries of clerks in, 410.
- salary for sub-collector at Port Phillip in, 451, 452.

**Daley, James**

- refusal to mitigate sentence on, 227.

**Dapto**

- clergyman required at, 245.

**Dangar, Henry**

- massacre of aborigines on station of, 701 *et seq.*
- memorial received from, by Glenelg, lord, 98.
- reasons for delay in decision *re* claims of, 22.
- refusal to reverse decision *re* claims of, 69, 99.
- report required on memorial from, 99.

**Darling, H. C. (dep. commissary-genl.)**

- letter from, to Spearman, A. Y., 248.

**Davoren, Patrick**

- report *re*, 712.

**Dawes' point**

- objections to vesting in ordnance officers of land for military purposes at, 593.

**Dawson, Robert**

- basis of renewed claim of, 518, 519.
- claim by, to land grant, 133 *et seq.*
- criticism of claim of, to land grant, 518.
- decision by executive council *re* claims of, 518.
- intentions of, on application for land, 134, 136.
- land granted to, 139.
- letter from, to Glenelg, lord, 133, 139.
- letter to, from Grey, Sir G., 138.
- order for land grant to, 134, 136.
- refusal of land grant for, 135, 138.
- request by, for compensation, 139, 140.
- return of live stock of, 137.
- statement of capital possessed by, 137, 518, 519, 520.

**Dawson, Robert B.**

- application by, for land grant for father, 136.
- letter from, to Macleay, A., 135, 136, 137, 519.
- letter to, from Macleay, A., 136, 138.
- refusal of land grant to, 138.
- request by, for examination by council, 135.

**Day, Edward Denny**

- address of, to Victoria, H.M. Queen, 327.
- appointment of, as police magistrate at Muswellbrook, 115, 117.
- employment of, as police magistrate at Maitland, 115.
- inquiry by, *re* massacre of natives at Myall creek, 701, 702.

**Debts**

- necessity for repeal of statute for recovery of, 582 *et seq.*

**Dee, Thomas**

- address of, to Victoria, H.M. Queen, 327.

**Denistoun, John**

- letter from, to Glenelg, lord, 658.

**Dennis, Robert**

- report transmitted *re*, 228.
- transmission of petition for mitigation of sentence on, 227.

**Denshire, George**

- address of, to Victoria, H.M. Queen, 327.

**Despatches**

- instructions *re* transmission of schedules of contents of, 552.

**Diamond, ship**

- inquiry *re* equipment of, as transport for convicts, 425, 426.

**Dicken, Reverend E. A.**

- appointment of, as C. of E. chaplain, 348.

**Dickinson, J. G.**

- address of, to Victoria, H.M. Queen, 327.

**Dickinson, J. H.**

- address of, to Victoria, H.M. Queen, 327.

**Digby, Joseph**

- advance to, for passage money, 199.
- appointment of, as steward in lunatic asylum, 142.
- arrival of, at Sydney, 552.
- salary for, as steward in lunatic asylum, 142, 143.

**Dillon, John**

- claim by, on Kinchela, J., 586.
- letter from, to Glenelg, lord, 586.

**Dillon, Peter**

claim by, for maintenance of Fijian natives, 497, 498.

Fijian natives rescued by, 495, 496, 497.

letter from, to Thomson, E. D., 497.

owner of schooner *Jess*, 497.

**Distilleries**

necessity for passing of bill for regulation of, 600, 769 *et seq.*

**Dobie, John (surgeon, R.N.)**

appointment of, as health officer at port of Sydney, 737.

employment of, in quarantine of ship *William Rogers*, 683.

purchases made by, at Rio Janeiro, 480.

qualifications of, 738.

salary of, as health officer, 738.

surgeon on ship *Duncan*, 480.

**Dodds, Alexander**

address of, to Victoria, H.M. Queen, 327.

**Dodson, J.**

letter from, to Glenelg, lord, 682.

**Doge, Ludaire**

appointment of, as assistant to mission to natives, 9.

**Donahoe, John**

conditional pardon for, 227.

**Donovan, Margaret**

passenger *per* ship *Lady McNaghten*, 12.

**Dowling, James (chief justice)**

application by, *re* retiring pension, increase of salary, and precedence of puisne judges, 256 *et seq.*, 309, 310.

appointment of, as chief justice, 46.

claim of, for precedence, 476.

letter from—

to Gipps, Sir G., 472, 582.

to Glenelg, lord, 256.

letter to, from Manning, J. E., 473.

notes by, at trial of Hammond, H., 355, 356.

oaths of office taken by, 305.

opinion of—

*re* admission of public to legislative council, 433.

*re* necessity for repeal of statute for recovery of debts, 582 *et seq.*

*re* new form of government, 402.

precedency of, as chief justice, 476, 707.

refusal of increased salary and retiring pension for, 503.

town allotment granted to, 257.

**Dowling, Patrick**

free pardon for, 712.

**Dowling, Reverend C. V.**

address of—

to Adelaide, H.M. Queen dowager, 331.

to Victoria, H.M. Queen, 327, 330.

proposal for transfer of, from Maitland to Norfolk island, 362.

**Dredge, —**

appointment of, as assistant protector of aborigines, 254.

**Dryade, ship**

despatch *per*, 603, 605, 607, 609, 611, 613.

616, 619, 620, 625, 629, 630, 632.

633, 637, 638, 642, 643, 647, 649.

651, 653, 655, 656, 668, 675, 680.

683, 685.

**Dubost, —**

report *re*, 713.

**Duff, James**

nomination of, by synod of Ulster, 24.

**Dugall, Reverend Thomas**

appointment of, as minister of Presbyterian church, 23 *et seq.*

**Duguid, Lesslie**

application by, for land grant, 281, 282.

criticism of claim of, to land grant, 498, 499.

decision requested by, 286, 287.

land—

claimed by, 277, 278.

to be granted to, 280, 281.

letter from—

to Macleay, A., 281.

to private secretary, 287.

to Thomson, E. D., 279, 286.

letter to—

from Goulburn, F., 280, 281, 287.

from Horton, R. W., 280.

memoranda *re* claims of, to land grant, 286.

memorial from—

as executor of Henderson, J., soliciting land grant, 316, 317.

soliciting land grant, 277, 278, 280.

opinion of executive council *re* claim of to land grant, 277, 278, 279.

order for land grant to, 280.

refusal of land grant for, 277, 499.

request by, for survey of land grant, 281.

**Dulhunty, Robert**

annual certificate required *re*, 250, 251.

**Dumaresq, Henry (lieut.-colonel)**

payment of full salary to, as private secretary, 326, 327.

testimony by, in favour of Burnett, W., 262, 263.

**Dumaresq, William**

report by, *re* claims of Wentworth, G., to land grant, 546.



- Duncan, ship**  
despatch *per*, 214.  
purchases made for immigrants on, at Rio Janeiro, 480.
- Dunlop, James**  
labours of, at Parramatta observatory, 536.  
report by, *re* value of sand discovered by King, J., 535, 536.
- Dumes, Alexander George**  
clerk in office of superintendent of convicts, 338.
- Dural**  
clergyman required at, 245.
- Durant, Amelia**  
application by, for rescue of brother, 251.  
letter from, to Glenelg, lord, 251.
- Durant, Trayton**  
request for rescue of, 251.  
searches to be made for, 554, 555.
- D'Urban, Sir Benjamin**  
letter from, to Glenelg, lord, 214.  
letter to, from Bell, E., 215.
- Dutch government**  
interpretation of treaty with, *re* reciprocity of trade, 346, 347.  
prohibition of importation of produce from possessions of, 578.
- Dwyer, Elinor**  
inquiry *re* fate of, 450, 451.
- Earl Grey, ship**  
despatch *per*, 45S, 460, 461, 463, 465, 46S, 469, 475, 477, 47S, 482, 49S, 499, 500, 502, 503, 505.
- Earl Stanhope, ship**  
despatch *per*, 12S, 129, 130.
- Early, H.**  
address of, to Victoria, H.M. Queen, 327.
- Ebsworth, James Edward**  
letter from, to Thomson, E. D., 464, 747.  
letter to, from Thomson, E. D., 464.  
memorial from, as executor of Henderson, J., soliciting land grant, 316, 317.
- Eckford, William**  
address of, to Victoria, H.M. Queen, 327.
- Eckhardt, Christiana Wilhelmina**  
free pardon for, 227.
- Edmunston, James**  
proposed ordination of, for service in colony, 214.
- Edsell, Charles**  
report transmitted *re*, 228.
- Education**  
allowance for passage of schoolmistress, 517.  
schoolmasters—  
allowances of passage money for, 5, 6.  
appointment of—  
by Presbyterian church, 5.  
from model school, 482, 483.  
conditions for appointment of, 568.  
passage money for, for R.C. schools, 210, 211.  
selection of, to be made in England, 209.  
undertaking given by, *re* passage money, 6.  
want of, for R.C. schools, 210.
- Eippes, Christopher**  
appointment of, as missionary to natives, 9.
- Elliot, James**  
claim by, for redress, 323.  
inability of, to gain possession of land purchased from Brisbane, Sir T., 323.  
letter from, to Glenelg, lord, 323.  
letter to, from Grey, Sir G., 323.  
purchase by, of land reserved for Brisbane, Sir T., 323.
- Elliot, Thomas Frederic**  
apportionment of charges for office of, 357 *et seq.*  
instructions *re* correspondence of, 211, 212, 290.  
letter from—  
to Boyter, D., 200.  
to Grey, Sir G., 211.  
to Parker, H. W., 162.  
to Rogers, W., 36, 37.  
to Stephen, J., 26, 27, 29, 30, 99, 158, 160, 200, 204, 216, 342, 440, 449, 466, 480, 724.  
letter to—  
from Boyter, D., 221, 441.  
from Grey, Sir G., 203, 212.  
reforms proposed by, on immigrant ships, 449, 450.  
report by—  
*re* immigrants *per* ship *William Nicholl*, 216 *et seq.*  
*re* purchases by—  
Brock, H. G., for ship *Orontes*, 466, 467.  
Dobie, J., for ship *Duncan*, 480.  
*re* ship *Bussorah Merchant*, 449, 450.  
*re* ship *John Barry*, 440, 441.  
*re* ship *Lady McNaghten*, 342 *et seq.*
- Elliot, William**  
attorney for Brisbane, Sir T., 322.  
inability of, to obtain possession of land reserved for Brisbane, Sir T., 322, 323.
- Elliot, William**  
regret by Glenelg, lord, at withdrawal of, from assigned service of Lamb, J., 184.

**Ellis, Samuel**

commutation of death sentence on, 713.

**Elyard, William**

claim by, to increase of salary, 270, 271.  
salary for, 553.

**Emma Eugenia, ship**

despatch *per*, 56, 71, 73, 97, 109, 124, 125,  
126, 127, 128, 129, 131, 132, 133,  
140, 142.

**Emancipists and expriees**

proposal for right of, to vote as elector for  
legislative assembly, 721.

**Engineer, commanding royal**

approval of salary for, for civil services,  
100.  
proposal for transfer of control of road  
gangs to, 95.  
public works under department of, 482.

**Enterprize, ship**

despatch *per*, 115, 116.

**Erskine, J.**

address of, to Victoria, H.M. Queen, 327.

**Esperanza, ship**

approval of admission of cargo of, from  
Chili, 107, 108.

**Essington, schooner**

employment of, to convey stores to Port  
Essington, 590.

**Estates, clergy and school**

appointment of Macpherson, W., to charge  
of, 195, 437.  
deficiency in accounts of, 195, 196.  
instructions for disposal of, 190.  
protest by bishop *re* sale of, 739, 740.  
resignation of Fisher, H., from charge of,  
195.

**Estates, intestate**

act of council *re* deposit of funds of, in  
savings bank, 472, 728, 773, 774.  
balances of, in hands of Manning, J. E.,  
474.  
objections by Manning, J. E., to rule of  
court proposed *re*, 474, 475, 728.  
rule of court *re* funds of, 472.

**Estell, H.**

address of, to Victoria, H.M. Queen, 327.

**Eyre, Sophia**

report *re*, 459.

**Faithfull, George**

murder by aborigines of men under, on  
overlanding party to Port Phillip,  
398, 400, 510.

**Fattorini, Edward, M.D.**

certificate by, *re* health of White, H. F.,  
369, 370.

**Faunce, Alured Tasker (captain, 4th regt.)**

application by, for relief for loss sustained  
as magistrate, 512.  
inability to grant relief to, 512.  
testimony in favour of, 512.  
transmission of memorial from, 365.

**Fawkner, John Pascoe**

application from, acknowledged by Glenelg,  
lord, 698.  
objections by, to land grant for Batman, J.,  
or members of Port Phillip associa-  
tion, 502.  
report required *re* letter from, about land  
granted to Batman, J., 196.

**Fell, Phillip Launder**

memorial from, soliciting land grant, 267  
*et seq.*

**Female factory**

allowance for visiting magistrate to, 157,  
338, 448, 604, 605.

appointment—

of matron and steward for, 6, 7.  
of visiting justice for, 157.

approval of—

action of Gipps, Sir G., *re*, 674.  
expenditure proposed on, 118, 320.

cells for separate confinement to be erected  
at, 157, 158, 320.

description of main building of, 319, 320.  
dismissal of Clapham, J., as steward at,  
405, 406, 470, 471.

dispute between matron and steward at,  
321, 406, 471.

establishment for, 7.

expectations by Glenelg, lord, *re*, 649.

necessity for visiting magistrate at, 581.  
number of inmates in, 581.

proposal by Gipps, Sir G., for separate cells  
in, 92, 114, 118.

reappointment of Bell, T., to charge of, 589.  
regulations for visiting justice to, 157, 158.  
report by Gipps, Sir G., *re*, 318 *et seq.*,  
461, 471.

sleeping accommodation in, 319.

supercession of Bell, T., and wife as keeper  
and matron of, 156.

visit of Gipps, Sir G., to, 319.

want of employment for inmates in, 319.

**Fenn, Dorothy**

free pardon for, 227.

**Fenwick, N. A.**

appointment of, as police magistrate, 591.

**Fergusson, ship**

despatch *per*, 158, 159, 163, 164, 174, 180, 182, 184, 188, 189, 190, 192, 196, 199, 201, 202, 205, 206, 207, 209, 210, 211, 212, 713, 724, 725, 726, 728, 736, 743, 744, 754, 761, 764, 768, 772, 773, 781.

**Fiji islands**

approval of—  
 action *re* outrage at, 736.  
 expenditure on return of natives to, 725.  
 attack on schooner *Sir David Ogilby* by natives of, 485 *et seq.*  
 departure of H.M. ship *Conway* for, 486.  
 legal opinion *re* attack by natives of, on schooner *Sir David Ogilby*, 494, 495.  
 necessity for return of natives to, 486.  
 orders for maintenance of natives from, 726.  
 rescue of natives of, by Dillon, P., 495, 496, 497.

**Finance**

advance to colonial agent by treasury, 51, 52, 250, 383, 384, 437, 456, 566, 605, 648, 669, 768.  
 approval of appropriation act for 1838, 558.  
 copies of finance papers required by audit commissioners, 311.  
 details required with accounts for audit, 419.  
 effects of new system for immigration on, 53.  
 expenditure—  
 amount of, for year 1839, 608.  
 apportionment of, to colonial revenues, 609, 610.  
 appropriation act for, for 1838, 52, 558.  
 excess of, over ordinary revenue, 601, 607.  
 explanation of, for 1838, 53.  
 inability for reduction of, on public works, 82.  
 increase of, by council, 608.  
 returns of, transmitted, 50.  
 transmission of estimates for, for 1838, 21, 22.  
 instructions *re* expenditure and payments for ordnance and convict services, 120 *et seq.*  
 interest paid by banks on government deposits, 187.  
 necessity for new taxes anticipated, 645.  
 of penal settlements, 154.  
 possibility of necessity for increased taxation, 82.  
 revenue—  
 deficiency in amount of general revenue, 82, 601, 607, 608, 643.  
 improbability of continued surplus for, 81.  
 inability to dispose of surplus of, from want of labour, 53.

**Finance**

revenue—  
 principles to control expenditure from, 575.  
 returns required *re*, by house of commons, 226.  
 system proposed for providing funds for colonial agent, 51, 52.  
 transmission of—  
 estimates for 1839, 547, 548, 607.  
 report *re* examination of treasury vault, 255.

**Finch, Heneage**

murder by aborigines of men employed under, in surveying party, 398, 400.

**Finn, John**

commutation of death sentence on, 711, 712.

**Fisher, Francis**

legal opinion from, *re* attack by Fijians on schooner *Sir David Ogilby*, 494, 495.  
 letter from, to Thomson, E. D., 494.

**Fisher, Henry**

deficiency in accounts of, 195, 196.  
 resignation of, from charge of clergy and school estates, 195.

**Fitzgerald, —**

murder by aborigines of man employed by, on cattle station, 398, 400.

**Fitzpatrick, Reverend John**

appointment of, as R.C. clergyman, 223.

**Fitzsimons, Valentine**

memorial from, soliciting land grant, 267 *et seq.*

**Flaharty, John Ryder**

clerk in office of superintendent of convicts, 333.

**Flanagan, Francis**

letter to—  
 from Harington, T. C., 526.  
 from Thomson, E. D., 526.  
 memorial of, soliciting land grant, 522 *et seq.*  
 reasons—  
 for delay in application from, 521.  
 for refusal of land grant to, 521, 522.  
 refusal of land grant to, 526.

**Fleming, Henry**

*See* "Hammond, Henry."

**Fleming, John**

address of, to Victoria, H.M. Queen, 327.

**Flinders island**

aborigines of Tasmania quartered at, 253.

**Florentia, ship**

despatch *per*, 686, 691, 694, 695, 696, 698,  
700, 704, 709, 710, 719.

**Foley, Eliza**

claim by, for loss of trunk on ship *Lady  
McNaghten*, 275, 276.  
report *re* trunk of, 625, 626.

**Forbes, Sir Francis**

appointment of, as chief justice, 257.  
objections in council to pension for, 600,  
611.  
pension granted to, 259, 611.  
resignation of, as chief justice, 46.  
town allotment granted to, 257.  
withdrawal of official residence from, 257.

**Forshall, T.**

letter from, to Glenelg, lord, 125.

**Forster, William**

compensation to, for losses in wreck of ship  
*Letitia*, 2.

**Foster, Mary Ann**

letter from, to Glenelg, lord, 141.  
non-receipt of allowance by, from Foster,  
W., 140, 141.  
remittances to, by Foster, W., 556.

**Foster, William**

remittances by, to wife, 556.  
request by wife for allowance from salary  
of, 140, 141.  
salary of, 557.

**Fowler, William**

petition for free pardon for, 711.  
report *re*, 713.

**Fowles (Fowler), D. A.**

letter from, to Glenelg, lord, 66.  
objections by, to system of public land  
sales, 66.  
reforms proposed by, for system of land  
sales, 67.  
reply by Gipps, Sir G., to statements by,  
428 *et seq.*, 668.

**Franklin, Sir John (lieut.-governor,  
Tas.)**

instructions *re* control of, over ordnance  
officers, 408 *et seq.*  
letter to, from Glenelg, lord, 468, 681.

**Franz, Frederic**

appointment of, as assistant to mission to  
natives, 9.

**Fraser, Alexander**

undertaking given by, *re* passage money as  
schoolmaster, 6.

**Freeman, James**

report required *re*, 227.

**French government**

appointment of consular agent for, at Syd-  
ney, 513.  
apprehension *re* settlement by, in New Zea-  
land, 642, 643, 700.  
receipt of judiciary act from, 4.

**Fullerton, Reverend James**

appointment of, as minister of Presbyterian  
church, 23 *et seq.*

**Furber, George**

address of, to Victoria, H.M. Queen, 327.

**Fyans, Foster (late captain, 4th regt.)**

appointment of, as police magistrate at Gee-  
long, 88.

**Galbraith, —**

land grant purchased by, from Brisbane,  
Sir T., 323.

**Galloway, Thomas (surgeon, R.N.)**

certificate by, *re* health of White, H. F.,  
370.  
nomination of, as surgeon to select immi-  
grants, 276.  
surgeon on ship *Augusta Jessie*, 30.  
testimony to services of, 128.

**Gambling, George**

report required *re*, 711.

**Gaols**

appropriation for chaplains at, 657.  
correspondence with English treasury *re* ex-  
penditure on, 614, 615.  
expenditure on, 81, 609, 610, 614, 615.  
necessity for grant for, from British trea-  
sury, 81.  
objections by members of council to ex-  
penditure on, 609, 610.  
opinion to be transmitted *re* charges for,  
72.  
subsidy from English treasury proposed for  
maintenance of, 645.  
transfer of charges for, to colonial treasury,  
80, 81.

**Garling, Frederick**

claim of, to annual salary, 735.  
inefficiency of, as clerk of peace, 734.  
instances of negligence of, 735.  
retirement of, as clerk of peace, 734.  
retiring or commutation allowance proposed  
for, 735.

**Garven, John Hill**

address of, to Victoria, H.M. Queen, 327.

**Gaygan, Patrick**

recommendation for passages for wife and family of, 227.  
report *re*, 712.

**Geelong**

approval of appointments at, 354.  
appointment of police magistrate at, 88.  
mounted police detailed for duty at, 290, 291.  
outrages by natives at, 510.  
request by settlers for establishment of civil authority in district of, 87, 88.

**Geoghegan, Reverend P.**

allowance for outfit and passage for, 460.

**Gibbes, John George Nathaniel**

letter from, to Thomson, E. D., 759, 760.  
letter to, from Thomson, E. D., 760.

**Gibbon, Reverend W. L.**

appointment of, as C. of E. chaplain, 348.

**Gilchrist, Reverend Hugh**

appointment of, as minister of Presbyterian church, 23 *et seq.*

**Gipps, Sir George (governor)**

allowance to, for passage money, 324.  
amount of half salary claimed by, 325.  
arrival of, 305.  
claim by, for half salary during voyage, 324, 325.  
commission of, as governor-in-chief, 295 *et seq.*  
custody of public seal by, 297.  
expenditure by, on assumption of government, 324.  
experience of, in control of forced labour, 94.  
instructions to—  
*re* advances to visiting ships of foreign nations, 515.  
*re* aide-de-camp, 108, 109.  
*re* appropriation of revenue from land fund, 558, 559.  
*re* charge for—  
colonial marine, 579.  
removal of military convicts, 109, 110.  
*re* claims for additional land grants, 527.  
*re* cognizance of ecclesiastical offences of clergy, 681, 682.  
*re* control—  
of colonial store department, 206, 207.  
over ordnance officers, 407 *et seq.*  
*re* correspondence of agent general for emigration, 211, 212, 290.  
*re* custody of colonial stores, 626 *et seq.*  
*re* details required with accounts for audit, 419.  
*re* discipline of convicts, 468, 469.

**Gipps, Sir George (governor)**

*re* disposal of—  
articles *ex* government ships, 230 *et seq.*  
clergy and school estates, 190.  
*re* employment of soldiers as mounted police, 584 *et seq.*  
*re* expenditure and payments for ordnance and convict services, 120 *et seq.*  
*re* general musters and returns of convicts, 113, 114.  
*re* interest on public money in banks, 566.  
*re* legislation, 298.  
*re* meteorological observations, 687, 688.  
*re* minimum price of land, 537, 538.  
*re* repairs to—  
barracks for mounted police, 119, 120.  
military barracks, 207 *et seq.*  
*re* report on prospects of employment of skilled and unskilled labour, 422, 423, 424.  
*re* requisitions for supplies, 92, 93.  
*re* restoration of property of convicts, 728 *et seq.*  
*re* submission of estimates for public works, 312, 480, 481.  
*re* system for promotion of civil officials, 458, 459.  
*re* transmission of schedules of contents of despatches, 552.  
*re* treatment of pauper patients, 247 *et seq.*  
*re* vacancies in customs establishment, 670 *et seq.*

letter from—

to Glenelg, lord, 92, 93, 114, 305, 307, 308, 309, 313, 315, 316, 318, 324, 327, 330, 332, 339, 341, 344, 348, 350, 354, 359, 361, 363, 365, 366, 385, 389, 390, 391, 394, 396, 397, 399, 400, 402, 405, 406, 407, 410, 411, 413, 416, 420, 425, 428, 433, 435, 442, 443, 452, 456, 459, 462, 463, 469, 470, 471, 476, 477, 480, 483, 485, 496, 502, 504, 506, 508, 513, 516, 517, 521, 527, 540, 544, 545, 547, 548, 550, 552, 554, 556, 564, 565, 567, 573, 578, 579, 580, 582, 586, 589, 591, 592, 594, 597, 598, 599, 600, 602, 603, 605, 607, 609, 611, 613, 616, 619, 620, 625, 629, 630, 632, 633, 637, 638, 642, 643, 647, 649, 651, 653, 655, 656, 668, 675, 680, 683, 685, 686, 691, 694, 695, 696, 698, 700, 704, 709, 710, 719, 731, 734, 736, 737, 738, 739, 740, 754, 755, 756, 759, 766, 767, 768, 771, 774.

letter to—

from Burton, W. W., 472, 582, 741.  
from Cecille, —, 313.  
from Dowling, J., 472, 582.

**Gipps, Sir George (governor)**

letter to—

from Glenelg, lord, 73, 92, 108, 109, 112, 118, 119, 120, 124, 125, 126, 127, 128, 129, 131, 132, 133, 140, 142, 158, 159, 160, 163, 164, 174, 180, 182, 184, 188, 189, 190, 192, 196, 199, 201, 202, 205, 206, 207, 209, 210, 211, 212, 214, 223, 225, 226, 229, 230, 234, 247, 250, 251, 252, 263, 272, 275, 276, 287, 290, 301, 303, 306, 310, 311, 312, 314, 315, 318, 321, 332, 337, 342, 346, 348, 353, 356, 361, 383, 388, 407, 410, 412, 417, 419, 420, 421, 422, 424, 426, 428, 432, 434, 437, 438, 445, 446, 447, 448, 450, 451, 454, 456, 458, 460, 461, 463, 465, 468, 469, 475, 477, 478, 479, 482, 484, 498, 499, 500, 502, 503, 505, 508, 511, 513, 514, 515, 516, 517, 520, 526, 537, 538, 549, 550, 551, 552, 553, 555, 557, 558, 559, 560, 561, 562, 565, 566, 567, 568, 569, 574, 577, 578, 579, 584, 586, 591, 599, 604, 605, 606, 614, 626, 629, 631, 632, 638, 646, 648, 649, 652, 656, 657, 659, 668, 669, 670, 674, 677, 679, 680, 681, 682, 686, 687, 689, 690, 691, 692, 693, 695, 697, 698, 699, 706, 707, 708, 713, 724, 725, 726, 728, 736, 743, 744, 754, 761, 764, 768, 772, 773, 781, 785.

from Macquoid, T., 339.

from McLean, J. L., 675.

from Nind, I. S., 457.

from Plunkett, J. H., 741.

from Willis, J. W., 472, 582.

lull in party strife due to arrival of, 401.

memorial to, from Reid, J., 414, 415.

oaths of office—

taken by, 305.

to be taken by, 296, 297.

objections to, loan for purposes of immigration, 642.

opinion of—

in favour of admission of public to legislative council, 433.

*re* coal-mining at Western port, 435, 436.

powers granted to—

to administer oaths of allegiance, 299.

to appoint justices and officers of the law, 299.

to control finances, 299.

to dispose of land, 300.

to divide colony into counties, etc., 299.

to erect fortifications, 299.

to pardon and reprieve, 299.

to regulate commerce, 300.

to suspend and appoint members of executive council, 297, 298.

proclamation on assumption of government by, 305, 306.

**Gipps, Sir George (governor)**

proposal by—

for separate cells in female factory, 92, 114.

for military reinforcements, 96.

*re* new statute for government of colony and administration of justice, 719 *et seq.**re* road gangs for convicts, 93 *et seq.*

protest by, against instructions for submission of estimates for public buildings, 481, 482.

provision for vacancy in office of, 300, 301. reception of, by colonists, 402, 679.

report by, *re* female factory, 318 *et seq.*

territorial jurisdiction of, 295.

transmission of commission and instructions for, 118.

voyage of, from England, 305.

**Gisborne, H. F.**

appointment of, as private secretary to Bourke, Sir R., 117.

resignation of, as third police magistrate, 116, 366.

**Glaister, William**

clerk in office of superintendent of convicts, 338.

**Glanville, Richard**decision *re* claim of, to land grant, 700.transmission of minute of executive council *re* claims of, to land grant, 263.**Glendon**

clergyman required at, 245.

**Glenelg, lord**

letter from—

to Bourke, Sir R., 4, 5, 6, 8, 10, 22, 23, 25, 26, 41, 43, 44, 46, 47, 51, 54, 56, 57, 61, 65, 66, 68, 69, 70, 71, 72, 97, 98, 99, 100, 102, 103, 105, 107, 110, 111, 112.

to Franklin, Sir J., 468, 681.

to Gipps, Sir G., 73, 92, 108, 109, 113, 118, 119, 120, 124, 125, 126, 127, 128, 129, 131, 132, 133, 140, 142, 158, 159, 160, 163, 164, 174, 180, 182, 184, 188, 189, 190, 192, 196, 199, 201, 202, 205, 206, 207, 209, 210, 211, 212, 214, 223, 225, 226, 229, 230, 234, 247, 250, 251, 252, 263, 272, 275, 276, 287, 290, 301, 303, 306, 310, 311, 312, 314, 315, 318, 321, 332, 337, 342, 346, 348, 353, 356, 361, 383, 388, 407, 410, 412, 417, 419, 420, 421, 422, 424, 426, 428, 432, 434, 437, 438, 445, 446, 447, 448, 450, 451, 454, 456, 458, 460, 461, 463, 465, 468, 469, 475, 477, 478, 479, 482, 484, 498, 499, 500, 502, 503, 505, 508, 511, 513, 514, 515, 516, 517, 520, 526, 537, 538, 549, 550, 551, 552, 553, 555, 557, 558, 559, 560, 561, 562,

**Glenelg, lord**

letter from—

to Gipps, Sir G.—

565, 566, 567, 568, 569, 574, 577,  
578, 579, 584, 586, 591, 599, 604,  
605, 606, 614, 626, 629, 631, 632,  
638, 646, 648, 649, 652, 656, 657,  
659, 668, 669, 670, 674, 677, 679,  
680, 681, 682, 686, 687, 689, 690,  
691, 692, 693, 695, 697, 698, 699,  
706, 707, 708, 713, 724, 725, 726,  
728, 736, 743, 744, 754, 761, 764,  
768, 772, 773, 781, 785.

letter to—

from Adamson, F., 658.

from Bourke, Sir R., 1, 4, 11, 21, 40, 44,  
50, 52, 54, 55, 60, 61, 62, 67, 68,  
73, 75, 79, 80, 84, 86, 87, 89, 90,  
91, 93, 97, 98, 115, 116, 117, 123,  
129, 130, 133, 141, 143, 146, 148,  
150, 153, 156, 165, 174, 180, 181,  
183, 185, 186, 187, 189, 190, 191,  
193, 194, 195, 512, 762.

from Brisbane, Sir T., 322.

from Brownrigg, J. S., 745, 748.

from Buchanan, J. C., 658.

from Burton, W. W., 256.

from Coates, Revd. D., 303, 660.

from Craig, Revd. W., 24.

from Cross, W., 658,

from Dawson, R., 133, 139.

from Denistoun, J., 658.

from Dillon, J., 586.

from Dodson, J., 682.

from Dowling, J., 256.

from Durant, A., 251.

from D'Urban, Sir B., 214.

from Elliot, J., 323.

from Forshall, T., 125.

from Foster, M. A., 141.

from Fowler, D. A., 66.

from Gipps, Sir G., 92, 93, 114, 305,

307, 308, 309, 313, 315, 316, 318,

324, 327, 330, 332, 339, 341, 344,

348, 350, 354, 359, 361, 363, 365,

366, 385, 389, 390, 391, 394, 396,

397, 399, 400, 402, 405, 406, 407,

410, 411, 413, 416, 420, 425, 428,

433, 435, 442, 443, 452, 456, 459,

462, 463, 469, 470, 471, 476, 477,

480, 483, 485, 496, 502, 504, 506,

508, 513, 516, 517, 521, 527, 540,

544, 545, 547, 548, 550, 552, 554,

556, 564, 565, 567, 573, 578, 579,

580, 582, 586, 589, 591, 592, 594,

597, 598, 599, 600, 602, 603, 605,

607, 609, 611, 613, 616, 619, 620,

625, 629, 630, 632, 633, 637, 638,

642, 643, 647, 649, 651, 653, 655,

656, 668, 675, 680, 683, 685, 686,

691, 694, 695, 696, 698, 700, 704,

709, 710, 719, 731, 734, 736, 737,

738, 739, 740, 754, 755, 756, 759,

766, 767, 768, 771, 774.

**Glenelg, lord**

letter to—

from Gould, J., 413.

from Howick, viscount, 585.

from Jevers, H. N., 450.

from Macfarlan, Revd. D., 713.

from McGarvie, Revd. J., 444.

from Mitchell, J., 117.

from Muir, Revd. W., 571, 689.

from Park, A., 349.

from Rotton, W., 634.

from Snodgrass, K., 228, 230, 233, 235.

236, 238, 240, 243, 244, 245, 255,

256, 261, 263, 266, 270, 271, 274,

275, 276, 288, 290.

from Therry, R., 580.

from Ullathorne, Revd. W., 210, 212,  
318.

from Willis, J. W., 256.

from Wood, P., 653.

memorial to—

from Anderson, J., 237 *et seq.*

from Beddek, F., 411, 412.

from Berner, J. H., 360, 361.

from Burnett, W., 261, 262.

from Duguid, L., 277, 278.

from executors of Henderson, J., 316,  
317.from Flanagan, F., 522 *et seq.*from Harris, S. L., 63 *et seq.*

from Jeffrey, T., 186.

from King, J., 528, 529 *et seq.*from Macqueen, T. P., 541 *et seq.*

from Martin, A., 345, 346.

from Mathew, F., 180, 181.

from McGarvie, Revd. J., 238 *et seq.*from Morisset, J. T., 175 *et seq.*

from Park, E., 386, 387.

from Prout, C., 351.

from Uther, R., 240 *et seq.*

from Waldron, F. C., 764, 765.

from Weston, J., 1.

from Wyndham, G., 637, 638.

**Glennie, Alfred**memorial from, soliciting land grant, 548,  
549.opinion adverse to claim of, to land grant,  
548.**Goderich, viscount**

letter to, from King, J., 531.

**Goodewin, John**undertaking given by, *re* passage money as  
schoolmaster, 6.**Goodsir (Godsir), James Fox**judgment obtained by, against Harris, S. L.,  
65.

**Goold, Reverend James**

- address from—  
 to Adelaide, H.M. Queen dowager, 331.  
 to Victoria, H.M. Queen, 330.  
 appointment of, as R.C. chaplain, 110.  
 arrival of, 361.  
 reduction in allowance for passage money  
 to, 212.

**Goulburn**

- appointment of clergyman at, 245.

**Goulburn, Frederick (colonial secretary)**

- letter from—  
 to Duguid, L., 280, 287.  
 to Harris, S. L., 64.

**Goulburn river**

- military post proposed at, 510.

**Gould, John**

- application by, for assistance in ornitho-  
 logical research, 413.  
 letter from, to Glenelg, lord, 413.  
 recommendation in favour of, 412.

**Government house**

- approval of plans and estimates for, at  
 Sydney, 111, 112.  
 prohibition of alteration of plans for, 111,  
 112.

**Grace, William**

- address of, to Victoria, H.M. Queen, 327.

**Grant, Patrick**

- address of, to Victoria, H.M. Queen, 327.  
 address to Victoria, H.M. Queen, presented  
 by, 327.  
 appointment of, as police magistrate at  
 Maitland, 115.

**Gray, John M.**

- payments made for wife by, 191.

**Gray, William Nairn**

- charges made—  
 against, by White, H. F., 367, 371, 372,  
 559.  
 by, against White, H. F., 367, 368.  
 exoneration of, from charges, 380.  
 inquiry ordered *re* charges by White, H. F.,  
 against, 560.  
 letter to, from Partridge, S., 371.  
 letter from—  
 to Perry, S. A., 368.  
 to Thomson, E. D., 370, 372.  
 query *re* signature of, to petition in favour  
 of White, H. F., 699.  
 refusal of White, H. F., to withdraw  
 charges against, 367.  
 reply—  
 by, to charges made by White, H. F., 372  
*et seq.*  
 by White, H. F., to charges made by,  
 368, 369.

**Green, I. O. B. J.**

- address of, to Victoria, H.M. Queen, 327.

**Green, Peter**

- address of, to Victoria, H.M. Queen, 327.

**Gregory, Reverend J. G.**

- address from—  
 to Adelaide, H.M. Queen dowager, 331.  
 to Victoria, H.M. Queen, 330.  
 appointment of, as chaplain at Norfolk  
 island, 687.

**Grey, Sir George**

- letter from—  
 to Bourke, Sir R., 512.  
 to Boyter, D., 35.  
 to Brownrigg, J. S., 744, 753.  
 to Campbell, Revd. A. M., 10, 514.  
 to Cross, W., 659.  
 to Dawson, R., 138.  
 to Elliot, J., 323.  
 to Elliot, T. F., 203, 212.  
 to La Trobe, C. J., 786.  
 to Robison, R., 107.  
 to Rogers, Revd. H., 23.  
 to Macfarlan, Revd. D., 264, 265, 569,  
 718.  
 to Ullathorre, Revd. W., 211, 213.  
 letter to—  
 from Campbell, Revd. A. M., 10, 514.  
 from Coode, J., 251.  
 from Elliot, T. F., 211.  
 from Howe, lord, 475.  
 from Lang, Revd. J. D., 8, 56.  
 from Macfarlan, Revd. D., 23, 568, 570,  
 683.  
 from Robison, R., 106.  
 from Thompson, D., 438.

**Griffiths, George**

- appointment of, as inspector of bank of  
 Australasia, 629.

**Grills, John**

- address of, to Victoria, H.M. Queen, 327.

**Gurner, John**

- chief clerk in supreme court, 477.  
 promotion of, at discretion of judges, 697.  
 recommendation of, for promotion, 477.

**Gunther, Reverend James**

- appointment of, as missionary at Well-  
 ton valley, 661.

**Gylls, Reverend J. C.**

- appointment of, as clergyman, 214.

**Hallen, Edward**

- costs of, as surveyor in suit *Harris v. Rid-*  
*dell*, 65.

**Hamilton, Alexander**

- report transmitted *re*, 228.



**Hammond, Henry**

confinement of, as criminal lunatic, 354.  
instructions for confinement of, as criminal  
lunatic, 227.  
notes at trial of, 355, 356.

**Handt, Reverend J. S. C.**

appointment of, as missionary to aborigines,  
665.

**Hanmer, Catherine**

letter from, to under secretary of state, 693.  
request by, for information *re* her husband,  
693.

**Harbourmaster's department**

expenditure on, 610.

**Harding, —**

catechist of R.C. church stationed at Nor-  
folk island, 362, 687.

**Hardy, Edward Wortley**

address of, to Victoria, H.M. Queen, 327.

**Hardy, John Richard**

appointment of, as police magistrate at  
Yass, 117.

**Harington, Thomas Cudbert**

letter from—  
to Beddek, F., 412.  
to Berner, J. H., 361.  
to commissioner of A.A. company, 747.  
to Flanagan, F., 526.  
to King, J., 532.  
to Waldron, F. C., 765.

**Harper, W. H.**

address of, to Victoria, H.M. Queen, 327.

**Harper, William**

address of, to Victoria, H.M. Queen, 327.

**Harris, Standish Lawrence**

acknowledgment of memorial from, 225.  
affidavit by, *re* judgments, 65.  
agreement with, for services as architect,  
63, 64.  
claim by, for compensation for services as  
architect, 63 *et seq.*  
compensation awarded to, by jury in  
supreme court, 62, 63.  
legal expenses incurred by, 64, 65.  
letter to, from Goulburn, F., 64.  
memorial from, to Glenelg, lord, 63 *et seq.*  
property of, seized for debt, 64, 65.  
refusal of compensation for, 225, 226.

**Harrison, J. S.**

letter to, from Macleay, A., 270.  
refusal of land grant for, 270.

**Hartenstein, Gottlieb**

appointment of, as assistant to mission to  
natives, 9.

**Hats, manufactory for**

establishment of, by Uther, R., 240, 241.

**Hausman, Gottfried**

appointment of, as assistant to mission to  
natives, 9.

**Hawkins, —**

statements from journal of, 18, 19.  
surgeon on ship *Lady McNaghten*, 18.

**Hawksley, Edward**

allowance of passage money for, 210, 318.  
appointment of, as R.C. schoolmaster, 210.

**Hayes, Attwell Edwin**

refusal of land grant for, 164.

**Hayter, Charles**

conditional pardon for, 711.

**Health officer**

appointment of Dobie, J., as, 737.  
necessity for, at port of Sydney, 737.

**Healy, Nicholas**

address of, to Victoria, H.M. Queen, 327.

**Hebe, ship**

despatch *per*, 86, 87, 89, 90, 91, 93, 97, 98.

**Hebersham**

clergyman required at, 245.

**Hebrides**

passage for clergyman in ship with emi-  
grants from, 29.  
proposed departure of ship with emigrants  
from, 32.  
sailing of ship *Brilliant* with emigrants  
from, 112, 113.  
surgeon proposed for ship with emigrants  
from, 26, 27.

**Helmsley, John (Henry)**

report required *re*, 190.

**Hely, Frederick Augustus**

report by, *re* claims of Wentworth, G., to  
land grant, 546.

**Henderson, John**

applications by, for land grant, 317.  
comparison of claims of, with those of Daw-  
son, R., 506.  
employment of, by A.A. company, 317.  
memorial from executors of, soliciting land  
grant, 316, 317.

**Henry, — (lieut., R.N.)**

services of, in survey of Port Phillip, 87.

**Henry, James**

undertaking given by, *re* passage money as  
schoolmaster, 6.

**Henry, William**

application by, to lease land, 622, 623.  
 letter from, to Macleay, A., 622.  
 petition from, to Bourke, Sir R., 623.  
 report by Gipps, Sir G., *re* claims of, to  
 land grant, 621, 622.  
 statements by Perry, S. A., *re* improvements  
 made by, on land occupied, 624, 625.

**Heptonstall, Reverend —**

reduction in allowance of passage money to,  
 213.

**Heron, James**

murder of, by Waggoner, J., 410.

**Herries, W. L.**

letter from, to treasury, commissioners of,  
 782.

**Herring, Henry**

application by, to withdraw money from  
 savings bank, 403.  
 career of, 404.  
 claim by, for restitution of watches and  
 jewellery, 404.  
 conduct and special treatment of, 404.  
 convictions of, 404.  
 money—  
   belonging to, in savings bank, 403, 404.  
   brought by, to colony, 404.  
   withdrawal of money authorised for, 403.  
 refusal to restore property to, 729.

**Hetherington, Reverend Irvine**

stipend for—  
 application *re*, 264, 265.  
 authorised, 73.  
 claimed on arrival, 73, 263.

**Hewitt, Henry**

address of, to Victoria, H.M. Queen, 327.

**Hickey, Edwin**

application by, for land grant, 275.  
 refusal of land grant for, 498.

**Hickey, James**

commutation of death sentence on, 713.

**Hicks, John**

report required *re*, 711.

**Hicks, Samuel**

deposition by, *re* attack by Fijians on  
 schooner *Sir David Ogilby*, 492.

**Hind, Isaac Scott**

*See* "Nind, Isaac Scott."

**Hindmarsh, James Scott**

memorial from, soliciting land grant, 267  
*et seq.*  
 objections by Bourke, Sir R., to appointment  
 of, to treasury, 166, 168, 169, 171.

**Hindmarsh, James Scott**

proposal by Riddell, C. D., for appointment  
 of, to treasury, 165, 168.  
 reasons for appointment of, to treasury,  
 170.

**Hindmarsh, Ralph**

memorial from, soliciting land grant, 267  
*et seq.*

**Hobson, William (captain, R.N.)**

proposal by, for factories in New Zealand,  
 84, 85.  
 services of—  
   at Port Phillip, 86, 306.  
   in New Zealand, 87.  
 visit of—  
   to New Zealand, 84.  
   to Port Phillip, 86.

**Holden, George Kenyon**

appointment of, as crown prosecutor, 116.  
 proposal for appointment of, as crown  
 prosecutor at quarter sessions, 60, 61.  
 provisional approval of, as crown prose-  
 cutor, 252.  
 resignation of, as crown prosecutor, 732.

**Holden, Thomas**

commutation of death sentence on, 711.

**Holzhaufen, Joachim**

appointment of, as assistant to mission to  
 natives, 9.

**Hope, ship**

despatch *per*, 767, 768, 771, 774.

**Horse, John Long**

clerk in office of superintendent of convicts,  
 333.

**Horton, Robert Wilmot (under secre-  
tary)**

letter from, to Duguid, L., 280.

**Hovell, William Hilton**

confirmation of previous decision *re* claims  
 of, 97.  
 remission of debt due by, to government,  
 98, 163.  
 transmission of memorial and journal of  
 exploration by, 68.

**Howe, lord**

letter from, to Grey, Sir G., 475.

**Howey, Henry**

application by, for additional land grant,  
 271.  
 omission to transmit memorial of, 468.

**Howick, viscount**

letter from, to Glenelg, lord, 585.  
 new form of government proposed by, 402.

- Hughes, James**  
address of, to Victoria, H.M. Queen, 327.
- Hughes, William**  
address of, to Victoria, H.M. Queen, 327.
- Hume, —**  
allowance to, 482.  
appointment of, as schoolmaster, and of his wife as schoolmistress, 482, 483.
- Hume, J. D.**  
letter from, to Stephen, J., 346.  
letter to, from Stephen, J., 346.
- Humphrey, Thomas B.**  
address of, to Victoria, H.M. Queen, 327.
- Hunter, John**  
member of crew of schooner *Sir David Ogilby*, 487.
- Hunter river**  
clergyman required at, 245.  
settlement of immigrants *ex* ship *Midlothian* in district of, 506, 507, 508.
- Hunter, William (military secretary, captain, 55th regt.)**  
report by, *re* outbreak of fever on ship *Lady McNaghten*, 12 *et seq.*
- Hustwick, George**  
managing owner and master of ship *Lady McNaghten*, 12.  
payment to, for demurrage on ship *Lady McNaghten* due to quarantine, 434, 435.
- Hutchins (Hutchinson), Henry**  
captain of schooner *Sir David Ogilby*, 485, 494.  
murder of, by Fijians, 485 *et seq.*
- Hygela, ship**  
despatch *per*, 731, 734, 736, 737, 738, 739, 740, 754, 755, 756, 759, 766.
- Icely, Thomas**  
certificate by, *re* financial stability of Dawson, R., 137, 520.
- Immigrants**  
advantage derived by, to Great Britain, 358.  
allegations *re*, *per* ship *William Nicholl*, 214 *et seq.*  
alterations in practice *re*, 30.  
age limit for, 31, 33.  
agents for procuring of—  
  expenses for, 34.  
  problems *re*, 34, 357.  
appointment of charges for agent general for, 357 *et seq.*
- Immigrants**  
arrival of—  
  *per* ship *Adam Lodge*, 50.  
  *per* ship *Augusta Jessie*, 128.  
  *per* ship *John Barry*, 50.  
  *per* ship *Palmyra*, 598.  
  *per* ship *Parland*, 599.  
  *per* ship *William Rogers*, 598.  
  ship *Minerva* with fever amongst, 288, 289.  
assistance in obtaining, from poor law commissioners, 33.  
bounties proposed for, 83.  
causes of disease on ships with, 68.  
certified accounts to be submitted by surgeons on ships with, 629.  
checks proposed on purchases by surgeons in charge of, 480.  
claim by Mackay, J., for introduction of Indian coolies as, 550.  
complaint by, on ship *St. George*, 756 *et seq.*  
conditions for—  
  appointment of clergy and schoolmasters on ships with, 568.  
  payments of bounties on, 511.  
departure proposed of ship with, from Yarmouth or Harwich, 99.  
desire to supply demand for labour with, from Great Britain, 202, 204.  
dietary on ships with, 31.  
disapproval of settlement of, on land, 692.  
disposal of, *ex* ship *Midlothian*, 506, 507, 508, 692.  
effects probable of new system for encouragement of, on colonial finances, 53, 80 *et seq.*  
estimates of number of, in 1837-8, 204.  
free passages granted to, 30.  
forms for lists of, 40.  
functions of agent general for, 357.  
funds for purposes of, 640 *et seq.*  
gratuities to surgeons in charge of, 193, 406, 407, 438 *et seq.*  
hospital accommodation on ships for, 449.  
inability to supply demands for labour with, 401.  
inquiry to be held *re* sickness amongst, 684.  
instructions to surgeons on ships with, 33, 35, 36, 37 *et seq.*  
limitation of number of, proposed on ships, 216, 219, 220.  
loan proposed for encouragement of, 642.  
method for correspondence of agent general for, 211, 212, 290.  
mortality amongst, on ship *William Rogers*, 683.  
necessity for—  
  agent for, at Sydney, 203.  
  continuance of encouragement of, 642.  
  instructions *re*, 642.  
notice issued in Great Britain for use of, 158, 159.

**Immigrants**

- number of, required, 639.
- objections to—
  - acceptance of promissory notes of, in purchase of land, 516, 517.
  - bounties for single men as, 83.
  - government system for, 602.
- opinion of executive council *re* gratuities to surgeons on ships with, 406, 407.
- passages proposed for clergy in ships with, 29.
- problem of vaccination of, 449, 450.
- progress in procuring labourers as, 205.
- proposal for—
  - introduction of labourers from India as, 83, 202, 203, 204, 205.
  - shipment of, to Port Phillip, 599.
- proposals *re* ship *Midlothian* with, from Hebrides, 26, 27.
- prospects of, in Tasmania, 112, 113.
- qualifications required by surgeons on ships with, 684.
- quality of, *per* ship *John Barry*, 440, 441.
- quarantine of, *per* ship *John Barry*, 50, 51, 67, 68, 91, 200 *et seq.*
- recommendations by committee of legislative council *re* system for, 83.
- reduction in proportion of children amongst, on ships proposed, 449.
- reforms proposed in outfit of ships for, 215, 219.
- refusal to allocate ship for, from Norfolk, 162, 163.
- remission in purchase of land proposed for, for expense of passage, 83.
- report—
  - by legislative council *re* problems of, 639 *et seq.*
  - re* failure to fill ship with, from Norfolk, 160 *et seq.*
- reports from agent general for, 26 *et seq.*
- sailing of ship *Brilliant* with, from Hebrides, 112, 113.
- salary for assistant to agent general for, 358.
- ship—
  - to sail with, for Port Phillip, 724.
  - with, proposed from Bristol, 27, 28.
- statement *re* funds available for, to be transmitted, 80.
- system recommended for encouragement of, 639.
- transmission of returns of, 602.

**Inches, Charles (surgeon, R.N.)**

- report by, *re* outbreak of fever on ship *Lady McNaghten*, 12 *et seq.*

**India**

- claim by Mackay, J., for introduction of coolies from, 550.
- objections to introduction of labourers from, 202, 203, 204, 205.
- proposal for introduction of labourers from, as immigrants, 83, 401, 679.

**Inglis, Thomas**

- testimony by, in favour of Burnett, W., 263.

**Innes, Archibald Clunes**

- evidence of, available *re* statements by White, H. F., 375.
- letter from, to White, H. F., 381.

**Inquests**

- act of council *re* medical witnesses at, 774, 779.
- practice *re* holding of, 366.

**Invermein**

- clergyman required near, 245.
- inability to hold inquiry at, 509.
- inquiry ordered at, *re* encounter of mounted police with aborigines, 396, 399.

**Ireland**

- inferiority of equipment of transport ships from, 425, 426.

**Ironed gangs**

*See* "Road gangs."

**Irrawang**

- pottery established by King, J., at, 528, 531.

**Irving, L. T.**

- address of, to Victoria, H.M. Queen, 327.

**Isabella, schooner**

- cost of publication of voyage of, 288.
- report required *re* publication of voyage of, 287, 288.
- sale of, 694.
- transmission of report *re* publication of voyage of, 698.

**Isabella, ship**

- despatch *per*, 245, 255, 256, 261, 263, 266, 270, 271, 274, 275, 276, 288, 290, 305.

**James, Henry**

- address of, to Victoria, H.M. Queen, 327.

**James, John**

- costs of, in suit *Harris v. Riddell*, 65.

**James, Pattison, ship**

- despatch *per*, 4, 5, 6, 8, 10, 22.

**Jamison, Sir John**

- appointment of, as member of legislative council, 132.
- relationship of, to member of council, 192.

**Jeffrey, Thomas**

- memorial from, soliciting land grant, 186.
- refusal of land grant to, 446.
- testimony in favour of, 185.

- Jener, George**  
address of, to Victoria, H.M. Queen, 327.
- Jenkins, George**  
reduction of sentence on, 227.
- Jess, schooner**  
rescue of Fijians by, 495, 496, 497.
- Jessie, ship**  
despatch *per*, 327, 330, 332, 339, 341, 344, 348, 350, 354, 359, 361, 363, 365, 366.
- Jevers, Henry Norton**  
letter from, to Glenelg, lord, 450.
- John Barry, ship**  
arrival of, 50, 230.  
departure of, from Scotland with immigrants, 30.  
despatch *per*, 626, 638, 646, 648, 649, 652, 656, 657, 659, 670.  
mortality amongst immigrants *per*, 91, 199, 200 *et seq.*  
quality of immigrants *per*, 440, 441.  
quarantine of, for fever, 50, 51, 67, 68.  
release of immigrants *per*. from quarantine, 91.  
report by Thompson, D., *re* voyage of, 438, 439.  
stowage of baggage on, 440, 441.
- John Renwick, ship**  
despatch *per* 353, 356, 361, 383, 388.
- Jones, Richard**  
commutation of death sentence on, 713.
- Jones, Richard**  
land grant to, for improvement of sheep, 536.
- Juries**  
act of council—  
for extension of act for constitution of, 774.  
*re* lists for, in district of Maitland, 775.  
*re* provision for, at Melbourne and Port Macquarie, 775.
- Justice, administration of**  
alterations proposed in new bill for, 722 *et seq.*, 738, 739.
- Kane, Hannah**  
passenger *per* ship *Lady McNaghten*, 12.
- Kelly, James**  
address of, to Victoria, H.M. Queen, 327.
- Kelly, Richard**  
address of, to Victoria, H.M. Queen, 327.
- Kemp, Henry D.**  
memorial from, soliciting land grant, 267 *et seq.*
- Kennedy, —**  
report transmitted *re* deceased estate of, 233.
- Kennedy, Daniel**  
claim by, *re* luggage, 13.  
passenger *per* ship *Lady McNaghten*, 12.
- Kenny, Catherine**  
approval of payment into savings bank for, 712.
- Kenny, D.**  
receipt by, for chains *re* ship *Lady Nugent*, 232.
- Kent, John**  
deputy assistant commissary-general at Norfolk island, 151.
- Kent, Thomas**  
land grant to, for discovery of extract of wattle bark, 536.
- Kentish, Nathaniel Lipscomb**  
career of, 754.  
petitions received from, 754.
- Keogh, Ann**  
report transmitted *re*, 228.
- Kinchela, John**  
appointment of, as advising counsel for government, 613.  
claim by Dillon, J., on, 586.  
financial appointment proposed for, 46.  
inability to appoint as puisne judge, 46, 188, 189.  
objections in council to pension for, 600.  
opinion of, *re* crown lands occupation act, 650.  
opposition by council to pension for, 611.  
regret at necessity for resignation of, 46.
- King, James**  
application by—  
for grant in extension, 528.  
for reward for discovery of sand, 529, 532 *et seq.*  
for secondary land grant, 529 *et seq.*  
claim by—  
to additional land grant, 527.  
to land grant in extension, 527.  
to reward for discovery of sand for glass-making, 528.  
letter from, to Goderich, viscount, 531.  
letter to, from Harington, T. C., 532.  
memorial from, to Glenelg, lord, 528, 529 *et seq.*  
opinions *re* value of discovery of sand for glassmaking by, 535, 536.  
pottery established by, 528, 531.  
reward granted to, for discovery of sand, 532.

- King, Philip Parker (captain, R.N.)**  
 refusal by Glenelg, lord, of correspondence with, *re* legislative council, 557.  
 reply by Glenelg, lord, to claim of, to seat in legislative council, 132, 192.  
 testimony from, in favour of Anderson, J., 238.  
 transmission of letter from, *re* relations in legislative council, 332.
- King, Samuel**  
 free pardon for, 712.
- Kingdom, Henry**  
 clerk in office of superintendent of convicts, 338.
- Kingsmill, John**  
 address of, to Victoria, H.M. Queen, 327.
- Kinnear, —**  
 testimony in favour of wife of, 227.
- Kinnear, George**  
 resignation of, as inspector of bank of Australasia, 629.
- Kinnear, John**  
 report *re* proposed escape of, 711.
- Kinnear, ship**  
 despatch *per*, 513, 547.
- Kinselagh, Patrick**  
 report transmitted *re*, 228.
- Knox, Ebenezer**  
 judgment obtained by, against Harris, S. L., 65.
- Kuper, Augustus Leopold (lieut., R.N.)**  
 appointment of, as magistrate and commissioner of crown lands at Port Essington, 591.
- Kurrajong**  
 clergyman required at, 245.
- Küthe, Jean Henri**  
 report *re*, 713.
- Lacourt, Honore**  
 letter of introduction for, 25.
- Lacourt, Jean Baptiste**  
 letter of introduction for, 25.
- Ladd, Jane**  
 matron in hospital on voyage, 19.  
 passenger *per* ship *Lady McNaghten*, 12.
- Lady McNaghten, ship**  
 arrangement of berths on, 14.  
 cargo shipped on, 18.  
 causes of mortality on, 201.
- Lady McNaghten, ship**  
 claim for loss of trunk on, 275, 276.  
 criticism by Elliot, T. F., on reports *re*, 342 *et seq.*  
 expenditure on quarantine of, 11, 21.  
 passengers carried on, 15.  
 payment for demurrage on, due to quarantine, 434, 435.  
 provisions issued on, 15, 16, 17.  
 report *re* outbreak of fever on, 11, 12 *et seq.*  
 supply of medicines on, 18.
- Lady Nugent, ship**  
 despatch *per*, 465, 479.  
 disposal of leg-irons and religious books *ex*, 573, 574.
- Lake Macquarie**  
 mission to natives established at, 9.
- Lamb, John**  
 approval of action of Bourke, Sir R., with, 185.  
 refusal—  
   of correspondence with, by Bourke, Sir R., 184, 185.  
   to reinstate, in commission of peace, 130.  
 regret by Glenelg, lord, at withdrawal of assigned servant from, 184.  
 reply by Glenelg, lord, to letter received from, 184.
- Land**  
 absence of necessity for minimum price of, 77.  
 act of council for restraint of unauthorised occupation of, 72.  
 character of, in possession of crown, 78.  
 concessions in purchase of—  
   to army medical officers, 428.  
   to discharged soldiers, 549.  
   to naval and military officers, 432.  
 delay to new settlers in acquisition of, 66, 428, 429.  
 effect of—  
   appropriation of revenues from, to immigration, 81.  
   competition on price of, 77.  
 fictitious bidding alleged at sales of, 66, 67, 430.  
 increase of deposit at auction of, proposed, 431.  
 instructions—  
   for raising minimum price of, 537, 538.  
   *re* appropriation of revenue from, 558, 559.  
 necessity for sale of, by public auction, 432.  
 object of disposal of, by sale, 537.  
 objections—  
   by Fowler, D. A., to public sales of, 66, 428 *et seq.*  
   to acceptance of promissory notes of immigrants in purchase of, 516, 517.  
   to raising minimum price of, 78, 79.

**Land**

- opinion of judges *re* illegality of sale of, without parliamentary sanction, 651, 652.
- opposition to—
  - new settlers in purchase of, 66, 67, 429, 430.
  - vesting in ordnance officers of, for military purposes, 592, 593, 596.
- order *re* sale of, 526.
- practice *re* sale of, by auction, 429.
- problems *re* minimum price of, 76 *et seq.*
- proposal for abolition of limits for location of, 67, 430.
- protest by judges *re* act for prevention of unauthorised occupation of, 649 *et seq.*
- purchases of, by old settlers, 429.
- reasons for raising minimum price of, 537, 538.
- reforms proposed by Fowler, D. A., in sale of, 67.
- regulations *re* payments on purchase of, 79.
- results experienced at auction sales of, 77.
- sale of—
  - before survey, 430.
  - one section of, at minimum price proposed, 431.
  - to be held at Port Phillip, 658.

**Land grants**

- act of council to be passed *re* validity of, after demise of H.M. William IV, 447.
- claims expected from civilians for secondary, 144, 145.
- concessions to military settlers inapplicable to secondary, 144.
- former practice *re*, to officials, 258, 267, 268.
- gifts of, for public services, 536.
- intentions *re* claims for additional, 527.
- necessity for limitation of time for applications for, 235.
- notice *re* abolition of, 526.
- orders *re*, 388.
- practice *re*, to clergy, 239.
- problem of validity of deeds for, after demise of H.M. William IV, 235, 236.
- proposal for, equivalent in value to passage money of immigrants, 431.
- regulation *re*, in extension, 243.
- regulations *re* secondary, 349, 415, 416.

**Land revenue**

- appropriation of—
  - at Port Phillip for purposes of immigration, 658.
  - for purposes of immigration, 641.
- claim by legislative council to appropriation of, 643, 645.
- cost of collection of, 646.

**Land revenue**

- expenditure from—
  - on aborigines, 644.
  - on administration at Port Phillip, 644.
  - on special payments, 644, 645.
- maintenance by Gipps, Sir G., of rights of crown to, 644.
- necessity for decision *re* appropriation of, 723.
- problems *re* appropriation of, 640 *et seq.*
- return required of, at Port Phillip, 658.

**Landwell, Edward**

- judgment obtained by, against Harris, S. L., 65.

**Lane cove**

- land claimed by Henry, W., at, 621 *et seq.*

**Lang, Andrew**

- immigrants *ex* ship *Midlothian* settled on estate of, 507.

**Lang, Reverend John Dunmore**

- application by, *re* bounties on immigrants *per* ship *Minerva*, 56, 57.
- decision by committee of general assembly *re* schism in Presbyterian church caused by, 714 *et seq.*
- denial by, of separation from Presbyterian church, 401, 443.
- departure of, for England, 755.
- formation of synod by, 442.
- immigrants introduced by, in ship *Midlothian*, 507.
- leave of absence granted to, 443, 755.
- letter from, to Grey, Sir G., 8, 56.
- letter to, from Grey, Sir G., 265.
- memorial from presbytery *re* action of, 274.
- missionaries to natives procured by, from Lutheran church, 8 *et seq.*
- negotiations with, *re* immigrants *per* ship *Midlothian*, 692.
- payment of salary to, after disunion in church, 275.
- record of assembly's commission *re* action of, 571 *et seq.*
- refusal—
  - by, to recognise presbytery, 442, 443.
  - of half salary for, during leave of absence, 756.
- request by McGarvie, Revd. J., for caution in acceptance of statements from, 444.
- resolutions by general assembly's committee *re* action of, 570, 571.
- salary of, to be withheld, 570.
- undertaking given by schoolmasters guaranteed by, 6.

**Larpent, F. S.**

- letter from, to treasury, commissioners of, 103, 384, 563, 729, 782.

**La Trobe, Charles J.**

allowance to, for passage and outfit, 786.  
 appointment of, as superintendent at Port Phillip, 785, 786.  
 instructions to be given to, 786.  
 letter to, from Grey, Sir G., 786.  
 salary and allowances for, 786.

**La Venus, French frigate**

visit of—  
 to New Zealand, 700.  
 to Sydney, 709.  
 to Tahiti, 709.  
 departure of, from Sydney, 710.

**Lawrence, — (surgeon, R.N.)**

employment of, in quarantine of ship *William Rogers*, 683.

**Leach, Mrs. —**

allowance of passage money to, 7.  
 appointment of, as matron at female factory, 6.  
 charges against, by Clapham, J., 405.  
 criticism of instructions to, 92.  
 dispute of, with Clapham, J., 321, 406, 471.  
 duties and salary of, 7.  
 removal of, as matron, 589.  
 resignation of, proposed, 471.  
 testimony in favour of, 7, 405.

**Leary, John**

free pardon for, 227.

**Ledsam, Jeremiah**

passenger *per* ship *Lady McNaghten*, 12.  
 schoolmaster on voyage, 16.

**Lee, Mary Ann**

address of, to Victoria, H.M. Queen, 327.

**Le Souif, Charles Henry**

proposal for appointment of, as landing and tide surveyor at Port Phillip, 759, 760.

**Letitia, ship**

losses by passengers through wreck of, 1, 2, 3.

**Levien, Alfred**

address of, to Victoria, H.M. Queen, 327.

**Lewis, Charles Morgan**

approval of grant to, for rescue of survivors from barque *Charles Eaton*, 209.  
 arrangements *re* half salary for, 694.  
 gratuity possibly due to, 694, 695.  
 leave of absence granted to, 694.  
 reasons for non-proposal to council of grant to, 592.  
 report required *re* publication of voyage of, 287, 288.

**Lewis, H. George**

address of, to Victoria, H.M. Queen, 327.

**Lewis, John**

address of, to Victoria, H.M. Queen, 327.

**Lewis, Mortimer William (architect)**

supervision of public buildings by, 481.

**L'Heroine, French corvette**

advance to captain of, 313, 515.  
 arrival of, 313.  
 objects of voyage of, 313.

**Lillie, Reverend —**

stipend for, as Presbyterian minister at Hobart town, 265.

**Lindesay, Patrick (acting governor)**

full salary drawn by, as acting governor, 325.  
 letter from, to Lithgow, W., 326.  
 letter to, from Lithgow, W., 326.  
 query by Lithgow, W., *re* payment of full salary to, 326.  
 reasons of, for payment of full salary, 326, 327.

**Linforth, John**

indulgence for, 712.  
 report *re*, 713.

**Lipscomb, William**

address of, to Victoria, H.M. Queen, 327.

**Lithgow, William**

letter from—  
 to Lindesay, P., 326.  
 to Snodgrass, J., 325.  
 letter to, from Lindesay, P., 326.  
 query by, *re* payment of full salary to acting governor and private secretary, 326.

**Live stock**

prevalence of catarrh amongst sheep, 601.  
 values of, 137.

**Lloyd, G.**

address of, to Victoria, H.M. Queen, 327.

**Lockyer, Edmund**

application by, for secondary land grant, 143, 145.  
 letter from, to Thomson, E. D., 145.  
 letter to, from Thomson, E. D., 146.  
 reference of application from, to secretary of state, 146.  
 refusal of secondary land grant for, 143.

**London, Robert H.**

affidavit by, 493.  
 charge of schooner *Sir David Ogilby* assumed by, 485.  
 trading master on brig *Mermaid*, 485.



- Long Jack, aboriginal**  
 approval of commutation of death sentence on, 227.  
 recommendation for commutation of death sentence on, 228.
- Lord Lynedock (Lyndock), ship**  
 arrival of, with scurvy amongst convicts, 547.  
 despatch *per*, 227, 342, 346, 348.  
 transmission of report *re* outbreak of scurvy on, 591.
- Lovat, Reverend Charles**  
 address from—  
   to Adelaide, H.M. Queen dowager, 331.  
   to Victoria, H.M. Queen, 330.  
 allowance of passage money to, 213.
- Lovell, Richard**  
 free pardon for, 711.
- Lovell, Uriah**  
 free pardon for, 711.
- Lowe, Thomas**  
 commutation of death sentence on, 713.
- Ludwig, John**  
 address of, to Victoria, H.M. Queen, 327.
- Lunatic asylum**  
 appointment of steward and matron for, 142.  
 charges for patients in, 142, 143.  
 expenditure on patients in, 610.  
 progress in erection of, 552.  
 proposals *re* management of, 143.
- Lutheran church**  
 act *re* temporal affairs of, 776.  
 appointment of ministers of, as missionaries to natives, 3 *et seq.*
- Luttrell, H. F.**  
 letter from, to treasury, commissioners of, 103, 384, 563, 729, 782.
- Lynch (Linch) Richard**  
 criticism of claims of, to land grant, 70.  
 memorial from, claiming land grant, 69.  
 refusal of land grant for, 558.  
 report by Gipps, Sir G., *re* claims of, 341.
- Lynch, Reverend John**  
 appointment of, as R.C. clergyman, 223.
- Lynch, Thomas**  
 address of, to Victoria, H.M. Queen, 327.
- Macarthur, John (captain, royal marines)**  
 appointment of, as magistrate and commissioner of crown lands at Port Essington, 591.
- Macarthur, John**  
 land grant to, for improvement of sheep, 536.
- Macarthur, Peter**  
 application by, for land grant, 62.  
 memorial received by Glenelg, lord, from, 65.  
 refusal of land grant for, 66.
- Macarthur, William**  
 testimony from, in favour of Anderson, J., 238.
- MacDonald, J.**  
 memorial from, soliciting land grant, 267 *et seq.*
- Macdonald, John**  
 arrangements with, *re* passages for self and family, 753, 759.  
 ineligibility of, as immigrant *per* ship *St. George*, 756, 757.  
 letter to—  
   from Boyter, D., 758.  
   from Macdonald, M. N., 758.
- Macdonald, M. N.**  
 letter from, to Macdonald, J., 758.
- Macdonnell, Thomas (lieut., R.N.)**  
 report by, *re* restoration of peace amongst Maoris, 90.
- Macfarlan, Reverend Principal D.**  
 letter from—  
   to Glenelg, lord, 713.  
   to Grey, Sir G., 23, 568, 570.  
 letter to, from Grey, Sir G., 264, 265, 569, 683, 718.
- MacIntyre, Peter**  
 agent for Macqueen, T. P., 541.  
 allegations by Dangar, H., *re*, 69.
- Mackay, George**  
 address of, to Victoria, H.M. Queen, 327.
- Mackay, J.**  
 claim by, for bounty on introduction of Indian coolies, 550.
- Mackillop, George**  
 petitions received from, by Glenelg, lord, 22, 243, 244, 447, 656.  
 transmission of letter from, 389.
- Mackrell, Thomas**  
 free pardon for, 711.
- Macleay, Alexander (colonial secretary)**  
 compensation—  
   claimed by, 606.  
   proposed by council for, *vice* pension, 612.

**Macleay, Alexander (colonial secretary)**

letter from—

- to Dawson, R. B., 136, 138.
- to Harrison, J. S., 270.
- to Morisset, J. T., 178, 179.
- to Uther, R., 243.

letter to—

- from Dawson, R. B., 135, 136, 137, 519.
- from Duguid, L., 281.
- from Henry, W., 622.
- from Miller, W., 556.
- from Mitchell, T. L., 281.
- from Perry, S. A., 624.
- from Webber, J. P., 283, 284, 285.
- from Wentworth, G., 546.

objections by council to pension for, 611, 612.

pension for, 606.

recognition of services of, 606, 607.

resignation of, 607.

statements by Bourke, Sir R., *re*, 606.

testimony from, in favour of Anderson, J., 238.

transmission of papers from, 365.

**Macleay, George**

testimony from, in favour of Anderson, J., 238.

**Maconochie, Alexander (captain, R.N.)**

transmission of proposals from, *re* civilisation of aborigines, 196.

**Macpherson, William**

appointment of, to charge of clergy and school estates, 195.

disapproval of appointment of, to charge of clergy and school estates, 437.

report by, *re* outbreak of fever on ship *Lady McNaghten*, 12 *et seq.*

**Macqueen, Thomas Potter**

invalidity of claim of, to secondary land grant, 540.

land granted to, 540.

memorial from, soliciting secondary land grant, 541 *et seq.*

**Macquoid, Thomas (sheriff)**

letter from, to Gipps, Sir G., 339.

protest by, *re* omission of sheriff from table of precedence, 339 *et seq.*, 561.

**Magistrates**

return of floggings ordered by, 654.

**Magner, Michael**

address of, to Victoria, H.M. Queen, 327.

**Maitland**

act *re* jury lists for district of, 775.

address from inhabitants at, to Victoria, H.M. Queen, 327 *et seq.*, 550.

allotments to soldiers granted at, 634 *et seq.*

**Maitland**

appointment of police magistrate at, 115.

extension of police act to, 775.

iron bridge proposed over creek at, 190, 191.

money subscribed at, for defence of murderers of aborigines, 704.

R.C. chaplain stationed at, 362.

**Maitland, ship**

despatch *per*, 407, 410, 417, 419, 420, 421, 422, 424, 426, 428, 432, 434, 437,

438, 445, 446, 447, 448, 450, 451, 454, 456.

quarantine of, with immigrants, for scarlet fever, 684.

release of immigrants *per*, from quarantine, 767.

**Maitland, west**

appointment of clergyman at, 245.

**Mallon, Patrick N.**

address of, to Victoria, H.M. Queen, 327.

**Manning, John Edge**

appointment of, as registrar of supreme court and curator of intestate estates, 473.

balances of intestate estates in hands of, 474.

conditions of appointment of, 473.

denial of claims of, by Glenelg, lord, 728.

letter from, to judges, 473.

protest by, *re* rule of court for deposit of funds of intestate estates in savings bank, 472, 474 *et seq.*

security required from, 473, 474.

**Manning, William Montagu**

appointment of, as chairman of quarter sessions, 116.

**Maria, ship**

despatch *per*, 214, 223, 225, 226, 227, 229, 230, 234, 247, 250, 251, 252, 263,

272.

**Marine, colonial**

adjustment of charges for, 193, 194.

employment of vessels of, 193.

instructions *re* charge for, 579.

**Marinus, ship**

despatch *per*, 516, 517, 521, 527, 540, 544,

545, 548, 550, 552, 554, 556, 564,

565, 567, 573, 578, 579, 580, 582,

586, 589, 591, 592, 594, 597, 598,

599, 600, 602, 603.

**Market values**

of live stock, 137.

**Marshall, Charles**

transmission of letter from, requesting employment, 632.

- Marshall, E.**  
letter from, to Stephen, J., 549.
- Marshall, John**  
deposition by, *re* attack by Fijians on schooner *Sir David Ogilby*, 486, 487, 488.
- Marshall, John**  
affreighter of ship *Lady McNaghten*, 12.  
provisions on ship *Lady McNaghten* examined by, 19.
- Martin, Alexander (lieut., R.N.)**  
memorial from, soliciting land grant, 345, 346.  
details *re* claims of, to land grant, 344, 345.  
refusal of land grant for, 557.
- Marulan**  
clergyman required at, 245.
- Marum, Reverend A.**  
appointment of, as R.C. clergyman, 420.
- Mathew, Felton**  
criticism of claim of, to land grant, 445, 446.  
memorial from, soliciting land grant, 180, 181.  
refusal of land grant to, 446.  
testimony in favour of, 180.  
town surveyor, 180, 181.
- Maule, F.**  
letter from, to Stephen, J., 674.
- Mayo, John**  
address of, to Victoria, H.M. Queen, 327.
- McConnell, Thomas**  
report *re* trial of, by Burton, W. W., 89.  
restoration of pension recommended to, 89.
- McCullum, James**  
approval of commutation of death sentence on, 711.  
recommendation for commutation of death sentence on, 228.
- McCullum (McCallum), Thomas**  
deposition by, *re* attack by Fijians on schooner *Sir David Ogilby*, 491, 492.
- McCurdy, J. W.**  
address of, to Victoria, H.M. Queen, 327.
- McDonald's river**  
clergyman required at, 245.
- McDowell, R. J.**  
address of, to Victoria, H.M. Queen, 327.
- McEachern, James**  
undertaking given by, *re* passage money as schoolmaster, 6.
- McEachern, Robert**  
undertaking given by, *re* passage money as schoolmaster, 6.
- McEncroe, Reverend J.**  
address from—  
to Adelaide, H.M. Queen dowager, 331.  
to Victoria, H.M. Queen, 330.  
appointment of, as chaplain at Norfolk island, 686, 687.
- McGarvie, Reverend John**  
arrival of, in colony, 238.  
assistance to Presbyterian church acknowledged by, 201, 444.  
caution requested by, in acceptance of statements from dissenting clergy, 444.  
letter from, to Glenelg, lord, 444.  
memorial from, soliciting land grant, 238 *et seq.*  
moderator of Presbyterian church, 445.  
refusal of land grant for, 465.  
services of, as clergyman, 239.
- McGregor (McGrigor), Sir James**  
letter from, to Stephen, J., 41, 100.  
letter to, from Stephen, J., 43, 102.
- McIntyre, Reverend W.**  
immigrants *ex* ship *Midlothian* settled under, in district of Hunter river, 507.
- McLean, —**  
complaints by immigrants *re*, 756, 757, 758.  
surgeon on ship *St. George*, 756.
- McLean, John Leyburn**  
letter from—  
to Gipps, Sir G., 675.  
to Thomson, E. D., 655.  
letter to, from Ryan, T., 676.  
proposal by—  
for increase of salary for Ryan, T., 675, 676.  
*re* returns for house of commons, 655.
- McMillan, John**  
report required *re* delay in granting pardon to 711.
- McNamara, John**  
compensation to, for losses in wreck of ship *Letitia*, 2.
- McQueen, John**  
judgment obtained by, against Harris, S. L., 65.
- Mechanics' school of arts at Sydney**  
extract from lecture at opening of, 536.  
vice-president of, 531.
- Medical department**  
administration of, according to army medical regulations, 539.  
compliance with requisition for medicines and stores for, 276.  
economy not effected by reorganisation of, 395.

**Medical department**

- incapacity of Thompson, J. V., to re-organise, 391.
- instructions—  
*re* establishment of, 100 *et seq.*  
*re* treatment of pauper patients by, 103 *et seq.*, 247 *et seq.*
- necessity for—  
 appointment of army surgeons in, 184.  
 storehouse for, 42.
- objections to retiring allowances for colonial surgeons in, 539.
- obstructions by colonial surgeons to re-organisation of, 41, 42.
- problem of retiring allowances to officers of, 393.
- proposal for appointment of army surgeons to, 43, 394.
- retiring allowances proposed for colonial surgeons in, 183.
- return required of seamen and marines treated by, 689.
- system proposal by Bourke, Sir R., for administration of, 762 *et seq.*
- transmission of letter of complaint and resignation from officers of, 391, 686, 761.
- unsatisfactory condition of, 391.

**Meehan, Roger**

- passenger *per* ship *Lady McNaghten*, 12.  
 rations issued by, on voyage, 17.

**Mein, John S.**

- address of, to Victoria, H.M. Queen, 327.

**Melbourne**

- act *re* trial by jury at, 775.
- application by Batman, J., for permission to purchase land at, 553, 554.
- appointment of collector of customs proposed at, 90.
- collector of customs at, to act as treasurer, 91.
- customs establishment required at, 91.
- establishment of overland mail to, 290.
- mounted police detailed for duty at, 290, 291.
- road to be marked to, 291.

**Mermaid, brig**

- assistance given by master of, to crew of schooner *Sir David Ogilby*, 485, 493.

**Meteorology**

- instructions for taking of observations in, 687, 688.

**Midlothian, ship**

- dissatisfaction at disposal of immigrants *ex*, 506, 507, 508.
- negotiations of Lang, Revd. J. D., *re* immigrants *per*, 692.
- proposed sailing of, 32.
- surgeon proposed for, on voyage with immigrants from Hebrides, 26, 27, 32.

**Military**

- advantage of supervision of convicts by, 188.
- application of concessions on land to officers of, retiring in colony, 144.
- appointment of senior officer of, as executive councillor, 306.
- charge for removal of, when convicts, 109, 110.
- concessions to—  
 medical officers of, in purchase of land, 428.  
 officers of, inapplicable to secondary land grants, 144.
- cost of conveyance of, by sea, 193, 194.
- detachment of, required for settlement in north Australia, 96, 337.
- effect of sale of commissions by officers, 145.
- employment of, as mounted police, 585, 586.
- form for return of civil allowances to medical officers of, 479.
- instructions—  
*re* employment of, as mounted police, 584 *et seq.*  
*re* repairs to barracks for, 207 *et seq.*
- loss of revenue by drawback on rum issued to, 771, 772.
- method for reduction of, on employment of sappers and miners, 336.
- necessity for—  
 appointment of surgeons from, to medical department, 184.  
 reinforcements of, 96, 187.
- precedency of senior officer of, 476.
- proposal for—  
 detachments of, on overland route to Port Phillip, 510.  
 in New Zealand, 85.
- salaries voted for overseers from, for convicts, 40.

**Military chest**

- advance by English treasury to colonial agent to be refunded to, 51, 52, 250, 383, 437, 456, 566, 605, 648, 669, 768.
- instructions *re* method for issues from, 725.
- payments from, to clergy, 657.
- refund made to, 307, 469.

**Miller, Henry**

- deposition by, *re* attack by Fijians on schooner *Sir David Ogilby*, 493, 494.

**Miller, William (dep. commissary-genl.)**

- letter from—  
 to Macleay, A., 556.  
 to secretary of treasury, 725.  
 to Thomson, E. D., 618, 620.
- letter to, from Thomson, E. D., 556, 618, 726.

- Milligan, —**  
allowance for passage of, as Presbyterian schoolmaster, 682, 683.
- Millson, Henry**  
See "Herring, Henry."
- Milne, Alexander**  
report required *re*, 711.
- Minerva, ship**  
application by Lang, Revd. J. D., *re* bounties on immigrants *per*, 56, 57.  
arrival of, with fever amongst immigrants, 288.  
despatch *per*, 410, 411, 413, 416, 420, 425.  
reports *re* quarantine of, 288, 289.  
return of deaths amongst immigrants *per*, 289.
- Mitchell, Francis**  
judgment obtained by, against Harris, S. L., 65.
- Mitchell, H.**  
address of, to Victoria, H.M. Queen, 327.
- Mitchell, James (colonial surgeon)**  
dismissal of, 117.  
letter from, to Glenelg, lord, 117.  
libel action brought by, against Thompson, J. V., 392, 393.  
papers received by Glenelg, lord, from, 567.  
refusal by Glenelg, lord, to reverse decision of Bourke, Sir R., *re*, 567.  
rupture between Thompson, J. V., and, 392.  
statement to be submitted by, 117.  
transmission of statement by, 271.
- Mitchell, Thomas Livingston (surveyor-general)**  
approval—  
of conclusions by council *re* conduct of, towards natives, 49.  
of instructions given to, *re* natives on exploration, 47.  
of procedure *re* inquiry into encounter of, with natives, 47.  
of services of, in exploration, 43.  
extension of leave of absence for, 505.  
legal opinion *re* attack on natives by expedition under, 390.  
legal opinion to be taken *re* encounter of, with natives, 49.  
letter from—  
to Macleay, A., 281.  
to Webber, J. P., 285.  
reluctance of Bourke, Sir R., to hold inquiry *re* encounter of with natives, 47.
- Moncrieff, George F. (colonial surgeon)**  
certificate by, *re* health of White, H. F., 370.  
evidence of, available *re* statements by White, H. F., 375.  
statements by, *re* employment of iron gang by Gray, W. N., 379.
- Monds or Mounds, James**  
approval of decision *re*, 711.  
denial of claim of, to wrongful conviction, 228.
- Monies, W. B., junr.**  
address of, to Victoria, H.M. Queen, 327.
- Montagu, John (colonial secretary, Tas.)**  
letter from, to Arthur, J., 104, 249, 250.
- Montgomery, Frederick Campbell**  
report by, *re* charges by immigrants *per* ship *St. George*, 757, 758.
- Moor, W. William**  
address of, to Victoria, H.M. Queen, 327.
- Moore, Francis**  
appointment of, as crown prosecutor, 734.
- Moore, Thomas**  
compensation proposed for, 80.  
transmission of memorial from, *re* claim for compensation, 79.
- Moore, Thomas**  
compensation proposed for, for liability incurred in administration of estate of Rowley, T., 421, 422.
- Moreton bay**  
act of council for remission of sentences on convicts at, 775.  
annual cost of convict at, 154.  
convicts at, 150.  
cost of conveying convicts, etc., to, 193, 194.  
expenditure and revenue at, 154.  
improvement of conditions at, 150.  
necessity for mission to natives at, 9, 10.  
problems in opening of, to settlement, 151.  
reasons for—  
delay in removal of penal settlement from, 151.  
reduction of penal settlement at, 150.  
value of maize exported from, 154.
- Morgan, Hugh**  
release of, 228.
- Morgan, John Thomas**  
refusal to mitigate sentence on, 227.
- Morgan, William**  
agent for Walkinshaw, E., 516.  
application by—  
for permission to purchase land with promissory notes of immigrants, 516.  
for remission of quit rent, 516.
- Morisset, James Thomas (lieut.-colonel)**  
cancellation of orders for, for land grant, 179.  
conditions for land grant to, 179.  
criticism of claims of, to land grant, 445.

- Morisset, James Thomas (lieut.-colonel)**  
land—  
grant ordered for, 176, 178, 179.  
selected by, 176.  
letter to, from Matley, A., 178, 179.  
memorial from, soliciting land grant, 175  
*et seq.*  
refusal of land grant for, 179, 445.  
remission in purchase money on land for,  
175.  
request by, for land grant, 175.  
services of, in colony, 175, 176, 177.  
status of, as commandant at Norfolk island,  
177.  
testimony in favour of, 175.
- Morse, Reverend John**  
appointment of, as C. of E. clergyman, 693.
- Moss, Simeon**  
address of, to Victoria, H.M. Queen, 327.
- Moulin, J. H. du (surgeon, 50th regt.)**  
reports by, re quarantine of immigrants *per*  
ship *Minerva*, 288, 289.
- Mounted police**  
approval of estimates for expenditure on,  
312, 480.  
command of, by Snodgrass, K., 680.  
detachment of, for service at Port Phillip,  
290, 291, 508.  
employment of military as, 585, 586.  
encounter of, under Nunn, J. W., with  
aborigines, 396, 397, 399.  
expenditure on, 610.  
inquiry ordered *re* encounter of, with abori-  
gines, 396, 399.  
instructions—  
*re* employment of military as, 584 *et seq.*  
*re* repairs to barracks for, 119, 120.  
requisition for arms and equipment for, 630.
- Mowle, E. B.**  
statement by, *re* finances of Dawson, R., 520.
- Mudgee**  
clergyman required at, 245.
- Muir, Reverend William**  
letter from, to Glenelg, lord, 571, 689.
- Mulgoa**  
clergyman required at, 245.
- Mulholland, —**  
allowance to, for passage and outfit as R.C.  
schoolmaster, 703.
- Mullins, Edward**  
passenger *per* ship *Lady McNaghten*, 12.  
rations issued by, on voyage, 17.
- Municipalities**  
proposal for establishment of, 724.
- Murphy, Michael**  
address of, to Victoria, H.M. Queen, 327.
- Murphy, Reverend Francis**  
appointment of, as R.C. clergyman, 223.
- Murray, Andrew**  
appointments offered to, 452.  
minute of executive council *re* refusal of  
gratuity to, 453, 454.  
refusal of gratuity to, on reduction, 452,  
646.
- Murray, Bernard**  
report *re* sentence on, 711.  
request for particulars of sentence on, 228.
- Murray, J.**  
transmission of pamphlet on silk-worm by,  
421.
- Murray, John**  
refusal of land grant for, 695.  
report required *re* application from, for land  
grant, 196.  
tentative refusal of land grant for, 503.  
transmission of memorial from, 503.
- Murray river**  
military post proposed at, 510.
- Museum, Australian**  
committee of, 238.
- Muswellbrook**  
appointment of police magistrate at, 115.
- Myall creek**  
confession of guilt by murderers of abori-  
gines at, 739.  
massacre of aborigines at, 701 *et seq.*
- Naghten, Hugh**  
report *re*, 713.  
testimony in favour of, 227.
- Necker, James**  
address of, to Victoria, H.M. Queen, 327.
- Neptune, ship**  
despatch *per*, 23.
- Netherlands, king of**  
interpretation of treaty with, *re* reciprocity  
in trade, 346, 347.  
prohibition of produce from possessions of,  
578.
- Neva, ship**  
request for indent of convicts *per*, 390.  
transmission of indent of convicts *per*, 227.
- Neville, Charles L.**  
claim by, for compensation for loss of office,  
97.  
instructions for appointment of, to vacancy  
in customs department, 426.

**New South Wales bill**

- act for continuance of, 71, 551.
- proposals by Gipps, Sir G., *re* statute in substitution of, 719 *et seq.*
- reasons for delay in passing new statute in place of, 71.

**New Town**

- clergyman required at, 245.

**New Zealand**

- abolition of British resident in, 690.
- apprehension *re* French settlement in, 642, 643, 700.
- British consul to be appointed in, 690.
- claims by Macdonnell, T., *re* restoration of peace in, 90.
- inability to prevent intercourse with, 85.
- intentions of—
  - Pompallier, bishop, in, 700.
  - Therry, C. de, in, 86.
- murder of merchant captain by Maoris in, 603.
- objections to refusal of protection for British subjects in, 85.
- proposal—
  - for establishment of factories in, 84.
  - to quarter British troops in, 85.
- report *re*—
  - by Bourke, Sir R., 84 *et seq.*
  - by Busby, J., 85.
  - by Hobson, W., 84.
  - trial and execution of Maori at, for murder, 602, 736, 737.
- restoration of peace amongst Maoris in, 85, 87, 90.
- services of Hobson, W., in, 87.
- ships of war to visit, 690, 691.
- visit of frigate *La Venus* to, 700.
- withdrawal suggested of British resident from, 85.

**Newcastle**

- purchase of land for barracks at, 595.

**Newcombe, G. W.**

- claim by, to increase of salary, 270, 271.
- memorial from, soliciting land grant, 267 *et seq.*
- salary for, 553.

**Newton, David**

- address of, to Victoria, H.M. Queen, 327.

**Nicholl, Charles**

- address of, to Victoria, H.M. Queen, 327.

**Nicholson, John**

- refusal of application from, *re* half pay, 310.
- report by, *re* charges by immigrants *per* ship *St. George*, 757, 758.
- request by, for restoration of half pay, 98.

**Nigue, Peter**

- appointment of, as assistant to mission to natives, 9.

**Nimrod, brig**

- departure of Thierry, C. de, for New Zealand in, 133.

**Nind, Isaac Scott**

- application by, for land grant, 457, 458.
- letter from, to Gipps, Sir G., 457.
- previous decisions *re* claims of, to land grant, 420.
- refusal of applications from, 632.
- report required *re* application from, for land, 196.
- statement *re* claim of, to land grant, 420.

**Nixon, Ralph**

- confinement of, as criminal lunatic, 462.
- instructions for confinement of, as criminal lunatic, 227.

**Nixon, William**

- conditional pardon for, 711.
- report *re* omission to transmit pardon for, 228.

**Norfolk (England)**

- refusal to allocate ship for emigrants from, 162, 163.
- report *re* failure to fill ship with emigrants from, 160 *et seq.*

**Norfolk island**

- act of council for remission of sentences on convicts at, 775.
- abolition of penal settlement at, dependent on disposal of convicts, 153.
- annual cost of convict at, 154.
- appointment of R.C. chaplain for, 110.
- capabilities of, as penal settlement, 154.
- chaplain to be procured for, 174.
- chaplains of R.C. church sent to, 686, 687.
- cost of conveyance of convicts, etc., to, 193, 194.
- disallowance of charge for robes of chaplain at, 229, 230.
- effect of banishment to, in preventing crime, 152.
- expenditure and revenue at, 154.
- finances of, 154.
- improvement in conduct of convicts at, 152.
- inability to remedy defects in convict system at, 152.
- location of R.C. catechist at, 362.
- necessity for R.C. chaplain at, 362, 560.
- proposal for reduction in number of convicts sent to, 153.
- reports—
  - re* penal settlement at, 151.
  - required *re*, 174.
- value of wheat and flour exported from, 154.
- want of moral effect on convicts of banishment to, 151.

**Norris, James**

- address of, to Victoria, H.M. Queen, 327.

**North Briton, ship**

despatch *per*, 133, 141, 143, 146, 148, 150, 155, 156, 165, 174, 180, 181, 183, 185, 186, 187, 189, 190, 191, 193, 194, 195, 228, 230, 233, 235, 236.

**Norton, J.**

legal costs of, in suit *Harris v. Riddell*, 65.

**Norton, Weeks**

address of, to Victoria, H.M. Queen, 327.

**Nowlan, Timothy**

address of, to Victoria, H.M. Queen, 327.

**Nunn, James Winniett (major)**

encounter between aborigines and mounted police under, 396, 397, 399, 510.  
inquiry ordered *re* encounter of, with aborigines, 396, 399.

**Oaks**

clergyman required at, 245.

**O'Brien, Mrs.**

allowance for passage of, as schoolmistress, 517.

**Olbrecht, August**

appointment of, as assistant to mission to natives, 9.

**Onge, John**

compensation to, for losses in wreck of ship *Letitia*, 2.

**Order-in-council**

*re* alteration in royal arms, 73.

**Ordnance department**

colonial store department to be under control of, 206, 207, 627, 628.

instructions—

*re* control of lieut.-governor in Tasmania over officers of, 407 *et seq.*

*re* expenditure and payments for services of, 120 *et seq.*

letter to secretary of, from Baring, F., 208.

opposition to vesting of military lands in officers of, 592, 593, 596.

report required *re*, 558, 559.

supply of convict mechanics for, 409, 410.

**Orontes, ship**

employment of, to convey stores to Port Essington, 589.

despatch *per*, 160.

report by Elliot, T. F., *re* purchases for immigrants on, at Cape of Good Hope, 466, 467.

**Osborn, J.**

letter from, to treasury, commissioners of, 729.

**Osborne, Alick (surgeon, R.N.)**

provisions on ship *Lady McNaghten* examined by, 19.

surgeon on ship *Adam Lodge*, 30.

**Ovens, river**

military post proposed at, 510.

**Owen, H. D.**

judgment obtained by, against Harris, S. L., 65.

**Palmer, G. T., junr.**

address of, to Victoria, H.M. Queen, 327.

**Palmyra, ship**

arrival of, with scarlet fever amongst immigrants, 598.

quarantine of, 598, 599.

**Park, Alexander (Allan)**

claim by, to additional land grant, 349.

letter from, to Glenelg, lord, 349.

refusal of land grant for, 565.

schedule of improvements by, on primary land grant, 350.

**Park, Edwin**

application by, for land grant, 577.

certificate *re* capital of, 387.

criticism of claims of, to land grant, 385, 386.

memorial from, soliciting land grant, 386, 387.

refusal of land grant for, 648.

**Parker, —**

appointment of, as assistant protector of aborigines, 254.

**Parker, H. W.**

letter from, to Elliot, T. F., 162.

**Parker, W. S.**

certificate by, *re* survey by White, H. F., 370.

report required *re* claim of, to land grant, 712.

**Farland, ship**

arrival of, with immigrants, 599.

**Parry, C. W. Edward**

report by, *re* steam vessel required for government, 455, 456.

**Partridge, S.**

letter from, to Gray, W. N., 370.

statement by, *re* conversation with White, H. F., 370, 371.

**Paterson**

clergyman required at, 245.



**Patrick's plains**

clergyman required at, 245.

**Pellatt and Co.**

report by, *re* value of sand discovered by King, J., 535.

**Pelorus, H.M. sloop**

report from commander of, *re* murder in New Zealand waters, 603.

**Penal settlement**

annual cost of convict at, 154.  
finances of, 154.  
problems of, 150 *et seq.*  
proposed abolition of, at Norfolk island, 153.  
reasons for delay in removal of, at Moreton bay, 151.

**Perry, Samuel Augustus (dep. surveyor-general)**

letter from—  
to Macleay, A., 624.  
to Thomson, E. D., 377, 752.

letter to—  
from Gray, W. N., 368.  
from White, H. F., 368, 378.

report by—  
*re* improvements made by Henry, W., 624.  
*re* proposed exchange of land with A.A. company, 752.

**Peterson, John**

deposition by, *re* attack by Fijians on schooner *Sir David Ogilby*, 490, 491.

**Phillipps, S. M.**

letter from—  
to Spearman, A. Y., 314.  
to Stephen, J., 113, 729.

**Pike (Fiake), —**

delivery of French judiciary act to, 4.

**Pilcher, Henry Inledon**

address of, to Victoria, H.M. Queen, 327.  
refusal of additional land grant to, 544.

**Pinnock, James Denham**

appointment of, as agent for emigration, 513.  
approval of, as agent for immigration, 773.  
arrival of, at Sydney, 513.  
desire of, to settle in colony, 205.  
proposal for appointment as agent for immigrants at Sydney, 206.  
report by, *re* charges by immigrants *per* ship *St. George*, 757, 758.

**Planter, ship**

despatch *per*, 599, 604, 605, 606, 614, 629, 631, 632.

**Platina, convict ship**

arrival of, at Cape of Good Hope, 215.

**Plunkett, John Hubert (attorney-general)**

application by, for leave of absence, 710, 711.

letter from—  
to Gipps, Sir G., 741.  
to Thomson, E. D., 710.

opinion of—  
*re* crown lands occupation act, 650.  
*re* necessity for crown prosecutor, 732, 733.

*re* new form of government, 402.  
*re* punitive measures against Fijians for attack on schooner *Sir David Ogilby*, 494, 495.

report by, *re* fine imposed on Catterall, J., for contempt of court, 741 *et seq.*

**Plunkett, F. (captain, 80th regt.)**

appointment of, as police magistrate, 117.

**Polding, right reverend John Bede (R.C. bishop)**

address from—  
to Adelaide, H.M. Queen dowager, 331.  
to Victoria, H.M. Queen, 330.

explanation by, *re* location of R.C. clergy, 362.

letter from, to Thomson, E. D., 362.  
libel action proposed by Willis, J. W., against, 587.

opinions of, *re* effect on convicts of banishment to Norfolk island, 151, 152.  
transmission of papers from, on statements by Willis, J. W., *re* R.C. church, 586 *et seq.*

**Police**

approval of estimates for expenditure on barracks for, 312.

correspondence with English treasury *re* expenditure on, 614, 615.

establishment for, at Port Macquarie, 118, 119.

expenditure on, 81, 609, 610, 614, 615.  
necessity for grant for, from British treasury, 81.

objections by members of council to expenditure on, 609, 610.

opinion to be transmitted *re* charges for, 72.  
protest *re* station for, at Wellington valley, 664 *et seq.*

reasons for maintenance of, from colonial funds, 576, 577.

subsidy from English treasury proposed for maintenance of, 645.

transfer of charges for, to colonial treasury, 80, 81.

**Police magistrates**

appointment of, at Parramatta as visiting justice to female factory, 157.

appointments—  
of, 115, 116, 117.  
of, to be made in England, 514, 515.

**Police magistrates**

- inadequacy of salary of third, at Sydney, 365.
- number of, 116.
- objections to appointment of, from England, 115.
- salaries of, 366.
- type of, required, 116.

**Pomare, queen**

- satisfaction demanded from, for deportation of French priests from Tahiti, 709.

**Pompallier, bishop**

- intentions of, in New Zealand, 700.

**Pope, — (master, R.N.)**

- services of, in survey of Port Phillip, 87, 306.

**Popham, Richard**

- compensation to, for losses in wreck of ship *Letitia*, 2.

**Porteous, John**

- address of, to Victoria, H.M. Queen, 327.

**Port Essington**

- church provided for settlement at, 589, 590.
- departure of expedition for settlement of, 589 *et seq.*
- houses in frame for settlement at, 589.
- magistrates and commissioners of crown lands appointed at, 591.
- method of equipping expedition for, 590.

**Portland head**

- founding of Presbyterian church at, 239.

**Port Macquarie**

- act *re* trial by jury at, 775.
- approval of establishment for police at, 118, 119.
- maintenance of police at, 565.
- opening of district at, to settlers, 565.

**Port Phillip**

- See also* "Geelong," "Melbourne."
- administration of customs at, 90, 91, 427.
- appointment at—
  - of Croke, J., as clerk of crown, 781.
  - of La Trobe, C. J., as superintendent, 785, 786.
  - of Le Souif, C. H., as landing and tide surveyor, 759, 760.
  - of Webb, R. S., as sub-collector and sub-treasurer, 759.
- appointments at, approved by Glenelg, lord, 354.
- approval of—
  - appointment of puisne judge for, 354.
  - mounted police and officers of survey department for, 508.
- arrangements for collection of revenue at, 427.

**Port Phillip**

- commandant to be appointed at, 353.
  - decision *re* compensation to original settlers at, 389, 656.
  - delay in survey at, 290.
  - demand for labour at, 658, 659.
  - discretion *re* minimum price of land at, 76.
  - disposal of land at, 76.
  - elective members of council proposed for, 720.
  - establishment of overland mail to, 290.
  - expenditure at—
    - on paupers and lunatics, 610.
    - on police and gaols, 610.
  - expenditure on administration at, from land revenue, 644.
  - inability to avoid sending convicts to, 600.
  - land revenue at—
    - appropriation of, for immigration, 658.
    - return required of, 658.
  - memorial from settlers at, *re* outrages by aborigines, 509.
  - military posts on overland route to, 510.
  - mounted police appointed for duty at, 290, 291.
  - murder by aborigines of men in overlanding party to, 398, 400.
  - murders at, 290.
  - name of Bourke for district at, approved by Glenelg, lord, 354.
  - necessity for appointment of lieut.-governor or commandant at, 88.
  - number of inhabitants at, 600.
  - objections—
    - by Fawkner, J. P., to land grant to Batman, J., at, 502.
    - to sales at Sydney of land at, 658.
    - to transfer of Tasmanian aborigines to, 601, 668.
  - petitions received by Glenelg, lord, from proprietors of stock at, 22, 243, 389, 447.
  - progress of settlement at, 599.
  - proposal by Gipps, Sir G., for dispatch of ship with immigrants to, 599.
  - protectors of aborigines appointed at, 669.
  - punitive measures against aborigines proposed at, 509.
  - road to be marked to, 291.
  - salary for—
    - commandant at, 354.
    - sub-collector of customs at, 451, 452.
  - sale of agricultural land at, 599.
  - sales of land to be held at, 658.
  - ship to sail with immigrants for, 724.
  - survey of, by officers of H.M. ship *Rattlesnake*, 86, 87.
  - surveyors sent to, 291.
- Port Phillip association**
- objections by Fawkner, J. P., to land grants for, 502.

**Porter, George**

appointment of partner of, as French consular agent at Sydney, 513.

**Porter, William**

appointment of, as superintendent of agriculture on mission lands at Wellington valley, 303, 661.  
instructions to, 303 *et seq.*

**Portsea, ship**

despatch *per*, 460, 461, 468, 484, 505, 508, 511.

**Postmaster-general**

interest received by, on public money deposited in banks, 186, 187.

**Post-office**

establishment of overland mail by, to Port Phillip, 290.  
protest *re*, at Wellington valley, 664 *et seq.*

**Poulten, George**

address of, to Victoria, H.M. Queen, 327.

**Presbyterian church**

act of council—  
*re* payment of salaries to ministers of, 755, 756, 766, 778.  
*re* temporal affairs of, 149.  
allowance for passage of schoolmaster for, 682, 683.  
amount of stipends for clergy of, 148.  
appointment—  
of clergy for, 23 *et seq.*  
of schoolmasters by, 5, 6.  
assistance to be granted to, 201, 444.  
conditions for appointment of clergy for, 264.  
decision—  
by committee of general assembly *re* schism in, 714 *et seq.*  
required *re* salaries of clergy after disunion in, 274.  
founding of churches for, by McGarvie, Revd. J., 239.  
inability to provide missionaries from, for natives, 8.  
instructions to presbytery of, *re* schism in, 717, 718.  
memorial by presbytery of, *re* action of Lang, Revd. J. D., 274.  
ministers of, appointed by synod of Ulster, 23 *et seq.*  
recognition of presbytery as governing body of, 442.  
reference of schism in—  
to executive council, 443.  
to general assembly's commission, 571 *et seq.*  
to general assembly's committee on colonial churches, 569.

**Presbyterian church**

refusal of stipends to clergy of, on separation from presbytery, 274, 442, 443, 569, 766.  
regret of Glenelg, lord, *re* schism in, 648.  
resolution by synod of Ulster *re* schism in, 717.  
schism in, 274, 401, 442, 443, 444, 569, 571 *et seq.*, 648.  
statements *re* schism in, by Lang, Revd. J. D., 401.  
stipends—  
claimed by clergy of, on arrival, 73, 74.  
for clergy of, 263 *et seq.*  
thanks of commission for action of government *re* schism in, 689.  
vote by council for schools of, 265.

**Price, — (surgeon, R.N.)**

surgeon on ship *Bussorah Merchant*, 33.

**Price, Henry**

passenger *per* ship *Lady McNaghten*, 12.

**Priest, Phineas (lieut., royal marines)**

appointment of, as magistrate and commissioner of crown lands at Port Essington, 591.

**Prince George, convict ship**

report by Burnett, W., *re* sickness on, 223 *et seq.*

**Prisons**

transmission of extracts from report of inspector of, 128.

**Pritchard, George**

complaint by, as British consul *re* conduct of Thouars, A. Du Petit, 709.

**Proclamation**

on assumption of government by Gipps, Sir G., 305, 306.

**Prospect**

clergyman required at, 245.

**Prout, Cornelius**

application by—  
for land grant, 351, 352.  
for promotion as purser, 352, 353.  
memorial from—  
to admiralty, 352, 353.  
to Glenelg, lord, 351, 352.  
refusal of land grant for, 552.  
report *re* claim of, to land grant, 350.  
services of, in navy, 352.

**Public works**

buildings in course of erection or proposed, 481.  
inability to reduce expenditure on, 82.  
number of convicts required on, 187.  
supervision of buildings by Lewis, M. W., 481.

**Quarantine**

expenditure on quarantine of ship *Lady McNaghten*, 11, 21.

necessity for health officer for supervision of, 737.

of ship—

*John Barry* for fever, 50, 51, 67, 68.

*Maitland* for scarlet fever, 684, 767.

*Palmyra* for scarlet fever, 598, 599.

*William Rogers* for fever, 598, 599, 683, 684, 767.

payment for demurrage on ship *Lady McNaghten* due to, 434, 435.

payments to surgeons for services in, 767.

release of immigrants *per ship John Barry* from, 91.

reports *re*, of immigrants *per ship Minerva*, 288, 289.

**Quarter sessions**

appointment of chairman of, 116.

criticism by Glenelg, lord, of crown prosecutor for, 252.

crown prosecutor for, 60, 116, 731 *et seq.*

fees paid to barristers at, 733.

records of, 735.

return of floggings ordered by, 653.

system proposed for prosecutions in, 733.

**Queanbeyan**

clergyman required at, 245.

**Quish, John**

judgment obtained by, against Harris, S. L., 65.

**Rae, Henry**

address of, to Victoria, H.M. Queen, 327.

**Raine and Ramsay**

judgment obtained by, against Harris, S. L., 65.

**Rankin, George**

charter of ship *Minerva* by, for conveyance of immigrants, 56.

**Rapsey, S. H.**

address of, to Victoria, H.M. Queen, 327.

**Rattlesnake, H.M. ship**

visit of—

to New Zealand, 84.

to Port Phillip, 86.

services of officers of, 86, 87, 306.

**Raymond, James**

affidavit by, 148.

agent for Raymond, W., 59.

application by, for land grant, 146 *et seq.*, 500, 501.

appointment of, as coroner and postmaster-general, 501.

concessions to, on emigration from Ireland, 501.

**Raymond, James**

criticism of claim of, to land grant, 501.

letter from, to Bourke, Sir R., 147.

refusal of land grant for, 501.

report by, *re* immigrants *per ship St. George*, 757, 758.

testimony in favour of, 147.

**Raymond terrace**

clergyman required at, 245.

**Raymond, Walter**

agent of, 59.

conditions for land grant to, 60.

extension of time limit on land grant for, 57, 60.

ill-health of, 58.

letter to, from Stephen, J., 59.

memorial of, soliciting confirmation of land grant, 57 *et seq.*

**Reid, — (surgeon, R.N.)**

employment of, in quarantine of ship *William Rogers*, 683.

refusal to remit quit rent on lands granted to, 131.

**Reid, James**

memorial from, soliciting land grant, 414, 415.

opinion of Glenelg, lord, *re* charges made by, against Wighton, J., 44.

refusal of land grant for, 413, 638.

**Reid, William (lieut.-colonel, R.E.)**

transmission of book by, on storms, 687.

**Reuben, Henry Robert**

address of, to Victoria, H.M. Queen, 327.

**Rhode, August**

appointment of, as assistant to mission to natives, 9.

**Richards, — (lieut., R.N.)**

services of, in survey of Port Phillip, 87, 306.

**Richardson, James**

address of, to Victoria, H.M. Queen, 327.

**Richardson, Thomas**

address of, to Victoria, H.M. Queen, 327.

**Richmond**

clergyman required at, 245.

**Riddell, Campbell Drummond (colonial treasurer)**

application by, for increase of salary, 130, 131.

bond given by sureties for, 272 *et seq.*

claim by, to appointment of clerks in treasury, 166, 170.

explanations required from, *re* accounts, 424, 425.

**Riddell, Campbell Drummond (colonial treasurer)**

- instructions *re* clerks in office of, 458, 459.  
 letter from, to Thomson, E. D., 131, 168, 169, 172, 173.  
 letter to, from Thomson, E. D., 168, 171, 172.  
 liability of sureties of, 168, 459.  
 proposal by, for appointment of Hindmarsh, J., as chief clerk to treasury, 165 *et seq.*  
 refusal by Glenelg, lord, to increase salary of, 448.  
 report by, *re* claims of Wentworth, G., to land grant, 546.

**Riddell, Sir James Milles, bart.**

- bond given by, as surety for Riddell, C. D., 272 *et seq.*

**Riddell, Margaretta**

- bond given by, as surety for Riddell, C. D., 272 *et seq.*

**Rigney, Reverend John**

- appointment of, as R.C. clergyman, 223.

**Rimmer, Thomas**

- reduction of sentence on, 227.

**Road gangs**

- annual cost of convict in, 154.  
 control of, by royal sappers and miners proposed, 94, 95, 332 *et seq.*  
 inability to decide *re* expenditure on buildings for, 301, 302.  
 portable houses required for, 483, 484.  
 proposal for transfer of, to commanding engineer, 95.  
 report *re* expenditure on buildings for, 483, 484.

**Roberts G. (surgeon, R.N.)**

- gratuity for, as surgeon *per* ship *William Nicholl*, 193.  
 letter from, to ———, 220.  
 nomination of, as surgeon to select immigrants, 235.  
 report by, *re* voyage of ship *William Nicholl*, 220, 221.  
 surgeon on ship *William Nicholl*, 32.

**Robertson, Kinnear (colonial surgeon)**

- reports by, *re* quarantine of immigrants *per* ship *Minerva*, 283, 289.

**Robertson, William**

- authority for free pardon for, 227.

**Robinson, George Augustus**

- arrival of, at Sydney, 668.  
 examination of, by legislative council, 601.  
 nomination of, as chief protector of aborigines, 253, 254, 669.

**Robinson, Stephen**

- claim by Rotton, W., for compensation for resumption of land allotted to, 633 *et seq.*

**Robinson, Thomas W.**

- undertaking given by, *re* passage money as schoolmaster, 6.

**Robison, Robert (late captain, veteran company)**

- application by, for land grant, 106.  
 conditions for land grant to, 107.  
 inability to grant land to wife of, 106.  
 letter from, to Grey, Sir G., 106.  
 letter to, from Grey, Sir G., 107.

**Robson, Henry**

- address of, to Victoria, H.M. Queen, 327.

**Rogers, — (surgeon)**

- employment of, in procuring immigrants, 35.  
 gratuity for, as surgeon on ship *Layton*, 406.  
 instructions to—  
   for selection of immigrants, 36, 37.  
   for voyage with immigrants, 37, 38, 39.  
 letter to, from Elliot, T. F., 36, 37.

**Rogers, Edward**

- appointment of, as clerk of peace, 734.  
 duties proposed for, 736.  
 qualifications of, 736.

**Rogers, John**

- address of, to Victoria, H.M. Queen, 327.

**Rogers, Richard**

- letter from, to Thomson, E. D., 628.  
 letter to, from Thomson, E. D., 628.

**Rogers (Rodgers), Reverend Hugh**

- letter to, from Grey, Sir G., 23.

**Rogers, William (surgeon, R.N.)**

- report by, *re* quarantine of immigrants *per* ship *Minerva*, 289.

**Rogers, William Edward**

- clerk in office of superintendent of convicts, 338.

**Rolfe, R. M.**

- legal opinion by, *re* disposal of property of deceased convicts, 731.

**Roman Catholic church**

- allowances for passage and outfit for clergy of, 213.  
 appointment of chaplains for, 110, 223.  
 chaplains of, sent to Norfolk island, 686, 687.  
 expense of passage and outfit for clergy of, 213.  
 masters and mistresses required for schools of, 210.

**Roman Catholic church**

passage money allowed for schoolmasters of, 210, 211, 318, 680, 708.

reduction in allowance of passage money for chaplains of, 212, 213.

salaries voted for clergy of, by council, 213.

statements by Willis, J. W., *re*, 587 *et seq.*

transfers proposed of clergy of, 362.

**Romilly, Edward**

letter from, to treasury, commissioners of, 782.

**Rose, Thomas**

judgment obtained by, against Harris, S.L., 65.

**Roslyn Castle, ship**

despatch *per*, 766.

**Ross, Reverend W.**

allowance for outfit and passage of, 463.

**Rotton, Walter**

claim by, for compensation for resumption of land allotted to Robinson, S., 634 *et seq.*

letter from, to Glenelg, lord, 634.

report by Gipps, Sir G., *re* claims of, 633.

**Rowley, Thomas**

compensation proposed for Moore, T., for liability incurred in administration of estate of, 421, 422.

**Royal exchange company**

allowance of act for, 306, 647.

submission of act of council *re*, for approval, 93.

**Royal sappers and miners**

*See* "Sappers and miners."

**Rum**

loss of revenue by drawback on, issued to military, 771, 772.

**Rutledge, John**

reduction of sentence on, 711.

**Ryan, Stephen**

address of, to Victoria, H.M. Queen, 327.

**Ryan, Thomas**

adverse report by Gipps, Sir G., *re*, 695.

clerk in office of superintendent of convicts, 338.

criticism of returns submitted by, 695.

letter from, to McLean, J. L., 676.

proposal for increase of salary for, by re-grading, 675 *et seq.*

request by, for promotion to first-class of clerks, 676, 677.

testimony in favour of, 675, 676.

**Ryan, Thomas C.**

address of, to Victoria, H.M. Queen, 327.

**Salmon, W.**

address of, to Victoria, H.M. Queen, 327.

**Salutes**

regulations *re*, from H.M. ships and forts, 460.

**Samuel Winter (Wynter), ship**

departure of Bourke, Sir R., in, 236.

passage taken by Bourke, Sir R., in, 194.

**Sand**

discovery of, near Sydney suitable for glass manufacture, 528, 530 *et seq.*

**Sappers and miners**

decision deferred *re* employment of, 333, 337.

difficulty in supplying companies of, 336.

opinion of ordnance board *re* employment of, 333, 334.

proposals for employment of, in supervision of road gangs, 94, 95, 332 *et seq.*

qualified approval by treasury for employment of, 335.

**Sarah and Elizabeth, ship**

despatch *per*, 60, 61, 62, 67, 68.

**Savings bank**

act of council *re* deposit of funds of intestate estates in, 472.

money lodged for Herring, H., in, 403, 404.

practice *re* money lodged for convicts in, 403, 404.

return of sums issued to ticket-of-leave men from, 405.

rule of court *re* deposit of funds of intestate estates in, 472 *et seq.*

withdrawal of money from, by Beaumont, A., 404.

**Schmidt, —**

appointment of, as missionary to natives, 9.

**Schneider, Moritz**

appointment of, as assistant to mission to natives, 9.

**Schoolmasters**

*See* under "Education."

**Schreiner, Gottlob**

appointment of, as missionary to natives, 9.

**Scone**

clergyman required for, 245.

**Scott, Robert**

advice given by, to murderers in prison, 705.

effect of conduct of, 705.

magistrate of territory, 704.

participation by, in defence of murderers of aborigines at Myall creek, 704, 705.

removal of, from commission of peace, 705.

**Scott, Thomas**

claim by, for compensation *re* land grants, 315.  
 land granted to, 315.  
 refusal of compensation for, 502.  
 report *re* claim of, 315.

**Scott, William**

letter to, from Wemyss, W., 284.

**Secretary, colonial**

appointment of, as executive councillor, 306.  
 salary for assistant to, increased by council, 608.

**Segenhoe**

development of, by Macqueen, T. P., 541  
*et seq.*

**Sempill, Hamilton, C.**

agent for Macqueen, T. P., 542.

**Serle, John**

address of, to Victoria, H.M. Queen, 327.

**Seven hills**

clergyman required for, 245.

**Sharpe, Reverend Thomas**

employment of, at Norfolk island, 174.

**Sheriff**

importance of office of, 339.  
 precedence proposed for, 339.  
 protest by Macquoid, T., *re* omission of,  
 from table of precedence, 339 *et seq.*  
 reasons for omission of, from table of pre-  
 cedency, 561.

**Shingles**

objections to use of, for roofing, 55.  
 prohibition of, proposed in Sydney, 56.

**Shortland, —**

mate on H.M. ship *Rattlesnake*, 87.  
 services of, in survey of Port Phillip, 87,  
 306.

**Silk-worm**

transmission of pamphlet on, 421.

**Sir David Ogilby, schooner**

approval—  
 of action of Gipps, Sir G., *re*, 736.  
 of payment for seamen from, on H.M.  
 ship *Conway*, 768.  
 attack on, by natives of Fiji islands, 485  
*et seq.*  
 legal opinion *re* attack by Fijians on, 494,  
 495.

**Sivewright, —**

appointment of, as assistant protector of  
 aborigines, 254.

**Slade, Ernest Augustus**

resignation of, as third police magistrate,  
 365.

**Slate**

requisition for, for roofing government build-  
 ings, 55, 56.

**Smith, C. T. H.**

address of, to Victoria, H.M. Queen, 327.

**Smith, Edward**

report required *re*, 712.

**Smith, James**

refusal of passage money for wife of, 61.

**Smith, John**

passenger *per* ship *Lady McNaghten*, 12.

**Smith, John Galt**

address of, to Victoria, H.M. Queen, 327.

**Smith, Reverend Edward**

appointment of, as clergyman, 214.

**Smith, Reverend J. Jennings**

appointment of, as C. of E. clergyman, 772,  
 773.

**Snodgrass, John (private secretary)**

letter to, from Lithgow, W., 325.

**Snodgrass, Kenneth (acting governor)**

assumption of government by, 197, 236.  
 decision by, in case of White, H. F., 367,  
 376, 377.  
 full salary drawn by, as acting governor,  
 324.  
 instructions *re* salary of, as acting gover-  
 nor, 470.  
 letter from, to Glenelg, lord, 228, 230, 233,  
 235, 236, 238, 240, 243, 244, 245,  
 255, 256, 261, 263, 266, 270, 271,  
 274, 275, 276, 288, 290.  
 memorial to, from civil officials, 267 *et seq.*  
 report *re* claims of, to remuneration for civil  
 services, 680, 681.  
 resolution by legislative council *re* claims  
 of, 680, 681.

**Solicitor, crown**

reorganisation required in office of, 613.

**Somerset, lord Fitzroy**

letter from, to Stephen, J., 336.

**South Australia**

act *re* apprehension of offenders from, 777.

**South Creek**

clergyman required for, 245.

**Sowerby, Reverend W.**

appointment of, to Goulburn, 245.

- Sparke, Alexander Brodie**  
certificate by, *re* financial stability of Dawson, R., 137, 520.
- Sparke, Edward**  
address of, to Victoria, H.M. Queen, 327.
- Sparke, George**  
address of, to Victoria, H.M. Queen, 327.
- Sparke, William**  
address of, to Victoria, H.M. Queen, 327.
- Sparling, Reverend Hart**  
appointment of—  
as chaplain to convicts at Sydney, 656, 657.  
as clergyman, 214.
- Spartan, ship**  
despatch *per*, 428, 433, 435, 442, 443, 452, 456, 459.
- Spearman, A. Y.**  
letter from—  
to Byham, R., 120.  
to secretary of ordnance, 126.  
to Stephen, J., 52, 103, 105, 107, 110, 112, 119, 121, 126, 127, 142, 207, 208, 229, 231, 248, 301, 302, 311, 312, 314, 335, 337, 359, 383, 418, 419, 421, 424, 427, 434, 437, 451, 453, 456, 515, 539, 555, 558, 562, 579, 670, 672.  
letter to—  
from Barnard, E., 383.  
from Barrow, Sir J., 540, 727.  
from Bouchier, C., 435.  
from Butler, G., 127, 627.  
from Byham, R., 207.  
from Darling, H. C., 248.  
from Phillipps, S. M., 314.  
from Stephen, J., 51, 105, 109, 110, 111, 302, 334, 417, 614, 673, 727.
- Spencer, Reverend Charles**  
appointment of, as C. of E. clergyman, 693.
- Spering, William**  
address of, to Victoria, H.M. Queen, 327.
- Spicer, Peter Beauclerk**  
report required *re* claims of, 712.
- Spirits**  
annual revenue from duties on, 769.  
comparative statement of duties levied on, 771.  
duties levied on, 769.
- Sproul, Joseph**  
undertaking given by, *re* passage money as schoolmaster, 6.
- Sproule, — (surgeon, R.N.)**  
surgeon to sail with immigrants, 33.
- Squire, T. B.**  
address of, to Victoria, H.M. Queen, 327.
- St. Andrew's C. of E. parish (Sydney)**  
clergyman required for, 245.
- St. Andrew's Presbyterian church**  
founding of, by McGarvie, Revd. J., 239.
- St. George, ship**  
complaint by immigrants *re* surgeon on, 756, 757.  
misconduct of immigrants *per*, 756.  
report by board *re* complaints by immigrants on, 757, 758.
- St. James' church (Sydney)**  
appointment of clergyman at, 245.
- Stack, Reverend W.**  
appointment of, to West Maitland, 245.
- Stallard, —**  
allowance for passage and outfit of, as R.C. schoolmaster, 680.
- Stanley, Owen (lieut., R.N.)**  
appointment of, as magistrate and commissioner of crown lands at Port Essington, 591.  
commander of H.M. ship *Britomart*, 591.
- Steam navigation**  
cost of vessel and engine for, 456.  
estimates of expenditure on, by Bourke, Sir R., 418, 419.  
proposal for establishment of, by government, 417 *et seq.*, 454 *et seq.*  
size and power of vessel for, proposed for government, 455.  
submission of proposals *re*, to treasury, 354.
- Steel, Peter**  
undertaking given by, *re* passage money as schoolmaster, 6.
- Steele, Charles**  
letter from, to White, H. F., 381, 382.  
opinion of, *re* charges against Gray, W. N., 382.
- Stephen, —**  
letter to, from Thomson, E. D., 106.
- Stephen, James (under secretary)**  
letter from—  
to Baring, F., 357.  
to Byham, R., 333.  
to Hume, J. D., 346.  
to McGregor, Sir J., 43, 102.  
to Raymond, W., 59.  
to Spearman, A. Y., 51, 105, 109, 110, 111, 302, 334, 417, 614, 673, 727.  
to Sullivan, L., 335.  
to Wood, C., 54, 690.



**Stephen, James (under secretary)**

letter to—

- from Baring, F., 164, 287, 347, 575, 615, 626, 708, 725, 727, 768, 781.
- from Barrow, Sir J., 54, 310, 691.
- from Byham, R., 333, 408.
- from Elliot, T. F., 26, 27, 29, 30, 99, 158, 160, 200, 204, 216, 342, 440, 449, 466, 480, 724.
- from Hume, J. D., 346.
- from Marshall, E., 549.
- from Maule, F., 674.
- from McGregor, Sir J., 41, 100.
- from Phillipps, S. M., 113, 729.
- from Somerset, lord Fitzroy, 336.
- from Spearman, A. Y., 52, 103, 105, 107, 110, 112, 119, 121, 126, 127, 142, 207, 208, 229, 231, 248, 301, 302, 311, 312, 314, 335, 337, 359, 383, 418, 419, 421, 424, 427, 434, 437, 451, 455, 456, 515, 539, 555, 558, 562, 579, 670, 672.

**Stephen, John (judge)**

- appointment of, 257.
- pension for, 259.
- town allotment granted to, 257.

**Stevens (Stephenson), Edward**

- deposition by, *re* attack by Fijians on schooner *Sir David Ogilby*, 488, 489.

**Stewart, —**

- proposal for, as surgeon for immigrants *per* ship *Midlothian*, 26, 27, 32.

**Stewart, John**

- address of, to Victoria, H.M. Queen, 327.

**Stewart, Reverend Colin**

- allowance to, for outfit and passage, 568.
- approval of nomination of, 569.
- request for confirmation of nomination of, 568.

**Stewart, Reverend Robert**

- appointment of, as Presbyterian minister, 265.

**Stewart, Robert**

- nomination of, as surgeon to select immigrants, 245, 246.
- remuneration of, as surgeon on ship *Midlothian*, 246.

**Stewart, Robert**

- appointment of, as third police magistrate, 116.
- resignation of, as third police magistrate, 365, 366.

**Stiles, Reverend H. T.**

- opinions of, *re* effect on convicts of banishment to Norfolk island, 151, 152.

**Stockades**

- buildings authorised for, 484.
- expenditure proposed for, 301.
- inability to decide *re* expenditure on buildings for, 301, 302.
- report *re* expenditure on buildings for, 483, 484.

**Stokes, F. M.**

- refusal of land grant for, 125.

**Stonequarry**

- clergyman required for, 245.

**Storekeeper's department**

- appointments approved by Bourke, Sir R., for, 189.
- approval of arrangements for control of, 126, 189.
- instructions *re* control of, 206, 207, 626 *et seq.*

**Stow, David**

- letter from, to ———, 5.

**Street, Walter**

- evidence of, at trial of Hammond, H., 356.

**Stubbs, Richard**

- report required *re* claim of, to land grant, 227.

**Sugar**

- distillation of spirits from, 769.
- inability to prevent distillation of spirits from, 770.
- objections to tax on, 769, 770.
- reduction of duty on spirits distilled from, 770.

**Sullivan, L.**

- letter from, to Stephen, J., 336.
- letter to, from Stephen, J., 335.

**Sumner, Reverend J. C.**

- address from—
- to Adelaide, H.M. Queen dowager, 331.
- to Victoria, H.M. Queen, 330.

**Superb, ship**

- despatch *per*, 462, 463, 469, 470, 471, 476, 477, 480, 483, 485, 496, 502, 504, 506, 508.

**Supreme court**

- application by judges of, for retiring pensions, increased salaries and precedence for puisne judges, 256 *et seq.*, 309, 310.
- appointment of clerks in, by chief justice, 567.
- approval of extra puisne judge in, for Port Phillip, 354.
- institution of, 256.

**Supreme court**

- necessity for independence of judges of, 259.
- opinion of judges—
  - of, *re* necessity for crown prosecutor, 732, 733.
  - re* necessity for repeal of statute for recovery of debts in, 582 *et seq.*
- precedency for judges of, 256, 310, 503, 504, 707.
- provision proposed for abolition of assessors in, 738, 739.
- reasons for retiring pensions for judges of, 259.
- refusal of increased salaries and retiring pensions for, 503.
- return of floggings ordered by, 653.
- rules of—
  - report required from judges *re*, 632.
  - royal approval withheld from, 632.
- trials by, of murderers of aborigines at Myall creek, 701, 702, 703.
- withdrawal of official residence from chief justice of, 257.

**Swan, Robert**

- report required *re* application from wife of, for his assignment, 196.
- submission of report *re* alleged wife of, 459, 460.

**Swanston, Charles**

- application by, for permission to open coal-mines at Western port, 435, 464.

**Sydney**

- See* also "Water supply for Sydney."
- instructions *re* government house at, 111, 112.
- maintenance of convicts employed by town surveyor at, 555, 556, 616 *et seq.*
- necessity for health officer at port of, 737.
- problem of military lands at, 593 *et seq.*
- proposal for prohibition of shingle roofing in Sydney, 56.

**Symonds, — (lieut., R.N.)**

- services of, in survey of Port Phillip, 87, 306.

**Tahiti**

- complaint by British consul at, *re* conduct of Thouars, A. Du Petit, 709.
- deportation of French priests from, 709.
- object of visit of frigate *La Venus* to, 709.

**Tasmania**

- act *re* apprehension of offenders from, 777.
- adverse prospects of immigrants in, 112, 113.
- instructions—
  - re* control of lieut.-governor of, over ordnance officers, 408 *et seq.*
  - re* discipline of convicts in, 463, 469.

**Tasmania**

- objections to transfer of aborigines from, to Port Phillip, 601, 668.
- proposal for removal of aborigines from, to Australia, 253.
- treatment of pauper patients in hospitals in, 104, 105, 248 *et seq.*

**Taylor, alias Logan, Grace**

- report *re*, 711, 712.

**Theresa, ship**

- despatch *per*, 579, 584, 586, 591.

**Therry, Reverend John Joseph**

- address from—
  - to Adelaide, H.M. Queen dowager, 331.
  - to Victoria, H.M. Queen, 330.

**Therry, Roger**

- ability of, 579, 580.
- commissioner of court of requests, 579.
- letter from, to Glenelg, lord, 580.
- resolution by legislative council in favour of, 580.

**Thierry, Charles, baron de**

- departure of, for New Zealand, 133.
- intentions of, *re* New Zealand, 86.
- policy of Bourke, Sir R., towards, 133.
- transmission of papers from, 133.
- visit of, to Sydney, 86.

**Thomas, —**

- appointment of, as assistant protector of aborigines, 254.

**Thomas Lowry, ship**

- despatch *per*, 1, 4, 11, 21.

**Thompson, John Vaughan**

- access of, to governor, 394.
- criticism of tone adopted by, 42.
- emoluments of, 394, 395.
- incapacity of, to reorganise medical department, 392.
- libel action brought against, by Mitchell, J., 392, 393.
- obstructions experienced by, in reorganisation of medical department, 41, 42, 43.
- refusal of application by, by Glenelg, lord, 70.
- reports by, *re* quarantine of immigrants *per* ship *Minerva*, 288, 289.
- rupture between Mitchell, J., and, 392.
- system proposed for communications with, 101.
- travelling allowances for, 42, 101, 102, 395.

**Thomson, Edward Deas (colonial secretary)**

- letter from—
  - to Bethune, C. D., 495.
  - to Brenan, J. R., 337.
  - to Cooper, G., 760.
  - to deputy commissary of accounts, 338.

**Thomson, Edward Deas (colonial secretary)**

letter from—

- to Ebsworth, J. E., 464.
- to Flanagan, F., 526.
- to Gibbs, J., 760.
- to Lockyer, E., 145.
- to Miller, W., 556, 618, 726.
- to Riddell, C. D., 168, 171, 172.
- to Rogers, R., 628.
- to Stephen, —, 106.
- to Uther, R., 243.
- to Weston, J., 2.

letter to—

- from Atkins, Revd. T., 564.
- from Bethune, C. D., 496.
- from Bingham, H., 625.
- from Brennan, J. R., 696.
- from Busby, J., 700.
- from Close, E. C., 605.
- from Cooper, G., 759, 760.
- from Cowper, Revd. W., 574.
- from Dillon, P., 497.
- from Ebsworth, J. E., 464, 747.
- from Fisher, F., 494.
- from Gibbs, J., 759, 760.
- from Gray, W. N., 370, 372.
- from Lockyer, E., 145.
- from McLean, J., 655.
- from Miller, W., 618, 620.
- from Perry, S. A., 377, 752.
- from Plunkett, J. H., 710.
- from Polding, right revd. J. B., 362.
- from Riddell, C. D., 131, 168, 169, 172, 173.
- from Rogers, R., 628.
- from Weston, J., 3.
- from White, H. F., 371.
- from Willis, J. W., 364.

opinion of—

- re* claim of Duguid, L., to land grant, 279.
- re* new form of government, 402.
- report by, *re* claim of Duguid, L., to land grant, 286.

**Thomson (Thompson), David (surgeon, R.N.)**

- gratuity for, as surgeon on ship *John Barry*, 193, 438, 440, 441.
- letter from, to Grey, Sir G., 438.
- report by, *re* voyage of ship *John Barry*, 438, 439.
- surgeon on ship *John Barry*, 30.
- terms of employment of, 438, 440.

**Thomson, Jos.**

- testimony from, in favour of Anderson, J., 238.

**Thouars, A. Du Petit**

- captain of French frigate *La Venus*, 709.
- complaint by British consul *re* conduct of, at Tahiti, 709.
- object of visit of, to Tahiti, 709.

**Threlkeld, J. T.**

- address of, to Victoria, H.M. Queen, 327.

**Threlkeld, Reverend Lancelot Edward**

- address of, to Victoria, H.M. Queen, 327.

**Tomlins, George**

- memorial from, soliciting land grant, 267 *et seq.*

**Tonga**

- approval of maintenance of chief from, at Sydney, 725.
- orders for maintenance of chief from, 726.

**Tool, George**

- evidence of, at trial of Hammond, H., 355, 356.

**Tothill, Charles**

- address of, to Victoria, H.M. Queen, 327.

**Trade and commerce**

- interpretation of treaty with king of Netherlands *re* reciprocity in, 346, 347.
- prohibition of importation of produce from Dutch possessions, 578.

**Transportation**

- possibility of cessation of, of convicts, 461.

**Transportation committee**

- debates in legislative council *re* evidence given to, 504, 505.
- petition proposed to contradict evidence given to, 504.
- sensation caused in colony by evidence before, 504.

**Treadmill**

- instructions proposed *re* money received at, 563.
- theft of money received at, for grinding corn, 562, 563.

**Treasurer, colonial**

- adequacy of salary of, 130.
- appointment of, as executive councillor, 306.
- approval of accommodation provided for, 70.
- business practice in office of, 167, 173.
- claim by, to appointment of clerks, 166, 170.
- division of office of, into treasury and revenue branches, 169.
- establishment of, 173.
- interest received by, on money deposited in banks, 187.
- liability of sureties of, 167.
- necessity for vacancies in clerks of, to be filled by seniority, 168, 169, 171.
- negotiations *re* appointment of chief clerk under, 165 *et seq.*
- report *re* fraud committed on, 462, 463, 781 *et seq.*

- Treasury, lords commissioners of**  
letter to, from audit commissioners, 103,  
384, 563, 729, 782.
- Trevallyn**  
clergyman required north of, 245.
- Turner, Edward**  
address of, to Victoria, H.M. Queen, 327.
- Ullathorne, Reverend William B.**  
application by, for passage money—  
for chaplains, 212, 213.  
for schoolmasters, 210, 211, 318.  
letter from, to Glenelg, lord, 210, 212, 318.  
letter to, from Grey, Sir G., 211, 213.
- Ulster, synod of**  
ministers of Presbyterian church appointed  
by, 23 *et seq.*  
resolution by, *re* schism in Presbyterian  
church, 717.
- Union assurance company**  
act for amendment of act *re*, 780.  
confirmation of act of council for, 72.
- Unwin, Frederick Wright**  
affidavit by, *re* judgments against Harris,  
S. L., 65.  
legal costs of, in suit Harris *v.* Riddell, 65.
- Upton Castle, ship**  
despatch *per*, 110, 111, 112, 118, 119, 120.
- Uther, Reuben**  
authority for lease of land to, 243.  
certificate *re* claim of, to maximum land  
grant, 242.  
confirmation of former decision *re* land  
grant for, 447.  
land granted to, 241.  
letter to—  
from Macleay, A., 243.  
from Thomson, E. D., 243.  
manufactory for hats established by, 240,  
241.  
memorial from, soliciting land grant, 240  
*et seq.*  
refusal of land grant to, 243.
- Vane**  
clergyman required at, 245.
- Vaughan, James**  
report required *re*, 227.
- Victoria, H.M. Queen**  
address to, on accession—  
from inhabitants—  
of Maitland, 327 *et seq.*, 550.  
of Sydney, 307, 308, 460, 463.  
from R.C. clergy, 330, 331, 566.  
proclamation of accession of, 141.  
renewal of appointments on accession of,  
484.
- Violet creek**  
military post proposed at, 510.
- Wade, Reverend Nugent**  
appointment of, as C. of E. clergyman, 693.
- Wagner, Gottfried**  
appointment of, as assistant to mission to  
natives, 9.
- Waggoner, John**  
confinement of, as criminal lunatic, 410.  
instructions for confinement of, as criminal  
lunatic, 227.
- Waldron, Frederick Charles**  
claim by, to remission money in purchase  
of land and compensation for delay,  
764, 765.  
letter to, from Harington, T. C., 765.  
memorial from, to Glenelg, lord, 764, 765.  
refusal of remission money for, 765.
- Walker, George**  
undertaking given by, *re* passage money as  
schoolmaster, 6.
- Walker, J.**  
address of, to Victoria, H.M. Queen, 327.
- Walker, Reverend —**  
proposal for transfer of, from Tasmania to  
Norfolk island, 362.
- Walkinshaw, Edward**  
agent for, 516.
- Wallace, John**  
death of, 168.  
payments by, for colonial treasurer, 173.
- Wallis creek**  
iron bridge proposed over, 190, 191.
- Walpole, Reverend J. K.**  
appointment of, to Bathurst, 245.
- Waterloo, ship**  
despatch *per*, 22, 41, 43, 44, 46, 47, 51,  
54, 57, 61, 65, 66, 68, 69, 70, 71,  
72.
- Water supply for Sydney**  
allowance to Busby, J. and W., for super-  
vision of, 551.  
claim by Busby, J., for remuneration for  
services *re*, 156.  
company suggested for, 155.  
report by committee of legislative council  
*re* tunnel for, 155.  
reports by Barney, G., *re*, 155.
- Watson, —**  
master of schooner *Essington*, 555, 590.  
search to be made for Durant, T., by, 555.  
stores carried to Port Essington by, 590.

**Watson, Reverend William**

appointment of, as missionary to aborigines, 665.

letter from, to Cowper, Revd. W., 665.

protest by, *re* police-station and post-office at Wellington valley, 665 *et seq.*

services of, in mission to aborigines, 303.

**Wawn, James**

report required *re*, 711.

report *re*, 713.

**Webb, Robert S.**

appointment of, to act as treasurer at Port Phillip, 427.

duties of, 760, 761.

salary for, 451, 452, 759.

sub-collector of customs at Port Phillip, 427, 759, 760.

**Webber, James Philips**

application by, for land grant, 282, 283, 284.

decision requested by, 283, 285.

land—

granted to, 278.

selected by, 285.

letter from—

to Macleay, A., 283, 284, 285.

to Wemyss, W., 284.

letter to, from Mitchell, T. L., 285.

request by, for additional land grant, 283.

**Wellington valley**

appointment of superintendent of agriculture on mission lands at, 303 *et seq.*, 661.

mission to aborigines at—

application for land grant to, 303, 304, 660.

foundation of, 660, 665, 666.

progress of, 660.

prospects of success of, 661, 662.

request for increased subsidy for, 660.

refusal of land grant to, 661.

mission to natives established at, 9.

number of natives at, 662.

objections to police-station and post-office near, 664 *et seq.*

**Welsh, Samuel**

remission of sentence on, 227.

report transmitted *re*, 228.

**Wemyss, William (dep. commissary-genl.)**

letter from, to Scott, W., 284.

letter to, from Webber, J. P., 284.

**Wentworth, George**

application by, for land grant, 61, 546, 547.

decision by Darling, R., *re* claims of, 545, 546.

inability of Darling, R., to report on claim of, 234.

**Wentworth, George**

land grant recommended for, 61.

letter from, to Macleay, A., 546.

qualified refusal of land grant for, 234.

report by land board *re* claims of, 546.

**Wentworth, William Charles**

executor for Wentworth, D., 546.

purchase by, of land grant from Brisbane, Sir T. M., 630.

**Wesleyan Methodists**

act *re* temporal affairs of, 776.

**Western port**

authority for coal-mining at, 711.

proposal for coal-mining at, 435, 436, 464, 748.

**Weston, John**

claim by, for land grant, 1 *et seq.*

letter from, to Thomson, E. D., 3.

letter to, from Thomson, E. D., 2.

losses by, in wreck of ship *Letitia*, 1, 3.

memorial from, to Glenelg, lord, 1.

memorial received from, by Glenelg, lord, 159.

refusal of land grant for, 160.

**White, —**

injuries received by, from Fijians, 485.

mate of schooner *Sir David Ogilby*, 485.

**White, E.**

address of, to Victoria, H.M. Queen, 327.

**White, G. B.**

land granted to, 266, 269.

**White, H. F. (assist. surveyor)**

approval of dismissal of, 559.

certificates *re* health of, 369, 370.

charges preferred—

against, by Gray, W. N., 367, 368, 377.

by, against Gray, W. N., 367, 371, 372, 378 *et seq.*, 559.

decision by Snodgrass, K., in case of, 376, 377.

dismissal of, proposed, 368.

duties assigned to, 368.

inquiry ordered *re* charges made by, 560.

justification of dismissal of, 699.

letter from—

to Perry, S. A., 368, 378.

to Thomson, E. D., 371.

letter to—

from Innes, A. C., 381.

from Steele, C., 381, 382.

protest by, against removal from Port Macquarie, 381.

refusal by—

Glenelg, lord, to reconsider decision in case of, 599.

to withdraw charges against Gray, W. N., 367, 380.

**White, H. F. (assist. surveyor)**

reply by—

Gray, W. N., to charges made by, 372  
*et seq.*to charges made by Gray, W. N., 368,  
369.

request by, for inquiry, 371.

statement by Partridge, S., *re* conversation  
with, 370.suspension of, as assistant surveyor, 366,  
367, 377.transmission of letter from, *re* his suspen-  
sion, 407.**Whitelaw, John**undertaking given by, *re* passage money as  
schoolmaster, 6.**Wickham, John Clements**commander of H.M. ship *Beagle*, 554.

search to be made for Durant, T., by, 554.

**Wighton, John**opinion of Glenelg, lord, *re* charges against,  
44.**Wilkinson, Percival**

deputy storekeeper at Sydney, 627.

**Wilkinson, Reverend Frederick**omission to notify leave of absence granted to,  
388.**Wilkinson, Thomas**

address of, to Victoria, H.M. Queen, 327.

**Wilkinson, W. B.**

address of, to Victoria, H.M. Queen, 327.

**William IV, H.M.**address to Adelaide, H.M. Queen dowager,  
on death of—

from inhabitants of Sydney, 309.

from R.C. clergy, 331, 332.

problem of validity of deeds for land grants  
after demise of, 235, 236, 447.**William Jardine, ship**inquiry *re* equipment of, as transport for  
convicts, 425, 426.**William Nicholl (Nicoll), ship**allegations *re* overcrowding of, 215, 216,  
217.

arrival of, 230.

condition of, at Cape of Good Hope, 215,  
216.number of immigrants *per*, 215.

proposed sailing of, with immigrants, 32.

report *re*—

by Boyter, D., 221, 222.

by Elliot, T. F., 216 *et seq.*

by Roberts, G., 220, 221.

tonnage of, 215.

**William Rogers (William Roger), ship**arrival of, with fever amongst immigrants,  
598.

quarantine of, 598, 599, 683, 684.

release of immigrants *per*, from quarantine,  
767.**Williams, Allen**duties proposed by Riddell, C. D., for, 169,  
170.

objections—

by Bourke, Sir R., to supercession of,  
as chief clerk at treasury, 166, 168,  
169.by Riddell, C. D., to appointment of, as  
chief clerk at treasury, 167, 171,  
172.

want of proof of incompetency of, 172.

**Williams, Edward**

assault on, by Nixon, R., 462.

**Williams, George**

address of, to Victoria, H.M. Queen, 327.

**Williams, Vincent George**

address of, to Victoria, H.M. Queen, 327.

**Williams, William**judgment obtained by, against Harris, S. L.,  
65.**Willis, John Walpole (judge)**application by, *re* retiring pension, increase  
of salary, and precedence of puisne  
judges, 256 *et seq.*, 309, 310.

appointment of, as third puisne judge, 46.

claim by, to full salary during voyage from  
England, 363, 364.criticism of claim of, to full salary during  
voyage from England, 363.

letter from—

to Gipps, Sir G., 472, 582.

to Glenelg, lord, 256.

to Thomson, E. D., 364.

letter to, from Manning, J. E., 473.

libel action proposed by, against Polding,  
right revd. J. B., 587.

opinion of—

*re* crown lands occupation act, 649, 650,  
651.*re* illegality of land sales without parlia-  
mentary consent, 651, 652.

precedency for, 503, 504.

proposal by, for repeal of statute for re-  
covery of debts, 582 *et seq.*

refusal of—

full salary for, on voyage from England,  
561, 562.increased salary and retiring pension for,  
503.

relations of, with Gipps, Sir G., 652.

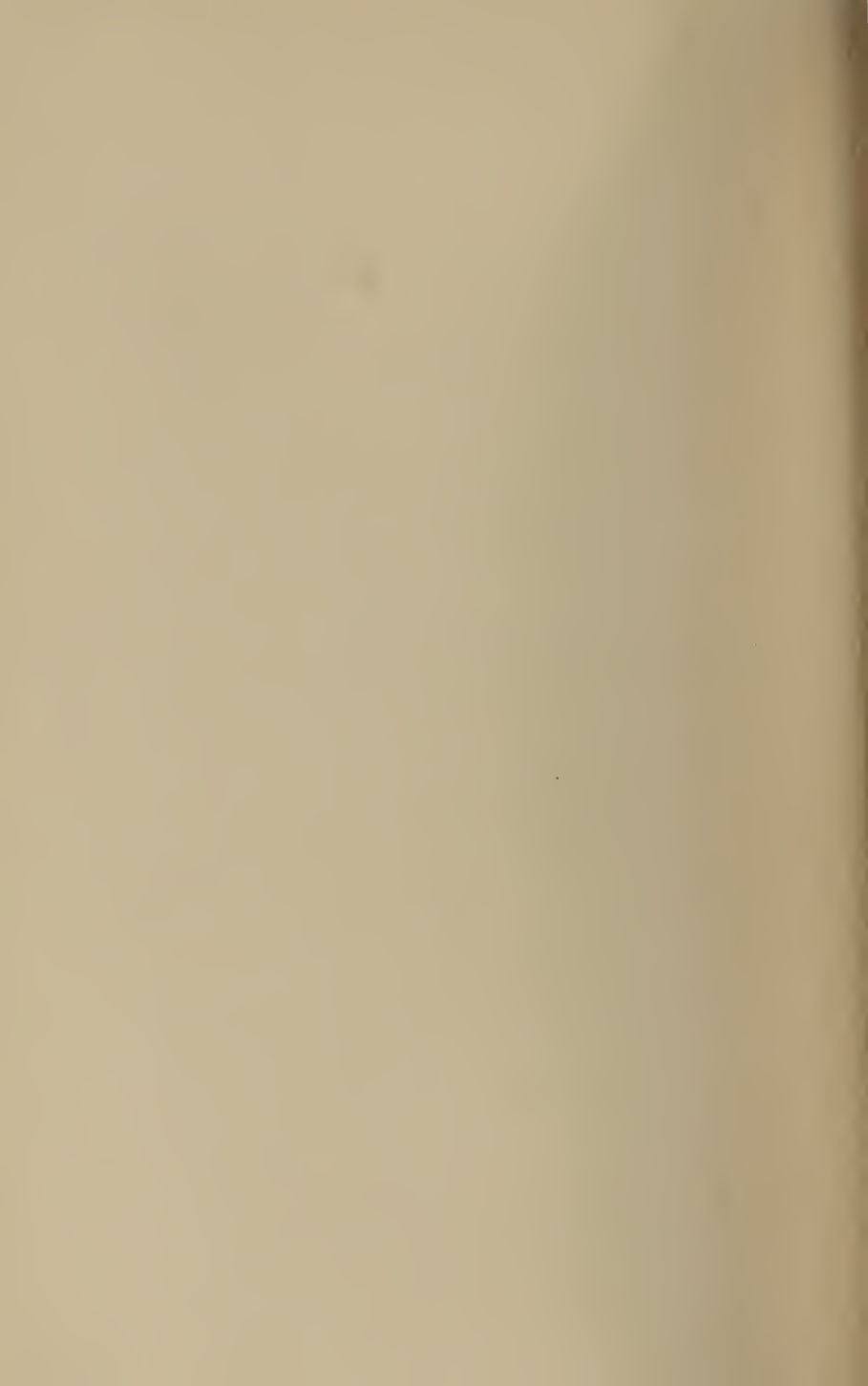
statements by, *re* R.C. church, 587 *et seq.*

- Wilson, C.**  
commander of schooner *Jess*, 497.
- Wilson, Henry Croasdaile**  
report by, *re* immigrants *per* ship *St. George*, 757, 758.
- Windeyer, Charles**  
report by, *re* outbreak of fever on ship *Lady McNaghten*, 12 *et seq.*
- Wingelo**  
clergyman required at, 245.
- Winter, W.**  
address of, to Victoria, H.M. Queen, 327.
- Wisdom, John**  
address of, to Victoria, H.M. Queen, 327.
- Wolfe, James**  
address of, to Victoria, H.M. Queen, 327.
- Wood, C.**  
letter to, from Stephen, J., 54, 690.
- Wood, Patrick**  
letter from, to Glenelg, lord, 658.
- Wocdd, Reverend G. N.**  
appointment of, to St. James' church at Sydney, 245.
- Wyndham, George**  
address of, to Victoria, H.M. Queen, 327.  
petition from, soliciting secondary land grant, 637, 638.  
report by Gipps, Sir G., *re* claims of, to land grant, 637.
- Yass**  
appointment of police magistrate at, 117.
- Ycung, Adolphus**  
resignation of, as third police magistrate, 365, 366.
- Young, James**  
address of, to Victoria, H.M. Queen, 327.
- Young, Thomas**  
evidence of, at trial of Hammond, H., 355.









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