

HISTORY
OF
AUSTRALIA.

BY
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AUTHOR OF "HISTORY OF NEW ZEALAND."

SECOND EDITION.



IN THREE VOLUMES.

VOLUME I.

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PREFACE TO THE FIRST EDITION.

THE actors in what has been called the heroic work of colonization are rapidly passing away in Australia. Of those who landed with Governor Phillip none now remain. Of those born after he laid the foundation of Sydney many have been gathered to their fathers at ages surpassing the term usually allotted to man. Of the daily wants and toils, the struggles of the hearth and the contentions of the forum, of the early Australian settlers, witness after witness has vanished, and no precise record has been made of the manner in which they wrestled with their difficulties. In default of such a record, incorrect narrations might be accepted without distrust, and quoted without misgiving. Persuasion of many friends that I should prepare a correct narrative, and a desire on my own part that it should be prepared, have produced the following work. It is the result of long residence in Australia, and of acquaintance with some of those who assisted the early Governors in the task of controlling men and subduing the earth. I have seen one generation succeed another, and have observed the careers of public men in more than one of the colonies which have sprung into existence as offshoots of New South

Wales or as separate plantations. Facts connected with their growth have been daily under my notice. To distinguish those which are momentous from those which are insignificant in principle, may be as easy for a distant investigator as for one who lives on the spot. To know how men's minds were disturbed by events which might seem trivial to strangers abroad, is given only to those who have moved upon the scene. As a resident in various rural districts, as a holder of public office, as a magistrate, as mayor of a borough, and in other ways, I have had ample opportunities of becoming acquainted with the course of events. Copious materials in the shape of official reports and blue-books are at the command of all. As to facts they convey authentic information. The opinions they contain require to be balanced with a knowledge of the characters of the writers, and such knowledge is greatly promoted by perusal of those confidential letters which show the inner workings of the mind. Of such manuscripts I have been able to make large use, and the following pages show what valuable treasures have hitherto been neglected or unknown, and how in their absence false notions have been entertained. When it has been needful to controvert often-repeated mis-statements minute precision has been necessary; because in such a case it is not enough to make mere assertions. It is incumbent to fortify each position by cumulating circumstantial proofs. The world, moreover, exacts, in modern days, details which greatly lengthen books, and such a process has the approval of one of the most sagacious of men.¹

¹ Dean Swift (to Bolingbroke, 1719): "I must beg two things; first, *that you will not omit any passage* because you think it of little moment; *and secondly, that you will write to an ignorant world, and not suppose*

In marshalling the facts which prove how much error has been accepted as truth with regard to the pilgrim fathers of Australia, I have allowed the actors to speak for themselves as much as possible. An author may labour to incorporate as the coinage of his own brain the wit or sense which emanated from those of whom he writes; but success in such effort would be, after all, ignoble, and would rob his page of the dramatic element which makes it lifelike. The day will come when men will be glad to know how the colonizers of Australia lived and moved; what were their daily tasks and distractions; how and by whom troubles were created or overcome; by what passions men were stirred from time to time; how sometimes the blasts of tyranny were resisted by the growing plant, and how were engendered within it parasites which preyed upon its powers and threatened to bring low many a noble bough fitted to adorn it in season, and to render back the healthy sap which, coursing from root to branch, gives health and life to the tree.

If events and their causes have been rightly recorded and traced in the following pages, it must be admitted that for some evils in the colonies the British Government has been largely responsible. The most successful colonization is that which founds abroad a society similar to that of the parent country. The composite forces which built and sustained the England of the past have not been cherished in her colonies. She scattered the seeds of one, but refused

your reader to be only of the present age, or to live within ten miles of London. There is nothing more vexes me in old historians than when they leave me in the dark in some passages which they suppose every one to know." The hope of future usefulness must support a writer in the least attractive portions of his work. Already I have reaped some reward. One critic objected to the microscopic accuracy of my "History of New Zealand;" but the London "Spectator" (26th May, 1883) commended it for being as trustworthy as it was minute.

to plant the other, and the fields have answered to her tith. The greatest of modern English Statesmen strove to remedy the defect in North America, but apathy and obstruction among those who lacked his prophetic vision palsied his attempt, and a deadly struggle with a continent armed under Napoleon consumed the energies both of his country and of Pitt. Wentworth essayed to confer upon his countrymen a constitution framed as closely as practicable in conformity with that of England, but he found admirers only, and not supporters, of his attempt to fix in the social and political fabric the principle which, by distinction of the worthiest, stirs generation after generation to maintain the honour of their families, and the glory of their native land. The soul of goodness in ancient English institutions may be thanked for the fact that even when maimed they render useful service. If there were no Providence to shape their ends men might despair of the results of their hewing.

What those results have been in Australia must ever be deeply interesting, not only to the colonists but to their kindred in the parent land. The administration of the Crown domains, and the development of forms of government in different colonies, are engrossing subjects of inquiry, and their phases still undergoing change (subject to the unconquerable conditions of nature), have compelled me to trace them to more recent times than I contemplated when I took up my pen, and hoped to pause at the era in which local was substituted for Imperial control. But it was impossible to record the events of 1856 without allusions to living persons, and it then became idle to shrink from depicting *more recent* times in which vital problems have been *variously dealt with* in different places. The hand

on the plough is compelled to follow the furrow or to leave untouched many portions of the field which must in time produce tares or wheat. A faithful narrative may indeed fail to satisfy some persons; but when has truth been told without giving umbrage? The history which does not aim at truth is despicable; and, whether neglected or popular, the narrative which, after careful research, describes things as they were and are, is the only one from which a writer ought to derive satisfaction. Such a narrative I have striven to put before my countrymen; so that, if they will, they may know what their kinsmen have done in the work of colonization in Australia. Conscious that, in spite of all pains taken to avoid error, so comprehensive a work cannot be free from defects, I part with it in confidence that I have spared no effort to secure accuracy. As I pen these lines I am beset with mingled memories of the land of cloud, and the land of sun. Close to Leith Hill Place, where I was born, I return from Australia after experiences of fifty years; and, seated in one of the most classic spots of my native county—the abode of John Evelyn,—I conclude the preface with which I commit to the public the last work which it can be my fortune to undertake.

*Wotton House, Surrey,
30th July, 1883.*

PREFACE TO THE SECOND EDITION.

A FEW prefatory words are needed for the Second Edition of the "History of Australia."

The Preface to the first is still a guide to the principle on which the History was framed, and which has been adhered to in the second edition. Condensation, excisions, and additions have been made; and criticisms on the first edition have, it may be hoped, contributed to the improvement of the second.

The statement of the *Quarterly Review* (April, 1885), that the History "must always be the standard authority on all points relating to the early history and growth of the Australian colonies," is a strong incentive to an author to strive to merit such praise.

There is one unpublished testimony from which a few lines may be quoted. Sir W. W. Burton, a Supreme Court Judge, often mentioned in the History, though blind when it was published, heard it read, and dictated a letter to the author, in which he congratulated his acquaintance of "more than forty years, on being the writer of two profound books, the historian of countries newly founded, *whose uncertain origin you have explained, and in*

the case of Australia, as I can vouch, very powerfully and very interestingly.”

After the publication of the first edition of this History the Government of New South Wales entered, officially, upon the task of preparing a history of that colony. The first volume appeared in 1889, and the second in 1894. The period covered by the two volumes was about seven years. Four bulky volumes of “Historical Records” of New South Wales (up to 1802) have also been published by the Government.

Such arsenals of past facts, though of great value to students, leave room for a history framed to embody the spirit of the time rather than to register every daily occurrence.

Amongst the “Historical Records” are numerous papers in the possession of the Hon. P. G. King, M.L.C., in New South Wales. They throw a flood of light upon the time with which they deal. The original MSS, lent to the author many years ago, justified him in the hope¹ that he might present the “age and body of the time, its form and pressure,” with the aid of the old Governor’s manuscripts, which had been carefully preserved in a chest, until his grandson—their present owner—brought them to light, and placed them at the author’s disposal.²

¹ Vol. I, p. 382.

² The fourth volume of the “Historical Records” appeared after chapter V. of this History was in type. If it had appeared before, it would have been cited in the text to confirm the views of the author as to the disorders which Governor King had to check (Vol. 2, pp. 214—217, 219—231, 234—237, 380, 381). It appears (p. 228) that Colonel Paterson wrote (8th October 1800) to Sir Joseph Banks that before King’s arrival in 1800—“the government was getting every day into greater confusion in consequence of the immense quantities of spirits that got amongst the lower order of settlers and convicts. Although Governor King did not take the command until the 28th ult., the day that Governor Hunter embarked, his presence and the steps he recommended have already had their good

Other members of Governor King's family laid the author under obligations by submitting to him copious manuscripts of the eighteenth and nineteenth centuries.

The late Sir William Macarthur, of Camden Park, also gave him access to similar documents, and enriched their contents from the stores of his spacious memory during the author's visits to his house. In England, in 1882, the author examined original documents at the *Record Office*, which furnished no reason for shaking confidence in the King and Macarthur MSS, but, on the contrary, contained many proofs of their accuracy.

Some space has been devoted to records of the aboriginal tribes of Australia; and the author has endeavoured to weave into his narrative facts brought under his own knowledge in various parts of the continent. Some of the habits of the race he had striven to record in a rhymed legend (*Moyarra*) very many years ago. It is one of the pleasing reminiscences of a stay in London that the late Lord Bowen (one of Her Majesty's Judges, and the gifted translator of Virgil) assured him that the legend was "charming." The natives are chiefly mentioned in this Preface, however, in order to refer to a matter which ought to have been alluded to in the second chapter, but cannot now be inserted there as the printing has been completed.

The Australians had a method of communicating with their friends by means of lines graven on sticks despatched from tribe to tribe. The author's recollection of the method (after lapse of half a

effect." Paterson's opportunities of acquiring information were unsurpassed. Besides commanding the military, when he thus wrote, he had acted as Governor in 1794 and 1795; and after an absence on leave he returned to Sydney in November, 1799, in time to observe the effects of *Hunter's* incapacity.

century) is that certain graven symbols were agreed upon as a warning of certain facts. Not words, but ideas were signified by certain marks. The institution of heralds (mentioned in page 102 of chap. 2) facilitated the conveyance of messages by means of the marks; and if the author's memory be not dimmed by lapse of time, the marks employed by one system of tribes were not the same as those employed by another. The minutest deviation from the appropriate symbol would be at once detected. The Kamilaroi tribes were numerous, and a summons to war could rapidly be sent in many directions if danger was apprehended. The subject seems to have been recently discussed at a meeting of the British Association.³

There has been much discussion as to the extent to which Captain Cook's own words were embodied in the official narrative edited by Dr. (afterwards Sir) John Hawkesworth.⁴ The Admiralty confided to

³ Dr. Harley gave an address, illustrated by specimens, on "Points of Resemblance between Irish Ogams of the Past and the Australian Aborigines' Stick-writing of the Present." He pointed out that an understanding of the principles of the fast-dying system in Australia of conveying ideas by horizontal straight lines might afford a clue to the better interpretation of the ancient Irish ogams, as these two systems resemble each other, as not only the form but to a certain extent the modes of arrangement were identical. The Gilas of Central Asia also had the same lineal form of writing, the same grouping of the characters, and a distinctly columnar arrangement. Dr. Harley thought that the Australian aborigines had advanced one stage beyond the ancient Irish, inasmuch as they possessed two distinctly different kinds of line characters, small and large, analogous to our capital letters, and also adopted the plan of emphasizing the small characters by turning them into a kind of italics. All the natives did not write alike. The woman's sign character was shown on the screen, and also a man's, more developed, which was said to curiously resemble that of the Samoyeds of the Arctic regions. Some were again less developed, and still in the stage of picture and hieroglyphic writing. The written language was illustrated by the representation of a secret war message.—*Times*, 24th September, 1896.

⁴ "Hawkesworth's Voyages," London, 1773. It is only fair to Hawkesworth to say that he stated that he submitted his compilation to Banks and Solander, "in whose hands as well as in those of Captain Cook the work was left for a considerable time."

Hawkesworth all the Journals kept by Cook, Banks, and others on board of the *Endeavour*. Hawkesworth explained in his Preface that the book was compiled from the Journals of Cook, Banks, and others, "all parties acquiescing" in the arrangement that Hawkesworth should use the first person (in the name of Cook) throughout.

The journal of Sir Joseph Banks was copious, and for many years towards the close of the nineteenth century there was an uneasy feeling that Hawkesworth had given to the public too little of Cook and too much of Banks; although Hawkesworth plainly stated that he received Cook's Journal from the Admiralty before he received that of Banks.

Some sceptics went so far as to contend at great length, that Cook did not name Botany Bay, Port Jackson, or New South Wales, and the absence of Cook's *ipsissima verba* left the field open to doubters.

Even in the "Historical Records of New South Wales," published by the Government in 1893, the editor said, "It is a remarkable fact that nowhere in the original papers of either Cook or any of his officers does the name 'New South Wales' appear. As in the case of Botany Bay it seems to have been an afterthought" . . . "there is no foundation for the popular impression that Cook bestowed the name New South Wales on the territory. . . . The name appears to have originated with Hawkesworth."

Cook's Journal, published in England in 1893, decided the matter. On the 22nd August 1770, he wrote: "In the name of His Majesty King George the Third I took possession of the whole Eastern *Coast* (from lat. 37° down to this place) by the name of *New South Wales*."

In 1893 all doubts were dissipated by the publication of Cook's own journal by the Hydrographer of the Admiralty, Captain Wharton. It was found that no less than three copies of Cook's Journal were extant. The copy in possession of the Admiralty contained the narrative of the close of the voyage, which was not contained in the others. Cook wrote (30th Sept. 1770) "In the A.M. I took into my possession the officers', petty officers', and seamen's Log Books, and Journals, at least, all that I could find, and enjoined every one not to divulge where they had been." On the 25th October he sent from "Onrust near Batavia"—"a copy of my journal containing the proceedings of the whole voyage," with charts. "In this Journal I have with undisguised truth and without gloss inserted the whole transactions of the voyage."

When Cook arrived in England, six months afterwards, "the full Journal of the voyage was deposited at the Admiralty."⁵

The naming of Botany Bay was thus recorded by Cook. "The great quantity of plants Mr. Banks and Dr. Solander found in this place occasioned my giving it the name of Botany Bay."

On the 6th May he wrote of Port Jackson: "We were about two or three miles from the land, and abreast of a bay, wherein there appeared to be safe anchorage, which I called Port Jackson."

In this edition the author has in all cases quoted Cook's words, which are as graphic as those of Defoe.

Something may be said as to the historical advantages or disadvantages attendant upon writing

⁵ Captain Wharton (Preface, p. viii). The three copies of Cook's Journal, Captain Wharton says, are—"practically identical except for the period 13th to 19th August 1770, during which the wording is often different though the events are the same." The period was critical *as will be seen* (Vol. I., pp. 10, 11).

a history of times during a portion of which the author has moved among those whom it is his duty to describe.

Personal considerations may be dismissed as unworthy of contemplation. If he tell the truth an author cannot avoid making enemies; and if he palter with it he can deserve no friends.

In the present case the author has derived unspeakable assistance from local associations. He has conversed with some of those who were colonists in the eighteenth century, and with many thousands among the generations which succeeded the first comers. Such conversations have revealed the hopes and fears, and explained many of the turmoils of the past. Men's motives become known to their contemporaries. Often they make no attempt to conceal them, and they could not conceal them if they would. Friends betray what enemies long to discover.

The atmosphere of an epoch is a part of it, and he who breathes it must indeed be dull if he be in no degree imbued with the spirit of the time. History should be a picture of the past, and sight of the past is useful to him who would depict it.

It is not for the author to say whether he has profited by his opportunities; but it is right to acknowledge his obligations.

*Cotmandene,
South Yarra, 8th May, 1897.*

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A U S T R A L I A .



CHAPTER I.

THE history of a country, and of the growth of its people amongst the family of nations, has seldom a clearly-defined starting-point. There is usually a long period of gloom in the far distant past, which challenges antiquarian researches, and leaves an inquirer doubtful whether to accept the traditions of a Livy, or to join in the iconoclasm of a Niebuhr. If the inhabitants, when first emerging from that gloom, could foresee the interest which future ages would take in their early fortunes, how sedulously would they guard each relic of the past, how scrupulously would they record each fact about which, though in their own time there might be no room for doubt, disputes in after-time cluster like bees about a hive! Even in our own day, when books and pamphlets are like autumn leaves in abundance—and in fate—how much need is there for judgment in prosecuting an inquiry! How strong and yet how contradictory are the assertions made; how studiously analytic must he be who would weave the conflicting elements into a trustworthy narration! How frequently is it found that the audacity of a contemporary writer has so coloured events that the plain tint of truth runs risk of being lost for ever.

The historian of Australia has no period of mythical gloom to explore with regard to the British who subdued and replenished the land; but, in selecting facts and valuing

statements, needs as much care and patience as he who would narrate the rise and progress of modern Germany. The scene is different, but the actors are the same; human beings struggling mainly for personal gain, but even then subserving some higher purpose beyond their ken; and amid the turmoil, like salt to preserve the mass from corruption, those finer spirits, "touched to fine issues," which redeem the general character, and amidst whose judgments may be found a clue to the tangled labyrinth into which investigation must often lead the historian.

There is danger lest one who has lived within a portion of the time he chronicles should himself fail to preserve a just discrimination; but, if he has not been himself immersed in party quarrels, if his desire be to probe the facts and declare the truth, his personal experiences are so far advantageous that they may restrain him from accepting ignorant or wilful mis-statements made by those who have only a party purpose to serve.

How long the aborigines of Australia had roamed over its soil when Europeans first explored the coast, it is for ethnologists to discuss—perhaps without result. That they occupied sparsely the whole area, many centuries ago, is indisputable, and that their rate of migration must have been slow is equally clear. Diverse as were their dialects, when heard by Europeans, they are of common origin; although the marked difference between the language of contiguous tribes might lead careless observers to a different conclusion. When such persons find tribes scattered on hundreds of miles of the coast using similar words, and note that at a short distance inland a distinct dialect is spoken, they omit to observe that families dispersed along the coast would still cling to it, and would have occasional intercourse with their kindred of late date, but not with tribes in the interior; while the inland inhabitants, beyond the watershed of the coast range, who in many cases reached their domains by ascending the rivers which traverse the continent from east to west, would keep up their tribal intercourse in like manner through accustomed channels.

Rumours of a Great South Land were rife long before *Europeans* trod upon its shores. In the "*Astronomicon*"

of Manilius, attributed to the first century, the form of the earth is thus described :

“ Pars ejus ad arctos
Eminet, Austrinis pars est habitabilis oris,
Sub pedibusque jacet nostris.”

Many rumours may have been due to idle guesses, but some may have sprung from authentic information derived from voyagers in the Indian Seas, who doubtless visited the north coast of Australia, as the Malays visited it in later times.

Had any navigator in the sixteenth century by chance discovered the west coast it is improbable that direct results would have ensued. The Portuguese, the Spaniards, the Dutch, and the English contended for posts of commerce, not for soil on which they might create new homes. For more than a century Malacca was prized by the Portuguese, and for a longer period by the Dutch, not as a sphere for colonization, but on account of the trade which it attracted and controlled.

A post of observation on the coast of Australia would have attracted no one, and would have commanded no trade. Yet the student of history will cast a thought upon the mysterious slumber which reigned over so vast and neglected a portion of the globe, while small but luxuriant spots were keenly contended for by Europeans, who were debarred from making in such uncongenial climates their permanent homes. Their ships and buildings were converted into hospitals, and the soil of their possessions into graves; while within easy reach, and even then visited by the seafaring Malay, was a land possessing an unsurpassed climate, with resources only now being unlocked, while four millions of Britons are gathered upon it.¹ So little power have men's pretensions to determine the conditions of future wealth or greatness! The Pope and the Emperor allotted and claimed continents by what they called Divine right; while silently, but openly under their eyes, the race for whom Divine Providence had reserved the mastery was pitching its humble tents in the New World of America. Again in the South the same drama has been enacted. To

¹ The estimated population in 1893, including New Zealand, was more than 4,000,000.

Spain, to Portugal, to Holland there remain possessions of questionable value (excepting Java, once taken and restored by the English), and none of them are adapted for European constitutions. To the descendants of the seafaring Northmen has fallen a continent, poor when found, but capable of making rich; holding out no luxuries for barter, but having a climate and soil which invite the re-enactment in Australia of the marvel in America, where the colony largely outnumbered the parent state.

It is perhaps impossible to determine who first ascertained the existence and form of the Great South Land. Those who are curious upon the subject will find it exhaustively dealt with in various publications by R. H. Major, F.S.A.,² and others. There are not wanting statements which would imply that something was known about the north coast of Australia in the beginning of the sixteenth century. But in most cases the descriptions and the maps indicated no separation between New Guinea and the South Land, generally called "La Grande Jave." Moreover, with regard to a time when the Spanish and the Portuguese contended about their discoveries, the best of their maps are so wide of the truth that it may safely be affirmed that some of their contents are guesses. That the Portuguese were established at the Moluccas in 1512 seems to be admitted. That there were maps which were made before the year 1542, and which represent a great land called "Jave La Grande," is also true. One of these maps in the British Museum was presented by Sir Joseph Banks in 1790. Two others, also in the Museum, are in a volume, dated 1542, presented by one Jean Rotz to Henry VIII. The dedication declares that the maps are made "au plus certain et vray qu'il ma esté possible de faire, tant par mon experience propre, que par la certaine experience de mes amys et compagnons navigateurs." In all these maps, however, the sea or strait between "The Lytil Java" and "Java La Grande," or "the Londe of Java," is so inaccurately represented that one sees at a glance that guess-work, or assumption, or hearsay, was resorted to. In the Jean Rotz map of 1542, the east shore of Jave la Grande (the Great South Land) is

² "Early Voyages to Terra Australis." London: printed for the Hakluyt Society. 1859, &c.

carried far to the eastward of the true position of Australia. In another map, the east coast of Australia is similarly misrepresented; and, strangely enough, because on the fancied eastward extension the mapmaker wrote "Coste des Herbaiges," it has been suggested that some voyager in the sixteenth century had been to Botany Bay—a place quite innocent of pasture in its natural state. In a map to illustrate the voyages of Drake and Cavendish, New Guinea is represented as an island anterior to the voyage of the Spaniard Torres, who (having been separated from his commander, Quiros) sailed between Australia and New Guinea in 1606, but supposed the coast of Australia to be a series of islands; a supposition which proves that the maps of 1542 were not generally known, or were not trusted by the navigators of 1606. In the same manner islands were seen in the Pacific and were supposed by Quiros to be portions of a continent. In 1606, it seems that a Dutchman commanding the *Duyfhen*, sent out to explore New Guinea, sighted a part of Australia and assumed that it was a part of New Guinea. From all such casual and uncertain glimpses but little real knowledge could be gained. If the lands thus seen had been occupied by inhabitants with whom trade could have been established results would have ensued even from these glimpses; but, as it was, they must be looked upon merely as a kind of hearsay unworthy of the title of discoveries.

It is certain that the Dutch had no knowledge of a strait between New Guinea and the South Land, for when they sent Tasman, in 1644, to explore, they told him that they thought there was no such strait.

There is no doubt, however, that in 1616 the Dutchman Dirk Hartog, on a voyage from Holland to India, saw and landed on Australian soil at Shark Bay, and left a record of the fact which was found afterwards by his countryman, Van Vlaming, in 1697, and by the French navigator, Hamelin, in 1801. Other Dutch mariners saw other parts of the coast, and Nuyts Land and Cape Leeuwin are memorials of the fact. The name of another Dutchman (Carpenter) was given to the Gulf of Carpentaria. Captain Pelsaert, of the ship *Batavia*, escaping in a boat, was said to have left shipwrecked comrades at Houtman's Abrolhos

on the west coast, in 1629, and on returning in a ship from Java to have found that mutiny and massacre had been rampant, and to have restored discipline by wholesale executions before sailing to Java. All performances of other navigators were eclipsed, however, by Tasman, who, in 1642, was commissioned to explore in the South Seas, and discovered Tasmania³ and New Zealand, but who, in his chart, represented New Guinea as joined to the South Land (Australia). From this time may be dated a more accurate knowledge of Australia. It may be true that Portuguese sailors had seen parts of the coast in 1542. It is no doubt true that the Dutch (who founded their East India Company in 1602) received confidential reports from their sailors of discoveries made at various dates early in the seventeenth century; and it may be true that, for reasons of policy, they concealed the discoveries from the world. They paid a natural penalty. *Paullum sepulta distat inertia celata virtus*. They might as well have made no discoveries.

After Tasman's great voyage other discoverers cruised among the islands of the Pacific, and in the seventeenth and eighteenth centuries played their part, the celebrated William Dampier⁴ being one of them. First a common sailor, then overseer on an estate in Jamaica, a labourer among the logwood-cutters in Mexico, and a buccaneer amongst the wildest spirits of a wild time, he possessed intelligence and sense which have kept his narratives from oblivion. His first visit to Australia was in a buccaneering vessel which had been seized by the crew, who abandoned their captain at Mindanao, taking Dampier with them. In their wanderings they touched on the northern coast of

³ Tasman called his discovery Van Diemen's Land, after Van Diemen, the Dutch Governor-General in the East Indies; and the name remained long after Englishmen had founded their colony. A change being thought desirable when the colony ceased to be a penal settlement, the name of the first discoverer was chosen for Tasmania, with good taste acceptable to the inhabitants.

⁴ "I dined (Aug., 1699) with Mr. Pepys, where was Captain Dampier, who had been a famous buccaneer, had brought hither the painted Prince Job, and printed a relation of his very strange adventures, and his observations. He was now going abroad again by the king's encouragement, who furnished a ship of 290 tons. He seemed a more modest man than one would imagine by the relation of the crew he had assorted with. He brought a map of his observations of the course of the winds in the South Sea, &c."—"Diary of John Evelyn."

New Holland in 1688. After accidents by flood and field, Dampier found his way to England, where he was well received, and the government gave him the command of an exploring vessel—the *Roebuck*. Reaching the west coast of Australia at the bay which he called Shark Bay, he examined the shore and the islands. He explained that on no part of the coast he saw was there any possibility of barter with the natives, who had nothing to give in exchange. No man then thought it desirable to occupy the land for its own sake. Dampier earned from foreigners the highest reputation for skill and exactitude. De Brosse exclaimed: "Où trouve t'on de navigateurs comparables à Dampier?"

The greater part of a century elapsed before anything more than casual visits and desultory notes were to be made by a voyager to Australia, and that voyager was an Englishman—James Cook. Chosen to command the *Endeavour*, 370 tons, sent to the South Sea to observe the transit of Venus, Cook sailed from Plymouth (26th Aug., 1768). The observations on the transit were made at Tahiti in 1769. Cook's instructions⁵ were to proceed southwards after the astronomical observations were concluded. If he found no land before reaching the fortieth south parallel he was to go westward and explore New Zealand; thence he was to return to England by such route as he might think proper. These orders he obeyed, reaching New Zealand on the 6th Oct., 1769; and surveying New Zealand until the 31st March, 1770.

Bearing in mind that all that was known of Australia was that Tasmania was supposed to be part of the mainland, that only portions of the south and west coast were known, and that the northern shores had merely been seen near Arnhem Land, the Gulf of Carpentaria, and Cape York, the reader will appreciate the magnitude of Cook's discoveries. Encountering rough weather, and carefully sounding at night, Cook sighted the mainland of Australia on the 19th April, 1770, in latitude 38° south, longitude 211° 7", and called it Point Hicks, after the first lieutenant, who first saw it. "To the southward we could see no land,

⁵ "Cook's Voyages" (2nd), vol. i. Introduction.

and yet it was clear in that quarter ;” “but as we did not see it, and finding the coast to trend N.E. and S.W., or rather more to the westward, I cannot determine whether Van Diemen’s Land and Australia are one land or no.”

Cook then proceeded along the east coast, examining and naming Cape Howe, headlands and bays, so far as time permitted. At Botany Bay, so named in consequence of the “great quantity of plants Mr. Banks and Dr. Solander found” there, Cook remained some days, and unfortunately fired upon the natives, who opposed his landing, and in spite of shots, which wounded one of them, kept up the encounter with their spears.

In no perfunctory spirit did Cook conduct his survey of the coast. Time did not permit him to explore each opening, but his charts show how accurate was his work.

It may not be unworthy the dignity of history to point out that his designation of Port Jackson was early misunderstood, and repeatedly ascribed to a cause for which Cook gave no warrant. The words in his Journal are:—“We were by observation in the latitude of $33^{\circ} 50'$ south, two or three miles from the land and abreast of a bay, wherein there appeared to be safe anchorage, which I called Port Jackson.” How little do Cook’s words justify the following statement in a “History of New South Wales” by Dr. J. D. Lang:—“In Captain Cook’s chart another opening had been laid down on the authority of a seaman of the name of Jackson, who had seen it from the fore-top masthead, and from whom Captain Cook, who conceived it might possibly be a boat harbour, which it was not worth his while to examine, called it Port Jackson.” This assertion was copied for many years, having been originally idle surmise. Cook’s own narrative, however, contained internal evidence bearing strongly against it. He frequently named places after the person who first saw them, or after some peculiarity noticed at the time, and it was his habit to record his reasons when affixing such names.

Point Sutherland, Point Hicks, Point Upright (on account of its perpendicular cliffs), Mount Dromedary, Pigeon House, Indian Head, Cape Manifold, Point Hillock, Mount Warning, Broken Bay, the Glass Houses, and a score of

other places are named for special reasons assigned, and it was morally certain that if Port Jackson had been named after one of the ship's company the fact would have been noted.

There was, moreover, internal evidence in Cook's narrative, which, though not conclusive, pointed strongly to another origin of the naming of Port Jackson. In "Cook's Journal" we find that shortly before he left New Zealand, in 1770, he wrote:—"This bay I have named Admiralty Bay, the N.W. point Cape Stephens, and the E. Point Jackson, after the two secretaries." Even if no other evidence were available it would not have been a daring assumption to suppose that Cook attached the name of the Admiralty Secretary to Port Jackson, especially when it is seen that, omitting Broken Bay and Cape Three Points (named after their configuration), the very next name given by Cook on the Australian coast, but without special reason assigned, was that of the other Admiralty Secretary to Port Stephens. Moreover, it has been ascertained that no sailor named Jackson was rated in the books of the *Endeavour*.⁶ The error which carelessness created was fostered perhaps by the fact that Sir George Jackson changed his name to Duckett to meet the provisions of a will. The noble harbour of Sydney still rejoices in the surname given by Cook. The Duckett family endeavoured to keep alive the connection of their ancestor with the navigator by inscribing on a tombstone⁷ the fact that "Captain Cook, of whom he was a zealous friend and early patron, named after him Point Jackson in New Zealand and Port Jackson in New South Wales," but carelessness and credulity almost annulled their doings. *Quandoquidem data sunt ipsis quoque fata sepulcris*. Of Cook's exploits there could be no doubt. The names fixed by him still remain.

The chapter of his troubles when the *Endeavour* struck near Cape Tribulation, must be read in his own journal. The resolute constancy with which in that lonely spot he

⁶ Note 1894.—This statement, made in 1883, is amply confirmed by the publication in the "Historical Records of New South Wales," of the names of the crew of the *Endeavour*, amongst whom the name Jackson does not appear. The complete list is also published in "Captain Cook's Journal" (1893), by Captain Wharton.

⁷ At Bishop Stortford, Herts.

combated against disease—infused his own unconquerable spirit into his men—and repaired his vessel on the shore in a bay into which he had warped her, at the Endeavour River, have been shown perhaps by other sailors; but not always have like issues depended on success. The discoverer, the appropriator for his country, of a vast continent, must have had many high and ennobling thoughts to sanctify and promote his work. The loss of Cook and his ship would have been like the extinction of a dynasty.

On the 7th Aug. the Barrier Reef—called by Cook the “Labyrinth”—so hemmed in the *Endeavour* that Cook and his officers on the masthead “could see nothing but breakers all the way from the south round by the east as far as N.W., extending out to sea as far as we could see.

. . . We were surrounded on every side with dangers in so much that I was quite at a loss which way to steer when the weather will permit us to get under sail.” A gale came on, the ship drove, in spite of two anchors, “until we had got down top gallant masts, struck yards and topmasts close down, and made all snug.” Then the *Endeavour* “rid fast.” Three days later she was under weigh among reefs. Cook landed on Lizard Island to obtain a view, and to his mortification discovered “another reef of rocks.” He found at length a passage (still called Cook’s Passage) and emerged (14th Aug.) to the eastward of the Barrier, “which gave us no small joy, after having been entangled among islands and shoals, more or less, ever since the 26th May, in which time we have sailed above 360 leagues by the lead, without ever having a leadsman out of the chains when the ship was under sail, a circumstance that perhaps never happened to any ship before, and yet it was here absolutely necessary.”

Fresh dangers impended. Before daybreak (16th Aug.) “the roaring of the surf was plainly heard, and at daybreak the vast foaming breakers were too plainly to be seen not a mile from us, towards which we found the ship was carried by the waves surprisingly fast. We had at this time not an air of wind, and the depth of water was unfathomable, so that there was not a possibility of anchoring. In this distressed situation we had nothing but Providence and the *small assistance* that boats could give us to trust to.”

The yawl and long-boat towed ahead; sweeps were used abaft. "We were not above 80 or 100 yards from the breakers. The same sea that washed the side of the ship rose in a breaker prodigiously high the very next time it did rise, so that between us and destruction was only a dismal valley, the breadth of one wave, and even now no ground could be felt with 120 fathom.

"The pinnace was by this time patched up, and hoisted out, and sent to tow. Still, we had hardly any hopes of saving the ship, and full as little our lives, as we were full ten leagues from the nearest land, and the boats not sufficient to carry the whole of us. Yet, in this truly terrible situation, not one man ceased to do his utmost, and that with as much calmness as if no danger had been near. All the dangers we had escaped were little in comparison with being thrown upon this reef, where the ship must be dashed to pieces in a moment."

A light air aided the efforts of the crew; a little offing was gained, a small opening in the reef was seen a quarter of a mile away; Cook strove to gain it. "We were still in the very jaws of destruction, and it was a doubt whether or no we could reach this opening. . . . To our surprise, we found the tide of ebb rushing out like a mill-stream." Using the ebb, Cook obtained an offing of a mile and a-half. Lieut. Hicks went in the small boat to examine another small opening, and reported favourably. "It was immediately resolved to try to secure the ship in it. Narrow and dangerous as it was, it seemed to be the only means of saving her as well as ourselves. A light breeze soon after sprang up at E.N.E., with which, the help of our boats and a flood tide, we soon entered the opening, and were hurried through in a short time by a rapid tide like a mill-race, which kept us from driving against either side, though the channel was not more than a quarter of a-mile broad—having two boats ahead of us sounding. . . . The channel we came in by I have named Providential Channel. . . . It is but a few days ago that I rejoiced at having got without the reef, but that joy was nothing when compared to what I now felt at being safe at an anchor within it."

The name "Providential Channel" remains on charts to this day; but it was not until 1893 that Captain Wharton,

by publishing Cook's Log, gave Cook's eloquent words to the world.

Still threading his way and naming places on the mainland until he reached Cape York, Cook entered the Endeavour Straits "in great hopes that we had at last found a passage in the Indian Seas," and "confident that the eastern coast of Australia (from lat. 38° S.) was never seen or visited by any European before us; and, notwithstanding I had in the name of His Majesty taken possession of several places upon this coast, I now once more hoisted English colours, and in the name of His Majesty King George the Third took possession of the whole eastern coast from the above latitude down to this place by the name of New South Wales,⁸ together with all the bays, harbours, rivers, and islands situated upon the said coast, after which we fired three volleys of small arms, which were answered by the like number from the ship."

Having satisfied himself that he had "an open sea⁹ to the westward" and that he had thus been "able to prove

⁸ The Admiralty copy and Her Majesty's copy of Cook's journal include the word "South," which was not contained in the copy in the hands of Mr. Secretary Stephens.

⁹ Though the main passage now bears the name of Torres, Cook called his own passage Endeavour Strait, knowing that he had passed between New Guinea and Australia. When Torres passed he supposed that the land he saw at Cape York was an island, and that there were more islands to the southward. Cook was therefore the real discoverer, for only he discovers who proves. Mr. Major ("Early Voyages," &c.) says that when, at the capture of Manilla by the English in 1762, it was found that Torres, in sailing along the south coast of New Guinea, had unwittingly passed through the strait, "Dalrymple paid a fitting tribute" to Torres by giving his name to the strait, "which it has ever since retained." It is to be feared that Alexander Dalrymple had a meaner motive. He had applied for the command of a vessel sent for the purpose of obtaining observations of the transit of Venus in 1769, and Cook had been preferred. With "Cook's Voyages" a large map, "by Lieutenant H. Roberts, R.N.," was published in 1785. In that map the name of Torres was not used; and it is strange that the Admiralty sanctioned (if indeed they ever formally sanctioned) the cancelling of the honour acquired by Cook. Mr. Major was aware of Dalrymple's injustice to Cook, for in his "Discoveries of Prince Henry the Navigator" (London, 1877) he says "it is greatly to be regretted that Dalrymple . . . hydrographer . . . who panted for the glory of discovering a great southern continent, should have allowed his jealousy of Captain Cook's appointment to the *Endeavour* to lead him into an injurious insinuation that the great captain's discoveries on the coast of New Holland were the result of his acquaintance with one of pre-existent maps." Perhaps it is now too late to remedy the

that New Holland and New Guinea are two separate lands or islands, which until this day hath been a doubtful point with geographers," Cook proceeded to New Guinea, having given a heritage to his countrymen beyond the power of a Kaiser to bestow. Modestly chronicling his doings at New Guinea, Savu, Batavia, and the Cape of Good Hope, Cook concluded his narrative by saying that on the 12th June, 1771, "we passed Beachy Head; at noon 'we were abreast of Dover;' on the 13th we anchored in the Downs; and soon after I landed in order to repair to London."

The formal act of taking possession of New South Wales produced no immediate results. America was yet English. The baleful stars of Grenville and North had infected the atmosphere of the government, but there might yet have been a lustration. In 1765 the accursed Stamp Act was passed; doomed to breed strife and hatred between England and her children. But the genius of Chatham, the wisdom of Camden, and the eloquence and vigour of Burke and Barré were arrayed against Grenville and his fatuous majority; and sanguine men might still have hoped that the triumph would be on the side of the wise; that America would remain a friendly gathering-ground for Englishmen seeking their fortunes in emigration; that so great a crime as the violent severance of her colonies would not be perpetrated by English statesmen in the name of England. The Stamp Act was indeed repealed in 1766, but a declaratory Bill was passed which neutralized the effect of the repeal.

Before Cook had returned from New South Wales, Lord North was minister, and maintenance of the tea-duties led

injustice done to Cook by the jealous hydrographer. It is therefore more incumbent upon the historian to point it out. How little the maps of the sixteenth century could have aided an explorer Mr. Major himself shows. The Dauphin map (1530) is extolled as laying down the east coast of New Zealand. But it makes the land continuous from the longitude of New Zealand to Cape York in Australia. Moreover, it does not show New Guinea. In one of the maps of the period made at "Dieppe par Nicolas Desliens, 1566," and preserved at the Bibliotheque Nationale, Paris, the same features occur, and between Java La Grande or Australia (which is represented as extending far southward of the latitude of Cape Horn), and the Cape of Good Hope, a large island is shown, occupying about seven degrees of longitude and nearly five of latitude. On the principle of *omne ignotum pro magnifico* it is appropriately styled "Isle des geantz." Perhaps Swift had an eye upon this map in satirically choosing the same place for his Lilliput.

to the severance of the American colonists from their kindred. Vainly did Chatham urge: "You must go through the work; you must declare you have no right to tax—then they may trust you—then they will have some confidence in you." By a bitter irony of fate, within a few miles of a place called "Concord," the first fratricidal blood was shed in America in 1775; and on the 4th July, 1776, the Declaration of Independence was agreed to in a congress of representatives. Forced on by events, Washington and his friends, who at the commencement of the struggle desired only to restore the ancient state of things, were committed to that absolute severance of the colonies which England's enemies and the seditious among her subjects had desired from the first. French aid, French intrigues, Spanish and Dutch coalitions, an armed neutrality in Russia, without doubt hastened the end, but no earnest lover of England or America could have hoped for any good result after blood had been shed in such a cause. In 1783 the people of England paid the price for having yielded to ill-advice, and the disaffected colonies were recognized as sovereign states. With 1783 also came a change in the internal government of England. The younger Pitt, who had sympathized with his father's patriotic protests against ill-dealing with America, was called to the helm.

Little had been added to the knowledge obtained by Cook in 1770, as to Australia. Captain Furneaux, commanding the *Adventure*, being separated from Cook's ship, the *Resolution* (on Cook's second voyage), visited and explored the east coast of Van Diemen's Land, in 1773, but failed to discover that there was a strait between that island and the mainland. Cook himself (on his third voyage) visited Van Diemen's Land in 1777. He remained several days in Adventure Bay, and described the land, the vegetation, and the natives whom he saw, and whom he did not ill-treat.

These visits may have caused the statesmen in England to look with eyes of ownership on the lately-found lands. The attention of the French, however, had been invited also, and it is probable that the English government were partly actuated by a desire to forestall the French, who as *early as 1772* sent two ships to explore in the South Seas.

Had the French founded a colony it is not probable that under their management it would have prospered; and if it had, it would, in the ensuing wars, have fallen a prey to the English. A careful study of published and unpublished contemporary documents leaves no doubt as to the fact that the English were always on the alert to keep the French from their new South Land.

The disposal of convicts was, without doubt, one element in guiding the government to the colonization of Australia.

Transportation to the States in America was rendered impossible by the war in 1775. Precise statistics as to the numbers transported thither between the years 1619 and 1784 cannot now be obtained; but an official estimate made in 1790 stated the "mercantile returns" as £40,000 per annum, "about 2000 convicts being sold for £20 each." An Act (4 Geo. IV, c. 2) explains this strange process. The court, when sentencing prisoners, was empowered to "convey, transfer, and make over such offenders to the use of any persons contracting for their transportation to them and their assigns for the term of seven years." Accordingly the "contractors" sold the prisoners in the colonies to settlers, who became the recognised "owners or proprietors" of their fellow-countrymen for a term of years. The Home government thus strove to wash its hands of responsibility, the contractors made more or less profit out of their brethren, and the colonists obtained labourers more or less valuable.

When the American Revolution ground these arrangements to powder so far as the United States were concerned, the English government sought relief from the accumulation of convicts by sending some of them to Africa.

It appears from a paper submitted to the English government in 1783 (when Fox and North were in power) that, in 1775 and 1776 746 convicts were sent to Africa; that "334 died, 271 deserted no one knows where, and of the remainder no account could be given."¹⁰

¹⁰ "Historical Records of N.S.W.," vol. i, part 2, p. 7. Paper drawn up by Mr. J. M. Matra, who communicated also with members of the Pitt ministry at later dates. Like many framers of plans Matra was inaccurately speculative. His proposal was to deport American loyalists to Australia, and he declared that "a sum not exceeding £3000 will be more than adequate to the whole expense of Government."

These disastrous, if not shameful, results without doubt influenced a committee of the House of Commons, appointed in 1777, in resolving—"That the plan of establishing a colony or colonies in some distant part of the globe, and in new discovered countries, where the climate is healthy, and where the means of support are attainable, is equally agreeable to the dictates of humanity and sound policy, and might prove in the result advantageous to navigation and commerce."

A second resolution was to the effect that it might be useful so to alter the laws relating to transportation to colonies and plantations in America, as to "authorize the same to any part of the globe that may be found expedient."

Sir Joseph Banks, moreover (Cook's fellow-voyager), testified before a committee of the House of Commons in 1779¹¹ that in his opinion "the place best adapted" for a settlement whither convicts might be transported was Botany Bay. He furnished particulars as to the needs of such a settlement with regard to food, implements, seeds, tools, &c.; and "being asked whether he conceived the mother country was likely to reap any benefit from a colony established in Botany Bay, he replied—"If the people formed among themselves a civil government, they would necessarily increase, and find occasion for many European commodities; and it was not to be doubted that a tract of land such as New Holland, which was larger than the whole of Europe, would furnish matter of advantageous return."

Lord North's administration was not to see his Western crimes redeemed by any successes in the East, and it may well be conceived that while war was raging in 1779, neither he nor his colleagues cared for colonization at Botany Bay. Neither did his short-lived coalition with Fox after the fall of the Shelburne ministry yield any results from the report of the committee before which Sir Joseph Banks had given evidence. It was reserved for Pitt and his friends who took office with him in Dec. 1783 to confront the problem.

¹¹ "H. of Commons Journal," vol. xxxvii, p. 311.

In 1784 an Act was passed which empowered the Crown to appoint by Order-in-Council any place deemed fitting for the transportation of convicts to it.

For a brief time it was thought that Southern Africa would be selected, and Orders-in-Council on the subject were passed in 1785.

A ship (the *Nautilus*) was sent to explore the African coast, but the report was to the effect that it was unfit for settlement. A discussion took place in the House of Commons on the subject (April, 1785). Burke assailed the project as cruel, and Pitt recommended him not to make statements "without any better authority than report." Let him wait for the returns called for.

(Such was the report made in the days when Parliamentary reporting made no pretensions to verbal accuracy.)

Ere long the occupation of New South Wales was resolved upon by Pitt's ministry. Orders in Council were passed, and within three years of his accession to office the plan of colonization was matured. The name of Thomas Townshend (Lord Sydney, connected by marriage with Pitt's family) was coupled with the scheme under which that plan was matured; Lord Sydney being the Secretary of State immediately charged with carrying it on. A scheme so vast in importance and so onerous in execution must nevertheless be credited to the head of the ministry of the day, without whose approval and co-operation Lord Sydney could have neither originated nor carried it out, whatever he might have suggested. It is pleasant to think that as he had joined the elder Pitt in denouncing the American war, he may, with the younger, have hoped to redress in the south the misfortunes of the west. That they had some other motive beyond the mere removal of convicts is apparent to those who reflect that there were many nearer places to which convicts could be sent at less expense, and that efforts were made as soon as possible to induce free settlers to make Australia their home. That their motives were not sufficiently appreciated may be inferred from the fact that they were taunted with having created a settlement which would be a perpetual drain upon the mother-country for a supply of food.

In 1789, a work published by subscription (by Stockdale), and dedicated to the Marquis of Salisbury (Lord Chamberlain of the Household), professed to make public all that was known of "the settlement at Sydney Cove," and to be "compiled from authentic papers obtained from the government departments." The subscription list included the names of Pitt the Prime Minister, Addington the Speaker, and many other members of Parliament, and it may fairly be assumed that the work reflected the opinions of the day as to the formation of the settlement. It stated that the expedition was "occasioned by motives of legislative policy, carried on by public authority, and concluded by a fixed establishment in a country very remote;" that the discovery of the east coast by Captain Cook gave the English the decided title of "prior discovery;" and that this, with the favourable accounts of the east coast as compared with other portions of Australia, decided "the choice of the British government in appointing a place for the banishment of a certain class of criminals;" that "the cause of the determination to send out in this manner the convicts under sentence of transportation was, as is well known, the necessary cessation of their removal to America, and the inconveniences experienced in the other modes of destination adopted after that period." Between transportation to America, and transportation to Australia, there was, however, a wide distinction. Convicts sent to America were conveyed by contractors who parted with them for a consideration to the colonists, and "were obliged to prove, by certificates, that they had disposed of the convicts according to the intention of the law." In Australia there were no colonists craving for labourers, and the government were compelled to establish a society in the first instance. Of this society in one aspect the governor might be looked upon as having been the head gaoler, but in another as the counsellor and patriarch. All laws and regulations, all care and providence for the well-being and sustenance of the infant community flowed from him.

Men in small states exhibit the same wants and require the same assistance and control as they do in large ones; and where everything had to be provided in the first *instance by the government* and every subsequent enterprise

needed the fostering hand of the governor in promoting agriculture and the arts which sustain life, it must be confessed that man was brought face to face with an experiment of which there was no previous example, and the difficulties of which were enormously augmented by remoteness from the mother country. His was not the task of Cortes or Pizarro—to conquer and control a civilized community by force of arms. Nor had a colony been previously founded in the manner now to be attempted.

To found a colony after the manner of the Greeks, was for members of any state to migrate to a chosen site. They carried with them their slaves, numerous enough to prevent scarcity of labourers in the new land, and they were not far removed from the parent state.

To establish a military colony by dispossessing or enslaving the previous inhabitants, and by throwing over the newcomers the awful ægis of Roman protection, was merely to give to the latter with a high hand the accumulated products of previous generations of labourers and capitalists.

To neither of these methods was there anything analogous in the experiment undertaken by the ministry of Pitt. Labour was to be compulsory, but it was that of criminals under sentence. There were no fruits of other men's labour to appropriate. To preserve peace and secure order, a military force was to be maintained;¹² but it was to be maintained under governors, to whom was delegated the task of making the settlement a nucleus from which other settlements should swarm, so that the new South Continent might become the undisputed possession of the British Crown, and the future home of millions of the British people.

The problem before Pitt and his colleagues was a mixed one. He had to secure the new land for his country. He

¹² Dalrymple, the hydrographer, denounced the colony. The government would, he said, be utterly unable to control the convicts, who would, as buccaneers, become the terror of the seas, and a disgrace to England and the world. In a philanthropic spirit "the benevolent Howard," seeing the miseries of convicts in the gaols and hulks, deplored that penitentiaries were not built at Islington, and that the designs of himself and Dr. Fothergill had been defeated by those who "adopted the expensive, dangerous, and destructive scheme of transportation to Botany Bay."—*Memoirs of John Howard the Philanthropist*, p. 533. London, 1818.

wished also to provide a place for the banishment of criminals. The restless energy with which fresh points were from time to time occupied under orders from England shows that the mere providing of a gaol was not the sole motive for the founding of New South Wales. Moreover, the commission of the first Governor gave him command of the whole east coast of Australia, a space far too wide to be required for the holding of a few convicts. That Pitt's measures have resulted in the securing of the whole continent is a fact which no one can deny. Whether other measures would have insured a similar result may be speculated upon, but cannot now be proved; neither can it be affirmed that for such other measures Pitt could have obtained the sanction of Parliament. For the politician in 1786 the question was—If this be the only practicable way of appropriating these new lands, is it, on the whole, wise so to secure them? Assuming that voluntary emigrants will go to the United States or to Canada, rather than to the antipodes, shall we, by means of transportation, insure the forced occupation of these new realms?

Weighing these considerations, it may be doubted whether the easy censure of critics, after the fact, who condemn the institution of transportation, is altogether justified, unless the objector will accept the condition that, unless it could be colonized without transportation, Australia ought not to have been colonized at all. Yet it must be owned that Bacon was right when he said that it was "a shameful and unblessed thing to take the scum of the people, and wicked and condemned men, to be the people with whom you plant; and not only so, but it spoileth the plantation; for they will ever live like rogues, and not fall to work, but be lazy and do mischief, and spend victuals, and be quickly weary, and then certify over to their country, to the discredit of the plantation."

Of all these evils, which Bacon foreboded, Australia has been the scene. After-generations reaped the crop sown in 1788. But the House of Commons in 1787 was not as wise as Bacon, and had he then been in it he might have yielded to the necessity of securing the land in the first instance by transporting convicts to a place so distant that no colonists *would go thither* at their own expense. The ancient mode

of colonization could not be practised by those who could not carry with them slaves outnumbering ten times the citizens themselves.

The theory of Edward Gibbon Wakefield had not been propounded in the time of Pitt; and when it was made known, half a century later, it was scarcely understood, and only half-heartedly embraced by those who were unable to confute its propounder. To this day it is sometimes urged that its object was to do what Wakefield always denied to be even a necessary part of it. It is spoken of as if its main intention was to sell land at a high price, in order to create an immigration fund with which to import labourers and depress the cost of labour. Wakefield, on the contrary, declared that his object was to establish "a sufficient price" to prevent the unwholesome distraction of labourers from the employment most useful to the colony by the facilities afforded them in new countries to become prematurely land-owners and employers themselves.

"The putting of money," he says,¹³ "into the colonial exchequer would not have been designed by the government. The getting of money by the government would be the result of selling land instead of giving it away; but as the only object of selling instead of giving is one totally distinct from that of producing revenue—namely, to prevent labourers from turning into landowners too soon—the pecuniary result would be unintended, one might almost say unexpected. So completely is production of revenue a mere incident of the price of land, that the price ought to be imposed, if it ought to be imposed under any circumstances, even though the purchase-money were thrown away. This last proposition is the sharpest test to which the theory of a sufficient price can be submitted; but if it will not stand this test, if the proposition is not true, the theory is false. Assuming it not to be false, the money arising from the sale of land is a fund raised without a purpose, unavoidably, incidentally, almost accidentally. It is a fund, therefore, without a destination. There would be no undertaking, no tacit obligation even, on the part of the government to dispose of the fund in any particular way. . . . But if the object were the utmost possible increase of the population, wealth, and greatness of our Empire, then I can have no doubt that the revenue accruing from the sale of waste land would be called an emigration fund, and be expended in conveying poor people of the labouring class from the mother country to the colonies. . . . Altogether the effect of devoting the purchase-money of land to emigration would be to accelerate greatly the rate of colonization, and to augment more quickly than by any other disposition of the fund, the population, wealth, and greatness of the Empire."

But to commence colonizing under Wakefield's theory, there is needed a desire on the part of many persons to

¹³ "A View of the Art of Colonization." (London, 1849.) E. G. Wakefield.

become owners of land in the new territory. We know that no such desire existed as regarded Australia when Pitt resolved to occupy the scene of Cook's discoveries. The intention being good, he deserves well of his country who avails himself of the only practical means of accomplishing his purpose, and there can be no doubt that Pitt's object was patriotic.¹⁴

A colony such as the world had never before seen had been rent from England in spite of warnings from his father. A jealous continent was banded together to aid the insurgent colonists; only the kindred race of the Germans abstaining from unfriendliness. The sun of England was said to be setting, her humiliation complete. Submitting herself not to the gusts of popular passion, nor to the exigencies of party, but to the genius of a man who rose above party and dared to keep his equal way despite the clamour of the crowd, England was able, before the federation of the United States was completed in 1789, to found a new state into which, within three generations, her children were to be absorbed by millions, and where they may yet flourish, as her children, till some ill-omened North or Grenville shall be permitted, while public atten-

¹⁴ In the "History of N S.W. from the Records" the Editor devotes many pages to the disparagement of Pitt's claim to any credit for the settlement of Australia. He admits that "the proposal to occupy the territory necessarily required the sanction of the Prime Minister," but thinks that "there was nothing in it that appealed to his imagination or stirred the current of his ambition." He adds (p. 381) that "there does not appear to be any foundation for the idea, to which some writers have given expression, that the scheme for the settlement was matured by Pitt, still less that it originated with him in a patriotic desire to create new colonies in place of the old." The writers alluded to are not named, but surely they may urge that Pitt's object in adopting the scheme was patriotic, and that by adoption of it he founded a new state which nothing but wickedness or folly can detach from the United Kingdom. Mr. Barton hints in several passages that there was really no idea of founding an Australian colony as an equivalent for the states in America, but in one passage he generously proves that the idea existed. He quotes these lines published in 1786:—

"Let no one think much of a trifling expense;
Who knows what may happen a hundred years hence?
The loss of America what can repay?
New colonies seek for at Botany Bay!"

Assuredly the satirist of 1786 might have wondered if he had been told that in a hundred years a writer would assert that the satirist invented the "idea" in order to quiz it.

tion is otherwise engaged, to commit his country to the old course of folly; or until some colonial Cleon may, to effect his own mean purposes, succeed in inducing the colonists to sever themselves from their ancestral heritage.

Fervent aspirations are felt in the colonies as well as in England for a happy continuance of union. It should be easy to maintain what so many millions desire. But man is more potent for evil than for good. Representative assemblies tolerate any conduct of their leader until they have, for their own purposes, determined to be rid of him; and mischief is often done, of which few at the time approve, and which not many have thought about at all. We ought to be wiser than our forefathers by reason of their experience, but it is to be questioned whether we are. Nay, to the extent to which material science makes men proud, some of them are so much less wise than their forefathers, that they would plunge back into the moral chaos which preceded Christianity. A people which builds its hopes only on material progress may prosper for a time, but the severest punishment which can be dealt to it is to allow it to obtain its end. Without patriotism, without honour, and without real friends, it will sink into a state which will enable the strong man to take away the goods to obtain which it devoted its energies. *Evertere domos totas, optantibus ipsis, Di faciles.* Englishmen, at home or abroad, who love their country, cannot but tremble for her future, if they see patriotism discarded in favour of sordid calculations of gain. If to be cosmopolitan be to have no ties of natural affection, and if nationality is to be cast off as a worn-out garment unfitted for the nineteenth century, the creature which will be left will be but the dregs of an Englishman, and the citizen of the world will be of a lower order than one whose joys "imprint the patriot passion on the heart."

While the German race, our kindred of the past, have yearned so intensely for a United Germany, and have wreaked their yearning into deeds; while our immediate kindred at Washington have freely cast upon the national altar the wealth which their decriers taunted them for worshipping; while other nations give signs of similar fervour,—England has been openly counselled to throw off

her children, and her children are urged by the same advisers to abandon their allegiance. As yet the tempter has been rebuked and the shame avoided; but it was currently believed that had it not been for the efforts of a few, Mr. Gladstone's ministry were prepared to recommend disruption¹⁵ of the Empire, as a portion of the policy to which England was committed in 1869.

When the colonization of New South Wales¹⁶ was resolved upon, Lord Sydney was influential in selecting the first Governor. Trained to the sea, Arthur Phillip was successful in obtaining promotion, and after the peace of 1763 devoted himself to country pursuits. He was adventurous enough to offer his services to Portugal in her war with Spain, until the outbreak of war between England and France brought him back to active service in the English navy. After the peace of 1783 short time elapsed before, in 1786, he was appointed to the command of H.M.S. *Sirius*, and to lead the new band of adventurers. The powers to be conferred upon him were vast. The nature of the settlement was new; it consisted only of criminals and their custodians. A successful riot might overwhelm the government in a day, while months would elapse before the Governor could communicate with England.

Legislation was resorted to in order to convey new powers. Former statutes on the subject of transportation had legalized transportation, had empowered the Crown

¹⁵ Since the publication of the text in 1883, Mr. Gladstone has proved his callousness by proposing the disruption of the United Kingdom itself, and by denouncing the "blackguardism" displayed by Pitt in effecting the union of Ireland with England. When Lord Brabourne, in 1886, commented in *Blackwood's Magazine* on Gladstone's scurrilous reference to Pitt, Gladstone (compelled at the same time to admit "the fair and temperate tone of Lord Brabourne's article generally") wrote that "the mere phrase 'blackguardism' was never meant for publication."

¹⁶ Contemporary accounts dwell but little on the formation of the settlement. Lord Stanhope, in his "Life of Pitt" (vol. i., p. 338), says, however: "In this session of 1787 was passed the measure which laid the foundation of new colonies scarcely less important than those which we had recently lost. The want of some fixed place for penal exile had been severely felt ever since the American War, and the accumulation of prisoners at home was counteracting the benevolent efforts of Howard for the improvement of the British gaols. The discoveries of Captain Cook were now remembered and turned to practical account."

(24 Geo. III, cap. 56) "to appoint places within or out of His Majesty's dominions to which felons could be conveyed or transported," and had authorized a specified court "to order such offenders to be transferred to the use of any person or persons and his or their assigns, who shall contract for the due performance of such transportation." Conditional pardons were authorized. On condition of transportation offenders were to be transferred to contractors for the due performance of transportation; penalties were prescribed for attempts to rescue felons under care of contractors, and the penalty for a convict's return was death. One of the earliest statutes in 1787 (27 Geo. III, cap. 2) contains in three clauses the scheme for the new order of transportation and the constitution provided for the new colony. After reciting the provisions of 24 Geo. III, cap. 56, it declares that—

"Whereas His Majesty by two several orders bearing date respectively on the 6th day of Dec., 1786, hath judged fit by and with the advice of his Privy Council to declare and appoint the place to which certain offenders named in two lists to the said several Orders-in-Council annexed should be transported for the time or terms in their said several sentences, mentioned to be the eastern coast of New South Wales, or some one or other of the islands adjacent, and whereas Sir James Eyre knight and Sir Beaumont Hotham knight, two of the barons of His Majesty's Court of Exchequer of the Degree of the Coiffe, . . . did (30th Dec. 1786) order that the said several offenders in the said two lists of the said several Orders-in-Council annexed should be transported to the place and for the time and terms aforesaid, and whereas it may be found necessary that a colony and a civil government should be established in the place to which such convicts shall be transported, . . . and that a Court of Criminal Jurisdiction should also be established within such place as aforesaid with authority to proceed in a more summary way than is used within this realm according to the known and established laws thereof—

"Be it therefore enacted . . . that His Majesty may by his Commission under the Great Seal authorize the person to be appointed Governor or the Lieutenant-Governor in the absence of the Governor of such place as aforesaid to convene from time to time as occasion may require a Court of Judicature for the trial and punishment of all such outrages and misbehaviours as if committed within this realm would be deemed and taken according to the laws of this country to be treason or misprision thereof, felony or misdemeanour, which Court shall consist of the Judge Advocate to be appointed in and for such place, together with six officers of His Majesty's forces by sea or land, which Court shall proceed to try such offenders by calling such offenders respectively before that Court and causing the charge against him, her, or them respectively to be read over; which charge shall always be reduced into writing and shall be exhibited to the said Court by the Judge Advocate, and by examining witnesses upon oath to be administered by such Court, as well for as against such offenders respectively, and afterwards adjudging by

the opinion of the major part of the persons composing such Court that the party accused is or is not, as the case shall appear to them, guilty of the charge, and by pronouncing judgment therein (as upon a conviction by verdict) of death if the offence be capital, or of such corporal punishment not extending to capital punishment as to the said Court shall seem meet; and in cases not capital by pronouncing judgment of such corporal punishment not extending to life or limb as to the said Court shall seem meet."

Clause 2 provides that the provost-marshal or other officer to be appointed for that purpose by such Governor shall cause the execution of such judgment, according to the warrant under hand and seal, and not otherwise. "Provided always that execution shall not be had or done upon any capital convict or convicts unless five persons present in such court shall concur . . . until the proceedings shall have been transmitted to His Majesty and by him approved."

Clause 3 enacts that the said court shall be a Court of Record, and have all powers incident thereto.¹⁷

Phillip's commission (of 2nd April) gave him power to pardon and reprieve, to "execute martial law in time of invasion or other times when by law it may be executed," to raise monies by warrant, to grant lands, &c.

Surely more vast powers were never conferred upon any individual by an Act of a legislature and the fiat of a king; and yet there is to be traced some tenderness of the life

¹⁷ Phillip's first commission as Governor was dated 12th Oct., 1786 (nearly two months before New South Wales was named by an order as a place to which convicts might be sent), and it made him Governor of all the "territory called New South Wales." An ampler commission defining his powers was issued on the 2nd April, 1787. On the same day Letters Patent constituting the Courts of Law were issued, the Criminal Court being specially authorized to proceed more summarily than was lawful in England. On the 5th May, Letters Patent constituting the Vice-Admiralty Court were issued. The composition of the Court was fixed. The Governor, the Lieutenant-Governor, the Commissary, the Surveyor of Lands, and certain captains and lieutenants were named. An order respecting "Trial of Pirates," made on 20th April, had similarly enumerated the commissioners, thus:—"Arthur Phillip, Esq., Governor, or the Governor for the time being; Robert Ross, Esq., Lieut.-Gov., or the Lieut.-Gov. for the time being; Andrew Miller, Esq., Commissary of Stores and Provisions (or, &c.); Augustus Alt, Esq., Surveyor of Lands (or, &c.); John Hunter, Esq., Captain of the *Sirius*; William Bradley, Esq., 1st Lieutenant; Philip Gidley King, Esq., 2nd Lieutenant; George William Maxwell, Esq., 3rd Lieutenant; Henry Lidgbird Ball, Esq., Lieut. and Commander of the *Supply*, armed tender; and all other captains and commanders of Her Majesty's ships who are, or shall be, within the Admiralty jurisdiction of New South Wales."

and limb of the British subject. Among a herd of criminals *divisos toto orbe* it was not safe to leave the Governor hampered by quirks and quibbles and forensic delays. He was therefore authorized "to proceed in a more summary way than is used within this realm according to the known and established laws thereof." The Governor was also the sole chooser of his new Court of Judicature, and had power to vary its constitution so long as its members were officers of the sea or land forces; and the court had full jurisdiction over life, but no sentence short of capital punishment was to endanger life or limb. In case of emergency, capital sentences could be carried out without limitation; but the emergency was to be such as to produce almost entire unanimity in the court, or else the sentence was to be held in abeyance until approved by the king.

There were means of examining the manner in which the trust of the Governor was fulfilled, but it was "broad and general as the casing air." In action he was a despot, in accountability he was the officer of an exacting state—a state which had taken the life of a high officer for a presumed delinquency which had spared the ships of an enemy. He was not only vicegerent, charged with the awful power over life and death; on him fell also the care of the infant settlement in its most trivial affairs. For him it would be to negotiate bills on England, to influence shipments of food and necessaries, to distribute land, to foster agriculture, to settle disputes. He was himself the local Court of Appeal. From no petty trifle could he escape, from no high duty could he shrink. The wolf of necessity, or the genius of duty, was ever with him.

For such a task Arthur Phillip was selected by the ministry. The MSS. in the Record Office in London prove that his labours began before his departure from England, convey information as to the manner in which the expedition was officially planned and matured, and indicate some reluctance at the Admiralty as to the appointment of Phillip. Letters from Whitehall informed the Treasury (Aug., 1786) that crowded gaols, dangers from escapes and "from infectious distempers which may hourly be expected to break out amongst convicts," induced His Majesty to command (18th Aug.) that "measures should immediately

be pursued for sending out of this kingdom such of the convicts as are under sentence of transportation." The *Nautilus* sloop, having explored the southern coast of Africa, between 15° 50' south and 33° south, and found it barren and unfit, His Majesty "has thought it advisable to fix upon Botany Bay as a place likely to answer" the required purposes. Seven hundred and fifty convicts, and three companies of marines, were to be sent with provisions for two years, and it was thought that "perhaps two hundred females" might be "procured from places in the neighbourhood as companions for the men." Cattle, pigs, and seed grain were to be obtained at the Cape of Good Hope, and "every possible expedition" was to be used.

On the 31st Aug. further instructions reached the Treasury from Lord Sydney, to whom Lord Howe wrote (3rd Sept., 1786), "I cannot say the little knowledge I have of Captain Phillip would have led me to select him for a service of this complicated nature, but as you are satisfied of his ability, and I conclude he will be taken under your direction, I presume it will not be unreasonable to move the King for having His Majesty's pleasure signified to the Admiralty." The marines were told that three years would probably elapse before they would be relieved. Phillip asked that ten wives in each company of marines might be allowed to go with their husbands, and (2nd Dec.) "feared much discontent in the garrison if there is no allowance of wine or spirits (to which they have been accustomed) until spruce beer can be procured for them."

The Prime Minister's hand is seen even in the management of details. The paramount control of his advice can only be inferred. A memorandum still preserved in the Record Office in London conveys a promise (13th Dec.) from Sir Charles Middleton to "furnish Mr. Pitt with the information required as far as the state of the business will admit *as soon as possible, probably this evening or early to-morrow.*" On the 28th Dec. a secretary at the Admiralty sent, for "the information of Mr. Pitt," an estimate of the cost of the marines for three years—£45,752.¹⁸

¹⁸ In the "Annual Register" for 1791 the actual expenditure on the First Fleet was set down as £81,899 11s. 6d., which had all been paid. *Tools and implements of husbandry* had cost £3056 8s. 7d.

Phillip showed in London his care for the natives of Australia. He hoped to "furnish them with everything that can tend to civilize them, and to give them a high opinion of their new guests." Convicts should have no intercourse with them, for if they had, "the arms of the natives will be very formidable in their hands, the women abused, and the natives disgusted." Convicts should "ever remain separated from the garrison and other settlers that may come from Europe, and not be allowed to mix with them even after the seven or fourteen years for which they are transported may be expired." At a later date (March, 1787), he wrote—"Any man who takes the life of a native will be put on his trial the same as if he had killed any of the garrison. This appears to me not only just, but good policy." He descanted on the administration of justice and capital punishment. A strange notion was discussed, viz., sending murderers and those guilty of unnatural crimes to an island where cannibalism existed, and might make an end of them; but as to his own territory, the laws of England would, of course, be introduced—"and there is one that I would wish to take place from the moment His Majesty's forces take possession of the country: that there can be no slavery in a free land, and consequently *no slaves.*"

From Oct., 1786, to May, 1787, Phillip corresponded with various departments, as to supplies, appointments, dismissals, procurement of flax from New Zealand and bread-fruit from the Friendly Islands,¹⁹ the power of changing the "species of provisions" to be issued in the colony, of suspending and sending home any officer who "from his situation cannot be tried by court-martial," trials by courts, and other questions.

"It must be left to me to fix on Botany Bay if I find it a proper place; if not, to go to a port a few leagues to

¹⁹ Pitt's hand is visible on this subject. On the 9th March one Mr. Vaughan writes:—"Mr. Pitt having informed Mr. Long that every opportunity should be used to collect the bread-fruit plant in the South Seas, and afterwards to forward it to the British West India islands, I beg, &c. . . . (the Chairman of the East India Company has been instructed to use the opportunity of his next conference with Mr. Pitt to ask for the attention of the Government on this subject on behalf of the East India Company.)"—Record Office MSS.

the northward, where there appeared to be a good harbour and several islands." Lord Sydney replied that there could be no objection to Phillip establishing the principal settlement where he thought fit, "but at the same time you must understand that you are not allowed to delay the disembarkation of the establishment upon the pretence of seeking a more eligible place than Botany Bay." On the 12th March, Phillip wrote:—

"I am prepared to meet difficulties, and I have only one fear. I fear, my lord, that it may be said hereafter, the officer who took charge of the expedition should have known that it was more than probable he lost half the garrison and convicts crowded and victualled in such a manner for so long a voyage; and the public, believing it rested with me, may impute to my ignorance or inattention what I have never been consulted in, and which never coincided with my ideas;—to avoid which is the purport of this letter, and I flatter myself that your lordship will hereafter point out the situation in which I have stood through the whole of this business, should it ever be necessary."

A glimpse at some of the obstacles encountered is afforded by a note from Phillip urging Under-Secretary Nepean to apply for "such forms as are issued for holding Vice-Admiralty Courts." . . . "If I apply it is more than probable that I may not succeed." Nevertheless he fared better than he would if Lord Sydney had not been his patron, and Nepean had not been his friend. He pleaded earnestly for a supply of essence of malt or other anti-scorbutic. "The situation in which the magistrates sent the women on board the *Lady Penrhyn* stamps them with infamy (the poor creatures were)—almost naked and very filthy."

On the 27th April Phillip received his formal commission and instructions,³⁰ and on the following day a dormant commission naming Captain J. Hunter as successor in case of Phillip's death or absence.

A source of lasting trouble revealed itself amongst the guards of the convicts while the fleet was slowly receiving its heterogeneous freight. Lord Sydney told Phillip (5th

³⁰ Dated 25th April.—They enjoined him to procure seeds and live-stock at ports on the way, to disembark at Botany Bay, and, "as soon as circumstances will admit of it, to send a small establishment 'to Norfolk Island,' to secure the same to us, and prevent it being occupied by any other European power." Norfolk Island was discovered by Captain Cook in 1774.

May) that it was "not thought advisable that the marines should be constantly supplied with wine or spirits," but that as on special occasions such addition to rations might be required, Phillip might at Rio Janeiro or the Cape of Good Hope obtain, through the commissary, bills for £200 to purchase wine or spirits, but "no further quantity will hereafter be allowed for that purpose." This unwise relegation, to a distant officer in time of difficulty, of a question which ought to have been decided at head-quarters, where there was a possibility of supplying the places of insubordinate marines, was rendered less immediately harmful by the marines themselves. Some of them had petitioned in April against being "cut off from having any allowance of grog at their destined port, Botany Bay, contrary to the promise made to them at head-quarters," &c., and on the 4th and 7th May others in several of the ships, then at the Mother Bank, reiterated the complaint, which Lord Sydney set at rest, for a time, on the 10th May, by writing that, "wishing to remove any possible cause of dissatisfaction," he extended the permission to the three years contemplated, but "no further supplies of that sort will be allowed." Thus, unpresciently, did he write on a question which was to rack and disgrace the new settlement for years.

The "first fleet," under which designation Phillip's squadron became a household word for generations in Australia, began to assemble at its appointed rendezvous, the Mother Bank, about the 16th March, 1787.²¹ The man-of-war *Sirius* conveyed the Governor, and the armed tender *Supply* accompanied him. Three storeships, the *Golden Grove*, *Fishburn*, and *Borrowdale* were freighted with provisions, implements of husbandry, and clothing for the convicts. Six transports carried the convicts, and a guard of marines accompanied each transport. It appears from a return dated 15th April, 1787,²² that the total number of souls in the fleet was—of officers, marines (with

²¹ Some of the statements in the text are quoted from "Phillip's Voyage." Stockdale. London: 1789. The *Sirius* had formerly been a store ship named *Berwick*, and her name was changed when she was chosen for the expedition to Australia.

²² Historical Records of New South Wales, Vol. i, part 2, p. 79.

twelve children), 253; of convicts (with eleven children), 729.

On the 13th May the fleet sailed, accompanied by the frigate *Hyena*, deputed to attend it through the Channel, "the most difficult part of the voyage," and to return with despatches. She returned on the 20th, taking no "account of the state of the transports, for the sea at that time ran so high that the Governor found it difficult even to sit to write, and quite impracticable to send on board the several ships for exact reports of their situation, and of the behaviour of the convicts." In this short space of time, however, the convicts on board the *Scarborough* had formed a plan for seizing the ship, and two ringleaders, having been taken on board the *Sirius* for "proper chastisement," were removed into the *Prince of Wales*. An early chronicler expatiated upon the flourishing state of navigation which thus enabled England "without hesitation to send out a fleet to plant a settlement near the antipodes."

Phillip wrote (by the *Hyena*), "The provost-martial, who had not been seen for a considerable time before we sailed, is left behind; as it will be very necessary to have such an officer on the spot, I have ordered Mr. Henry Brewer to act as such, and shall be very glad if he is approved of."

Phillip touched at Teneriffe, to obtain water and vegetables. On the 5th Aug. the fleet anchored at Rio Janeiro. There Phillip received marked attention from the Governor, Don Lewis de Varconcellos, obtained provisions, procured tobacco and other seeds, orange and lemon trees, coffee, indigo, cotton, and other plants, and sailed away on the 4th Sept. Phillip's knowledge of Spanish was grateful to his hosts, and useful. Besides an official report (2nd Sept.), he wrote (to "My dear Nepean"): "At the Cape I shall have more time, for here, as the only one that understands the language, I have been obliged to be linguist and commissary."

On the 13th Oct. the fleet anchored at the Cape of Good Hope. The Dutch Governor hospitably entertained his visitors, and Phillip took in provisions and live stock. "The ships, having on board not less than 500 animals of *different kinds*, but chiefly poultry, put on an appearance

which naturally enough excited the idea of Noah's ark." On the 12th Nov. the ships left Table Bay. After much baffling wind, being only eighty leagues eastward of the Cape on the 25th Nov., Phillip left the *Sirius* and went on board the *Supply*,²³ hoping to examine the country at Botany Bay, and fix upon the best site for the colony before the arrival of the transports. Lieutenant P. G. King accompanied Phillip in the *Supply*, which reached Botany Bay on the 18th Jan., 1788. On the 19th the *Alexander*, *Scarborough*, and *Friendship* arrived, and on the 20th the *Sirius*, with the remainder of the convoy, the whole fleet having rounded Van Diemen's Land in their course.

Phillip was not satisfied with any site at Botany Bay, and on the 22nd he proceeded, with three boats, "to examine Port Jackson, a bay mentioned by Captain Cook, immediately to the north." Here all doubt and disappointment vanished. The prime necessity of a noble harbour for shipping was doubtless first in Phillip's thoughts, and such a harbour he said he found in "the finest in the world, in which a thousand sail of the line might ride in the most perfect security."

But no one ever entered Port Jackson—with its jutting promontories, its retreating coves, its fringe of shrubs and trees interspersed with brilliant flowers, its picturesque rocks, its apparently unending wealth and variety of shapes and windings, whether of water or of land—without feeling within him a spring of wondering pleasure. With such feelings the breasts of Phillip and his companions must have glowed. But work was his immediate object. He promptly examined the different coves, and selected one which he named Sydney Cove, after Lord Sydney, the Secretary of State. There he found a spring of water available for close-anchoring ships. Fresh from visiting Rio Janeiro, he yet told Lord Sydney: "This harbour is in

²³ Note.—This arrangement was anticipated in England. On the 5th May Lord Sydney (probably moved by Phillip) signified the King's pleasure that the Admiralty should "authorize Captain Phillip, upon his leaving the Cape of Good Hope, to proceed, if he thinks fit, to the said coast of New South Wales in the *Supply* tender, leaving the convoy to be escorted by the *Sirius* to the rendezvous which he may fix upon."

extent and security very superior to any that I have ever seen." On the 24th he returned to Botany Bay, noticing at sea two French ships, which he rightly concluded to be the discovery ships *Astrolabe* and *Boussole*, under La Perouse. On the 25th he sailed in the *Supply* to Port Jackson, ordering the remainder of the ships to follow on the 26th. On the 26th also La Perouse anchored with the *Astrolabe* and *Boussole* in Botany Bay, being offered assistance and information by the English.²⁴ On the same day Phillip displayed his colours on shore, assembled his officers "round the flagstaff, drank the king's health and success to the settlement, with all that display of form which on such occasions is deemed propitious," and founded the town of Sydney. Time and labour were required to effect the landing of the convicts, and the Governor was personally active in planning and in directing his subordinates.

On the 7th Feb., 1788, with due solemnity, he gathered his subjects on a space previously cleared. The military were drawn up under arms; the convicts were stationed apart. The Governor's officers surrounded him. The royal commission was read by the Judge-Advocate. The brief, but comprehensive, Act of Parliament already quoted was read aloud, with the letters patent empowering the proper persons to hold the courts sanctioned by the Act. "A triple discharge of musketry concluded this part of the ceremony, after which Governor Phillip advanced and thanked the private soldiers for their steady good conduct on every occasion," and then turned to his new subjects—the prisoners. He bade them recollect that already most

²⁴ Lieutenant P. G. King was sent (1st Feb.) by Phillip to Botany Bay to interchange courtesies with La Perouse, who had already visited many islands of the Pacific, Norfolk Island, and New Zealand. He said to King, "Enfin Monsieur Cook a tant fait, qu'il ne m'a rien laissé a faire, que d'admirer ses œuvres." The captain of the *Astrolabe*, De Langle, had been killed with thirteen others, of whom eight were officers, at the Navigator Islands. English convicts had asked La Perouse to carry them away (before King conversed with him), but he dismissed them with threats, and gave them a day's provisions to return with. La Perouse sailed from Botany Bay on the 10th March. Before he left there was a "quarrel with the natives." Firearms were used. "This," the official record says, "joined to the ill behaviour of some of the convicts, has produced a shyness on their parts which it has not yet been possible to remove."

of them had forfeited their lives to the justice of their country, yet by the lenity of its laws they were now so placed that by industry and good behaviour they might regain the advantages they had forfeited. They were now far from temptation. There was little to plunder, and amongst so small a community detection was certain. He could hold out no hope of mercy to the guilty, nor indeed to any offenders. "What mercy could do for them they had already experienced; nor could any good be now expected from those whom neither past warnings nor the peculiarities of their present situation could preserve from guilt." While offenders would be rigorously dealt with, good conduct would be rewarded. The tendency to profligacy he denounced as injurious to the settlement, and he promised countenance and assistance to those who, by contracting marriages, would manifest a desire "to conform to the laws of morality and religion."

The first public English speech on Australian soil was received with acclamation, and in the following week the Governor might feel the satisfaction of success, inasmuch as fourteen marriages then took place among the convicts.²⁵ In May, 1788, Phillip wrote: "The very small proportion of females makes the sending out an additional number absolutely necessary, for I am certain that your lordship will think that to send for women from the islands in our present situation would answer no other purpose than that of bringing them to pine away a few years in misery."

It is equally necessary and interesting to glance at the component parts of the new colony thus established. One thousand and thirty persons are said to have been landed, but this number differs from that stated in the return dated 15th April, 1787. Ten were civil officers; the military, including officers, were 212; accompanying the military there were wives and children, and other free persons considerably raised the free population. Deaths at

²⁵ In a despatch from the commissary at Sydney to Lt. Governor King at Norfolk Island, 5th June, 1789, the following droll passage occurs: "The convicts who are married here—I never alter their names. There would be no end to it. The names they were convicted by in England are the names they should go by here."

sea had reduced the number of convicts, and only about 700 were landed at Sydney. In guarding, controlling, and extorting labour from 700 prisoners the Governor had a task with which some men might have been content, his adult assistants being little more than 200 in number. But he had also a town to found, land to clear, seed to sow, and crops to wait for. The products of Rio Janeiro and the Cape of Good Hope were to be planted with careful hands, and the result awaited with anxious hearts. Meantime, with the future in his thoughts, there were houses or huts to be built to shelter the community, from which, as a whole, the Governor could expect little sympathy or genuine help. It is true that the number of men under long sentences of imprisonment was small, thirty-six being transported for life, twenty for fourteen years, and the remainder for seven years. Many of the latter class had passed through several years of their sentences, and might be looked upon as desirous to shake off in a new country the stain they had acquired in the old. No savages, however, were more reckless of anything beyond the humour of the hour than some British criminals; and such a class, though it bears mournful testimony to the truths which are taught from the pulpit, is as little careful to obey human laws as to think of the Divine. And yet even about the worst of our race there cling some traces of the image they have defaced. They form friendships, have like affections with other men, and will do acts of kindness which, measured by their means, would put to shame some charities which are extolled as munificent. It is not only amongst condemned criminals that may be found a roll of wrongs done or duties neglected. This army of convicts had formed friendships on its voyage amongst the mariners, and one of the earliest sources of trouble was the landing of the sailors from the transports, bringing spirits to carouse with their acquaintances among the prisoners. The consequences were debauchery and riot.

As early as 11th Feb. a court was assembled; one of the prisoners was ordered to receive one hundred and fifty lashes for an assault; another, for taking some biscuit from a comrade, "was sentenced to a week's confinement on bread and water on a small rocky island near the

entrance²⁶ of the cove." A third, sentenced to receive fifty lashes, was pardoned by the Governor. Before the end of the month a plot for robbing the provision store was detected, although at the time the quantity of provisions supplied was the same for soldier, officer, and convict. With but scant stores of food, and far from any port of supply, the Governor was bound at all risks, and for the sake of the convicts themselves, to guard with care the little he had. One man at once suffered death, and others were sentenced to banishment from the settlement.²⁷ On the following day the Governor, having made an example, pardoned some offenders, one of them on condition of his becoming the public executioner.

To conform to his special instructions, Phillip, within a few weeks of his arrival, deputed Philip Gidley King, second lieutenant of the *Sirius*, to establish a settlement at Norfolk Island. Phillip sent to Lord Sydney a copy of the instructions given to King, adding—"and I beg leave to recommend him as an officer of merit, and whose perseverance in that or any other service may be depended on."²⁸ King was instructed by Phillip to take measures

"for securing yourself and people, and for the preservation of stores and provisions, and immediately to proceed to the cultivation of the flax plant, growing spontaneously on the island, as also of cotton, corn, and other plants, with the seeds of which you are furnished, and which you are to regard as public stock, and of the increase of which you are to send me an account, that I may know what quantity may be drawn from the island for public use, or what supplies it may be necessary to send hereafter."

²⁶ Collins. The island was christened "Pinchgut" at once by the prisoners, and retained the name long after its origin had been forgotten.

²⁷ "Six men were condemned to death; one, who was the head of the gang, was executed the same day, the others I reprieved. They are to be exiled from the settlement, and when the season permits I intend they shall be landed near the South Cape. . . . The one who suffered and two others were condemned for robbing the stores of provisions the very day they received a week's provision. . . ."—Despatch from Phillip, 15th May, 1788.

²⁸ Phillip and King were old comrades. The latter served in various ships of war in the East Indies from 1770 to 1774, in North America from 1775 to 1779; obtained his lieutenantancy in the *Renown* in 1778; served in the Channel and at Gibraltar from 1780 to 1783, and under Phillip in the *Europe* from 1783 to 1785. Phillip wrote, privately, to Lord Sydney (July, 1788): "Lieutenant King, who is at Norfolk Island, is a very steady good officer. He, too, is cut off from all society, and is in a situation that will require patience and perseverance, both which he possesses, with

To enable King to administer the law, he was sworn in as a justice of the peace, but capital crimes were reserved for the sentence of the Criminal Court of Judicature at Sydney. The instructions given to King afford a clue to the conduct of Phillip at head-quarters. The nature of the soil, its fitness for various productions, the prevailing winds, the tides, the changes of season, were to be carefully noted. No decked boat but the one intrusted to King was to be allowed at the island, and

"if by any accident any vessel or boat that exceeds twenty feet keel should be driven on the island, you are immediately to cause such boat or vessel to be scuttled, or otherwise rendered unseviceable, letting her remain in that situation until you receive further directions from me. You will be furnished with six months' provisions, within which time you will receive an additional supply, but as you will be able to procure fish and vegetables, you are to endeavour to make the provisions you receive serve as long as possible. The convicts being the servants of the Crown, till the time for which they are sentenced is expired, their labour is to be for the public, and you are to take particular notice of their general good or bad behaviour, that they may hereafter be employed or rewarded according to their different merits. You are to cause the prayers of the Church of England to be read with all solemnity every Sunday, and you are to enforce a due observance of religion and good order, transmitting to me, as often as opportunity offers, a full account of your particular situation and transactions. You are not to permit any intercourse or trade with any ships or vessels that may stop at the island, whether English or of any other nation, unless such vessels should be in distress, in which case you are to afford them such assistance as may be in your power."²⁹

(12th February, 1788.)

Such was the spirit which guided Arthur Phillip in governing the new state committed to his care, and in instructing his subordinates; and though his care and valour may appear to the frivolous "a little out of fashion," it cannot be doubted that his manly sense of duty impressed itself strongly upon the frame of the colonial government, and continued amidst many changes and deflections to act

great merit in the service as an officer. As such I beg leave to recommend him to your lordship. The rank of master and commander he well earned in the late war, and I should be very happy if he now attained it through your lordship. . . . Of your lordship's friendship I have had proofs of which I retain a just sense. Add to the obligation, my lord, by believing that I merit the friendship you honour me with, and that I am, with esteem," &c.

²⁹ When King landed at Norfolk Island with his people, he wrote:—"I assembled all the settlement . . . I took possession of the Isle, *drinking* His Majesty, the Queen, Prince of Wales, Governor Phillip, and *success to the colony*, after which three cheers were given."

as a power upon the management of affairs long after Phillip had left the scene. The old saw "quantula sapientia gubernatur mundus" is daily proved to be true; but there is a compensating truth. When some good, great, or competent man has established the affairs of a state, or of a private undertaking, upon a firm foundation, his successors may, and often do, without genius or capacity, successfully control, on the system they find at work, matters which are in their scope far beyond the understanding of the new managers. A road may be difficult to make, but it generally requires no genius to keep it in repair. There may be traced in the early days of the Australian colonies an habitual outward respect for law, a deference to constituted authority, and an orderly behaviour, which would hardly have been looked for amongst those who formed the bulk of the original population, and the existence of which may be partly accounted for by the precepts and practice of the first Governor. It was his aim to make the colony self-supporting as soon as possible, but the soil near Sydney was rocky and sandy. This fact must have been plain even to those unskilled in agriculture, but the advantage of having his criminal subjects concentrated near his seaport and capital would no doubt outweigh, in the Governor's mind, the objections arising from poverty of the soil. In spite of all difficulties, however, experiments were made in various localities. Parramatta (called at first Rose Hill, before the native name was known to the Governor) was the first place at which farming on any considerable scale was attempted. There, four years after the foundation of Sydney, more than 1700 acres were in cultivation. It must excite a smile to reflect that the agricultural settlement at Norfolk Island in 1791 exceeded that at Parramatta. There were then at Parramatta thirty-five grantees, holding in their several names a total of 1640 acres. At Norfolk Island there were fifty-two grantees, holding amongst them 2620 acres. All but one of the Parramatta settlers were convicts. Only ten at Norfolk Island were convicts, the remainder being marines or sailors. The free settlers at Norfolk Island held 60 acres each, the convicts 10. The one free settler at Parramatta was taken to the colony as agricultural superintendent. He held 140 acres. The

convict settlers held farms of various areas, ranging from 70 to 30 acres, while one was limited to 20.

Naturally it was an object of intense anxiety with Phillip to supply his community with food;³⁰ but with roads to make, wharves, barracks, and houses to build, live stock to breed, and laws to administer, the progress of agriculture was slow. King was desired to report how soon Norfolk Island could maintain its inhabitants; whether it could absorb more; whether those already on the island were content to remain; what land was in cultivation (Aug., 1788); and generally on the state of affairs. He reported that in two years it might be hoped that the existing population might be maintained by home production; that with twenty more men and women he might make more rapid progress in clearing and cultivating; that he had not found one square yard naturally clear; that he had³¹ "two acres and a-half in barley, and one acre in garden ground; in Sept. I shall have an acre in Indian corn and rice;" that there was no safe anchorage, and that vessels were compelled to remove to the lee side of the island as the wind changed; that the productions of the island were timber for shipbuilding, spars, and, "when the flax-plant can be worked, a sufficiency of cordage for the navy of Great Britain, which needs no cultivation, as the island abounds with it, and fresh leaves shoot from the roots;" that everyone was satisfied, and no one wished to be relieved; that occasionally when men could be spared to row, a plentiful supply of fish was obtained. Rats had been so destructive as to tax the ingenuity of the settlers to thin and destroy them.

It was plain that whatever might be done in after-years, an immediate supply of food was problematical. By Dec. 1791, nearly 1000 bushels of wheat and 500 of maize were harvested at Norfolk Island; but before

³⁰ Sir J. Banks told the committee of the House of Commons (1779) that a settlement "must certainly be furnished on landing with a full year's allowance of victuals, raiment, and drink." Lord Sydney, in 1786, told the Lords of the Treasury that "according to the best opinions that can be obtained, it is supposed that a quantity of provisions equal to two years' consumption should be provided." ("Historical Records of N.S.W.," p. 15.)

³¹ "Historical Journal of Transactions at Port Jackson and Norfolk Island," &c. By John Hunter, R.N. London: Stockdale, 1793.

that time arrived the settlements both there and at Sydney were reduced almost to starvation. Grumblers in the House of Commons denounced the whole scheme of colonization as absurd, and prophesied that the colony could never be self-supporting, but would continually tax the mother-country to feed it.

Phillip was wise enough to urge that free emigrants should be encouraged to try their fortunes, bringing with them the capital so sorely needed, with which they might bring land into cultivation, and spread their stock over the hills where pasture was annually wasted.

Before all the stores had been landed from his ships he wrote: (9th July) "If fifty farmers were sent out with their families they would do more in one year in rendering this colony independent of the mother-country, as to provisions, than a thousand convicts." Meantime, on importations "alone I depend." On the 10th July (1788) he suggested that immigrant farmers should be

"supported by government for two or three years, and have the labour of a certain number of convicts to assist them for that time . . . The sending out settlers who will be interested in the labour of the convicts and in the cultivation of the country appears to me to be absolutely necessary. Lands granted to officers and settlers will, I presume, be on condition of a certain proportion of the land so granted being cultivated or cleared within a certain time, which time and quantity can only be determined by the nature of the ground and situation of the lands."

Officers cultivating lands must "likewise be allowed convicts, who must be maintained at the expense of the Crown."

Despatches from Whitehall (24th Aug., 1789)³² which authorized grants to non-commissioned officers and marines, also instructed Phillip that he might give to other settlers grants of land to "such amount as you shall judge proper," and assign to each grantee the service of any number of convicts he might "judge sufficient to answer their purpose," the settlers maintaining and feeding the convicts, and paying annual quit-rent on the lands after five years' occupation. Teachers of tillage would be sent. The Secretary of State "flattered" himself that after the autumn

³² Additional Royal Instructions accompanied these Despatches. They dealt with the subjects of grants of land; assignment of convicts to grantees; reserves; church reserves, &c. A table of fees (governor's; secretary's; surveyor's; auditor's; registrar's) was attached.

“very little further aid would be wanted” in the colony. The nine instructors were hired for three years at £40 a year with rations, and during their engagement were “not to be allowed to settle any land on their own account.” Between each of the grants made Phillip was to make reserves for the Crown. He was also to make reserves for fortifications, &c., for edifices, for “growth and production of naval timber, if there are any woods fit for that purpose,” and for church sites, with glebes of 400 adjacent acres, and 200 acres for school purposes.

Phillip did not receive these instructions until June 1790. They “shall be obeyed” (he writes), but if settlers could be sent out many difficulties would be “removed. . . . They appear to me to be absolutely necessary.” It would be little less than two years before the lands would “support the cultivators.”

Of the instructors sent only five had arrived, and “one only is a farmer; . . . the two gardeners are said to be lost, having left the ship (*Guardian*) in a small boat after that unfortunate accident which deprived the colony of those supplies which had been so liberally provided by the government.” In July, 1790, replying to inquiries as to when the colony would be able to support itself, he told the Secretary of State, “it will depend upon the numbers employed in agriculture.”

“ . . . Experience has taught me how difficult it is to make men industrious who have passed their lives in habits of vice and indolence. In some cases it has been found impossible; neither kindness nor severity have had any effect, (though in general the convicts) behave well. There are many who dread punishment less than they fear labour, . . . hence; my being so desirous of having a few settlers, to whom, as the *first settlers*, I think every possible encouragement should be given. In them I should have some resource. . . .”

Again (5th Nov., 1791) he represented the need of “a few honest, intelligent settlers. Precept has little effect, but example will do much.” In Dec., 1791, he deplored that he had received no answer as “to settlers being sent out, which is so much to be desired. I allude to settlers who are farmers or planters, and who are possessed of some property.”

The original instructions as to grants of land to settlers *and to non-commissioned officers and marines* did not

contemplate, in terms, grants to superior officers, and Phillip reported that several officers desired "grants of land, which they would cultivate for their own advantage while they remain in the country, and convey to children or others on return to Europe." He asked for "such information on this head as your lordship may judge necessary for my guidance."

The capable Henry Dundas conveyed the answer from Whitehall in July, 1792 (having previously ordered supplies of "grain and live stock" to be sent from the East Indies from time to time).

"In answer to the request made by several of the military and civil officers to have grants of land made to them which they may dispose of at their departure, I do not foresee that any inconvenience can arise from your complying with their requisition, provided the allotments are made, not with a view to a temporary, but to an established settlement thereon—that is, comprehending such portions of land and in such situations as would be suitable for a *bonâ-fide* settler, should it ever come into the hands of such a person."

Previously Dundas had written :—

"With respect to the officers, non-commissioned officers, and such convicts whose time of transportation has expired, who propose to become settlers, His Majesty's servants do not think it either advisable or necessary to limit you to any number of convicts to be assigned to individuals so widely differing in situation of life, character, and description; but from the opinion they entertain of your prudence and discretion, they leave you to decide upon a point which must be in a great degree decided by your knowledge of the character and ability of those to whom convicts are to be assigned."

Dundas strongly urged that the increase of live stock should be encouraged. Some could be obtained from the Cape of Good Hope, "but it is to Bengal that I chiefly look for an efficient supply of that nature." He enclosed a list of emigrants³³ who had embarked in the *Bellona*, which

³³ Thomas Rose (aged 40), farmer, from Blandford, Mrs. Rose (33), Thomas Rose (13), Mary Rose (11), Joshua Rose (9), Richard Rose (3), and Elizabeth Fish formed "the farmer's family." There were also Edward Powell (30), farmer and fisherman, from Lancaster; Joseph and Thomas Webb, farmer and gardener; Frederick Meredith, baker; James Thorpe, millwright; and Walter Brodie, blacksmith. These pioneers in colonization were to have grants of land, agricultural implements, two years' provisions, the use of convict labour, and for each convict food for two years and clothing for one year. An unsuccessful attempt was made to induce fifteen Quaker families to emigrate and leaven with their propriety the moral chaos in Sydney. The Secretary of State reported the failure of the scheme in 1792.

showed that Dorsetshire led the way in meeting Phillip's wishes.

Before he received instructions as to the quantity of land he might grant, Phillip wrote (4th Oct., 1792) that he did not object to officers cultivating land, but he had not convicts enough to assign labour to them all, though already he had assigned fifty-one to Major Grose and those under his command. After Phillip's departure, Grose was restrained by no public considerations in assigning convicts to officers, and while Phillip still held the reins, Grose urged (Oct., 1792, Dundas' instructions not having then arrived) that officers ought to have grants of land so that they might grow food. "One half of the ground allotted a convict who becomes a settler would be a matter of more accommodation than may be supposed ;" but the Governor was without instructions on the point. The same volume (Record Office) which contains Grose's urgency of Oct. comprises a previous letter from him lauding the colony as furnishing "vegetables in great abundance. . . . I live in as good a house as I wish for. I am given the farm of my predecessor, which produces a sufficiency to supply my family with everything I have occasion for. . . . (There was wanting only one ship freighted with corn and black cattle, and) all difficulties would be over."

Phillip had taken a wider view of the needs of the colony, and it may be well to cite one of the careful warnings with which he supplied the Secretary of State as to its general condition and requirements. He wrote :—

"I beg leave to observe (Feb., 1790) that if settlers are sent out, and the convicts divided amongst them, this settlement will very shortly maintain itself, without which the country cannot be cultivated to advantage. At present I have only one person, with about 100 convicts under his direction, who is employed cultivating the ground for the public benefit, and he has returned the quantity of corn above-mentioned into the public store. The officers have not raised sufficient to support the little stock they have. Some ground I have had in cultivation will return about 40 bushels of wheat into store, so that the produce of the labour of the convicts employed in cultivation has been very short of what might have been expected. This I take the liberty of pointing out to your lordship in this place, to show as fully as possible the state of the colony, and the necessity of the convicts being employed by those who have an interest in their labour. The giving convicts to officers has been hitherto necessary, but it is attended with many inconveniences, for which the advantages arising to officers do not make amends. It will not, *therefore*, be continued after this detachment is relieved, unless parti-

cularly directed. . . . The numbers employed in cultivation will, of course, be increased as the necessary buildings are finished, which will be a work of time, for the numbers in the settlement who do nothing towards their own support exceed those employed for the public."

He proposed at the same time to place his free settlers on the banks of the Nepean river, where there was "as fine land for tillage as most in England." He would grant from 500 to a 1000 acres to each farmer; he would give to each at least twenty convict labourers, and would for two years support the labourers "from the public stores." In that time, if they are

"industrious, they will be in a situation to support themselves, and I do not think they would be able to do so in less time. At the expiration of two years they may return half the convicts they have been allowed, and would want no further assistance from government. It may be necessary to grant land to officers and soldiers, who, becoming settlers, will, of course, be entitled to every indulgence. But few officers now here have reaped any great advantage from being allowed convicts, and it is attended with unavoidable inconvenience, from their convicts being left much to themselves, and from their mixing with the soldiers."

Phillip never allowed the government to lull themselves into a conviction that the colony could exist without supplies from England. He told them (May, 1788) that he had sent the *Supply* to Lord Howe Island "to endeavour to procure turtle, in hopes of checking the scurvy with which most of the people were effected, and near 200 rendered incapable of doing any work." As early as July, 1788, he wrote (privately):—

"Your lordship may be assured that, anxious to render a very essential service to my country by the establishment of a colony which from its situation must hereafter be a valuable acquisition to Great Britain, no perseverance will be wanting on my part, and which consideration alone could make amends for the being surrounded by the most infamous of mankind. It is to your lordship and to Nepean alone that I make a declaration of this kind. Time will remove all difficulty, and with a few families who have been used to the cultivation of land, this country will wear a more pleasing aspect. . . . As to myself, I am satisfied to remain so long as my services are wanted. I am serving my country and serving the cause of humanity. I flatter myself that by the return of the ships that bring us out provisions, and on which is placed our sole dependence, I shall be able to give your lordship a more satisfactory account of this country."

He wrote by the transport ships which, with Lieut. Shortland, agent for them, sailed northwards in May, sent duplicates by another vessel, and triplicates by the *Borrowdale*; but again (1st Sept.), thinking it "not impos-

sible that the ships by which I have now the honour of writing may be the first to arrive," he carefully recapitulated the heads of his former letters. A dreary interval was to elapse before he received answers to any of them.

It was not until 1789 that the gallant *Riou* was despatched with supplies in the *Guardian*, which were arrested (23rd Dec.) by an iceberg. Even this abortive attempt to relieve them was for many months unknown to the starving colonists, and Phillip resorted to stringent means in order to husband the scanty stores he possessed. He determined to send H.M.S. *Sirius* to Africa for food, and told Lord Sydney (Oct., 1788), "We at present depend entirely on provisions being sent from England, and I beg leave to observe that if a ship should be lost in the passage, it might be a very considerable time before it could be known in England."

The *Sirius* sailed, under Captain J. Hunter, R.N., to the Cape of Good Hope. The passage from Australia to Africa was then untried. It was not known that Bass's Straits separated Van Diemen's Land from New Holland, and Hunter decided to pass to the southward of New Zealand and round Cape Horn. The voyage to the Cape lasted from the 2nd Oct. to the 2nd Jan., and the dreaded scurvy appeared among the crew, who had "for thirteen or fourteen months not tasted fresh provisions of any kind, nor had they touched a single blade of vegetables." At the Cape only did Captain Hunter learn any of the political events which had occurred in Europe after the departure of the first fleet for New South Wales, two years before. There also he heard that Lieut. Shortland, who had sailed from Sydney in July 1788, had reached Batavia in a distressed condition, with but one ship, the *Alexander*, the other transports, with the exception of the *Friendship*, having lost his company. Scurvy had raged in the *Alexander* and her consort, and the latter struck on a reef on the coast of Borneo. The *Alexander* had lost "eight men, and was reduced to two men in a watch, only four seamen and two boys being at all fit for duty." "The *Friendship* had only five men not disabled." "In this melancholy state of both ships, the western monsoon being expected soon to set in, it was indispensably necessary to give up one for the sake of

preserving the other." The *Friendship's* stores were removed into the *Alexander*, and the former "was bored and turned adrift." When but one seaman was fit for work, and even the sails could not be furled, the *Alexander* reached Batavia, and begged assistance from the Dutch (18th Nov.). Assistance was given promptly and humanely. From other English vessels, "with the assistance of a few from the Dutch Commodore, a fresh crew was at length made up, in which four only of the original seamen remained, the rest being either dead or not enough recovered to return with the *Alexander* when she sailed again on the 7th Dec." When Hunter boarded her at Table Bay (18th Feb.) he was received with hearty cheers by his remaining friends. Such were the struggles of English seamen in the southern hemisphere. *Tante molis erat (longinquam) condere gentem.*

On the 20th Feb., with such accounts to render of the fortunes of his old comrades, Hunter sailed from Table Bay with twelve months' provisions for the ship's company and six months' supply of flour for the settlement at Sydney, "every officer's apartment and all the store-rooms being completely filled."

In May, 1789, the *Sirius* arrived at Sydney. Her supplies were welcome, but they could not permanently alter the condition of the settlement. No tidings from England had reached the colony. Such disastrous voyages as that of the *Alexander* might indefinitely strangle the hope of receiving fresh supplies. It might be that the new experiment would end in gloom, like that of the French essay at colonizing in Cayenne in 1763, when (although two years' provisions had been carried with them) thousands of persons were annihilated utterly by fever, famine, and an overwhelming flood.

If the French might be thought unskillful in contending with the elements, was there not the rumoured fate in 1629 of hardy Dutchmen, prone to navigation and successful abroad? Was it not written that while Captain Pelsaert left comrades on an island on the west coast of Australia, and went in a skiff to Batavia, his countrymen were at deadly feud, and that before the captain returned with aid from Batavia, 125 persons had been murdered by mutineers? Was it not written of Pelsaert and his

friends, that "after mature deliberation, reflecting on the number of prisoners, and the temptation that might arise from the vast quantity of silver on board the frigate, they at last came to a resolution to try and execute them there, which was accordingly done, and they embarked immediately afterwards for Batavia?"

If these things could happen on the west coast amongst free men, what might not happen in the more remote east, in a community of criminals with scant guards to control them? Such thoughts must have passed through the minds of many of the bold men who now in the South had reared the flag of England. But whatever may have been their forecast, a strict performance of duty was their practice. The imminent present furnished enough to think of. How long could the scanty stores of food be guarded against a craving band of convicts, outnumbering so many times their guardians? Nay, worse. *Quis custodiet ipsos custodes?*

When Hunter returned from the Cape, he says, "Another melancholy piece of information we received on our arrival was that six marines had been tried by a criminal court and found guilty of robbing the public stores; they were sentenced to death and executed accordingly." This was in May, 1789. In Jan., 1790 (Hunter wrote):—

"The conversation turned upon the long expected arrivals from England, which we had been for some time past in daily expectation of, with a supply of provisions. Our store here was now in a very exhausted state, much more so than we ever expected it would have been; . . . as it was always understood that the settlement would never have been reduced lower than one year's provisions in store. . . . We all looked forward with hope for arrivals with a relief. . . . In February³¹ we began to look a little serious on our disappointment of arrivals; . . . I received an order to prepare the *Sirius* for sea, and to embark the Lt.-Gov. (Ross) with one company of marines, and the officers, baggage, and also 186 convicts; in all, 221 persons; . . . and I was directed to land them upon Norfolk Island."

At Norfolk Island, in Jan., 1789, there was a plot to seize the Lt.-Governor and his officers, and obtain a vessel for the convicts to escape with. The scheme was discovered

³¹ It is noteworthy that the following remark occurs in one of Phillip's despatches written in this gloomy month:—"As near two years have now passed since we first landed in this country, some judgment may be formed of the climate, and I believe a finer or more healthy climate is not to be found in any part of the world."

and its concocters were punished, but it was well to strengthen the force on the island. Phillip (Feb., 1790) described the plot to Lord Sydney, and commended the conduct of King, whose force, including himself, was only sixteen in number, while there were fifty-one male convicts and twenty-three females to control.

At head-quarters Phillip set a personal example. Collins wrote:—³⁵

“The Governor, from a motive that did him immortal honour, in this season of general distress gave up three hundred-weight of flour which was His Excellency's private property, declaring that he wished not to see any more at his table than the ration which was received in common from the public store, without any distinction of persons; and to this resolution he rigidly adhered, wishing that if a convict complained he might see that want was not unfelt even at Government House.”

Such a man's motives were regarded with respect, even when he ordered the marines to death for stealing provisions. He maintained a cheerful countenance throughout this dreary period. Not only was the daily work of the settlement performed, but exploring expeditions were at various times sent out to discover what kind of land surrounded the settlement. Numerous efforts were made by Phillip to conciliate the aborigines. Alas! where the evil passions of a low subordinate may destroy in a moment all the effect of a leader's patient kindness, that kindness cannot be judged by its fruit.

Phillip had many troubles with his white subjects. Collins tells us (April, 1789): “Attention to our religious duties³⁶ was never omitted. Divine service was performed in one of our emptied storehouses on the morning of Good Friday, and the convicts were recommended to employ the remainder of it in their gardens. But . . . very few were observed to be so profitably employed.”

Little forethought or assistance on the part of the convicts could be relied upon. When the *Sirius* and *Supply*

³⁵ “An Account of the English Colony of New South Wales.” By David Collins, late Judge Advocate and Secretary of the Colony. London: 1798.

³⁶ The prayers read were those of the Church of England. With what especial force the Litany must have struck thoughtful men wrestling with a wild and rocky soil, as they repeated the words: “That it may please Thee to give and preserve to our use the kindly fruits of the earth, so as in due time we may enjoy them.”

had been about to sail for Norfolk Island in March, 1790, an order was issued to prevent the further destruction of live stock "until some necessary regulations could be published, but the officers and people about to embark were not included in the prohibition." The mention of future regulations alarmed the convicts lest they should lose the benefits of their ownership in some manner, and Collins adds that, "under colour of its belonging to those who were exempted in the late order, nearly all the stock in the settlement was in the course of a few nights destroyed; a wound being thereby given to the independence of the colony that could not easily be salved, and whose injurious effects time and much attention alone could remove."

Many an hour of anxious care Phillip bestowed on the lives of his dumb subjects, on whose increase so much depended; and many times his care was thwarted. In April, 1788, on returning from exploration, he learned that five ewes and a lamb had been destroyed at the government farm. In May, 1788, there were two bulls and five cows at the settlement. In the end of that month, "by some strange and unpardonable neglect" of the convict herdsman (who did not report the loss at once), two bulls and four cows wandered away, and no search party was successful in recovering them. In Oct., 1788, the sole remaining cow, becoming wild and dangerous, was condemned to be shot. And in March, 1790, the convicts madly destroyed the greater part of the sheep, pigs, and fowls, because they dreaded, perhaps without cause, that they might lose some rights of separate ownership.

Commanders of expeditions in Arctic regions have found that amusements have lightened the toils and foiled the hardships undergone by their companions. Phillip resorted to the same expedient. In June, 1789, on the King's birthday, he permitted the convicts to perform the "Recruiting Officer" in a hut fitted up to serve as a theatre.³⁷ But though he might temporarily cheer his motley subjects

³⁷ Though this fact is recorded by Collins (in his "New South Wales," 1798), who was on the spot, numerous writers have repeated a mistake which ascribes the first theatrical performance to a later period, 1796. In 1789 the performers modestly said their aim was "humbly to excite a

he could hardly expect to restrain their wildness or despair. What hope was there for the settlement unless the *Sirius* should succeed in her voyage? After reaching Norfolk Island she was to proceed to China for provisions, and to return to Sydney.

The harbourless Norfolk Island had seriously occupied Phillip's care. On the 6th March, 1788, his subaltern, King, had formally taken possession with like observances to those adopted in Sydney. But neither Phillip nor King could be slow to apprehend the dangers of the situation.

"Dear King²⁸ (the former wrote to the man he so much trusted) . . . I hope you get fish, which will enable you to make the provisions you have last much longer than the time for which they are sent, as our only dependence is on ships expected out, which may fail us. . . . You shall hear from me respecting the island and your wants by the *Sirius*; till when God bless you."

When King replied, the dreaded weevil had been found in the seed wheat he was preparing to sow. But he kept up his courage and asked for more men for agriculture. He had searched for the flax plant vainly at first, for his people looked for a congener of the European plant; but after some days they detected in abundance the *Phormium tenax* which Cook saw when he discovered Norfolk Island. In Oct., 1788, two flax-dressers were employed, and other work was so far advanced that Phillip's pleasant words, "I am fully satisfied that everything which is possible will be done by you," could be received with satisfaction. But in Feb., 1789, the situation became gloomier. More people were sent to Norfolk Island, but not sufficient food for them. King was implored to eke out subsistence with fish.

smile." In 1796 the prologue (erroneously imputed to a convict, Barrington, but believed to have been written by an officer) declared—

"True patriots we, for be it understood
We left our country for our country's good.
No private views disgraced our generous zeal,
What urged our travels was our country's weal. . . .
Sometimes, indeed, so various is our art,
An actor may improve and mend his part.
'Give me a horse!' bawls Richard, like a drone;
We'll find a man would help himself to one."

²⁸ Phillip to King. 16th July, 1788, per armed tender *Supply*.

" " 28th September, 1788, per *Golden Grove*.

Supplies were running short at Sydney. Phillip was well satisfied that—

“Everything which perseverance and industry can accomplish will be done by you, and I only thus particularly mark our situation that it may be fully known to you. . . . We have not that resource in fish that you have, nor can we, from the nature of the ground, make that progress in cultivation which you will be able to do. . . . Ships will most undoubtedly be sent in time from England, but the summer is far advanced.”

When the plot was formed in Jan., 1789, by the convicts to seize the officers, a sailor learned the secret from a convict woman, and revealed it to King, who sent a ring-leader to Sydney, with a request that whatever sentence might be adjudged, might be inflicted at Norfolk Island “as an example to others.” Fishing was still carried on in spite of the conspiracy, the discovery of which “was the most fortunate event that could have happened,” as it induced King to clear the ground round the houses for future security, and a hurricane which tore up trees in the island had no food for its fury, the fall of which could injure the houses. Phillip wrote:³⁹ “It is with greatest satisfaction that I assure you every part of your conduct has met my warmest approbation, and I feel myself happy in having at Norfolk Island an officer who makes the public interest his own, and which will, I hope, meet a just reward.” A guard of marines was sent from Sydney. King read service in his own house. The order for attendance was: “No person is to absent himself from public worship, which will begin every Sunday morning at eleven o’clock, in the commandant’s house, when every one will come clean and orderly and behave themselves devoutly.”

The ravages of caterpillars in May, 1789, alarmed the islanders, and in spite of all attempts to destroy the invaders, some acres of wheat were utterly devastated. A curious question was raised in 1789 by convicts, who averred that the terms of their sentences had expired, while the government had no documents by which to test the facts. Phillip, to augment the stores of food, suggested to King that until fresh papers could arrive from England

³⁹ Phillip to King. 3rd June, 1789, per *Supply*.

in lieu of those which the masters of the transports had originally left behind, an oath might be administered about the facts, and that, to those petitioners "whose behaviour merited such indulgence," King might grant lands to be cultivated for the benefit of the grantees. If their allegations about their sentences should be found true, their grants would be increased; if found untrue, the penalty would be loss of the land and severe punishment. Cultivation of gardens was sedulously promoted in the meantime.

In Nov., 1789, Phillip congratulated King on the success attained at Norfolk Island, adding, "and I am, sir, sensible how much it is owing to your good conduct and perseverance." The richness of the soil, though the area cultivated was small, gave hope of abundant crops at the island, and the maize especially aroused hopes.⁴⁰ Fishing-lines had been made of the native flax, but the manufacture was not understood, and King suggested that information as to the Maori methods should be obtained (6th Dec., 1789).

The island with a doubtful supply of daily bread had no charms for some of the convicts. Again Phillip wrote (Jan., 1790): "Those convicts who say their times are expired and wish to return to this settlement shall be sent for as soon as I hear from England, till when it is not possible to know whose times are expired, or the time for which any convict has been sentenced." It jars upon the feelings to find that women were flogged upon some occasions. On Christmas Day some attempt was made to arouse kindly feelings proper to the day. Divine service was performed at ten o'clock. Two pigs were killed, and an extra allowance of meat and flour was issued to all on the island.

⁴⁰ It excites a smile to notice that the Secretary of State (Grenville), cheered by the accounts of the little island, wrote (June, 1789) that, but for the great labour and expense already incurred at Sydney, he would, owing to its fertility, have been "inclined to recommend that Norfolk Island be made the principal settlement." Phillip wrote (June, 1790) that there was one insurmountable objection—"there is no harbour or good roadstead, and landing provisions is attended with some difficulties"—and added that King, "who made the settlement—an officer of merit and who could ill be spared, 'was on his way home' to give that information which could not so well be conveyed in letters."

In spite of Phillip's bold bearing he felt the thorns he stood on. No help had come from England. Phillip determined to make a special appeal. He could not desert his post, but he felt that the testimony of an eye-witness was needed to show to gentlemen at ease in England what were the difficulties of a governor obstructed in the administration of justice by the commander of the forces, and what were the privations of Englishmen abroad, who managed starving convicts, and were so ill-fed themselves that six marines risked and underwent the penalty of death "for robbing the public stores." He selected the trusty King as his envoy. He had discharged him from the *Sirius* in order to enable her to have a full complement of officers in Jan., 1790. In Feb. he directed him to go as passenger by the *Sirius*, "the service making it necessary in order to give such information to His Majesty's Ministers as cannot be conveyed by letter."

Major Ross, of the Marines, was sent in the *Sirius* to take the post of Lt.-Gov. during King's absence, and one may suspect that Phillip was glad to detach from headquarters a man who had obstructed the administration of justice, and interfered with the efficiency of the night-watch. All the hopes of both settlements depended on uncertain supplies from England, and on the voyage of the *Sirius* to Batavia under Captain Hunter, who sailed from Sydney on the 6th March, 1790, with 221 persons, of whom 186 were convicts to be left at Norfolk Island. There King also wistfully looked for news from England. Each time that the *Supply* arrived vain hopes were beaten down.

On the 29th Jan., 1790, her "return caused the greatest acclamations of joy through the whole settlement." But "a dejection took place equal to the joy visible a short time before." She carried twenty-three more convicts, but no provisions. The fish and vegetables of the island were supposed to enable it to give relief rather than require it. On the 13th March there was "tumultuous noise, huzzaing, and rejoicing." Two vessels were in sight at break of day. Every one was persuaded that relief had come from England, the little island "throned in the west," whence no tidings had been received since Phillip sailed with his *charge in May, 1787*. Convicts as well as guards, sailors

as well as officers, felt a fervour which made eyes moisten, and hearts beat high. Now at last they were sure that the northern mother had held out her hand to her children in the far south. No. The ships were only the *Sirius* and the *Supply*, bringing more convicts, with instructions for King to go to England. His Journal tells the feelings of the inhabitants: "Our expectations were once more blasted; for instead of those pleasing hopes being realized which the appearance of the vessels had created in the morning, we were informed that no relief had arrived, nor had any intelligence been received from England."

On the 13th March the *Sirius* reached Norfolk Island. The landing of her passengers and stores was proceeded with, as weather permitted, until the 19th, and on that day this apparently last hope of the two settlements drifted upon a reef and was lost. The governing quality was called into vigorous action. While the captain and sailors were being dragged through a foaming surf to the shore, the new Lt.-Gov., Ross, ordered the beat of drums to assemble the marines and convicts; martial law was proclaimed, severe punishment promised if any animal were killed, or robbery committed; officers and marines were ordered to wear their side-arms, and guards were set over the barns and store-houses.

On the 21st a council was held, at which Ross, supported unanimously by King, Hunter, and all the commissioned officers of the *Sirius*, determined to take on himself the power to punish capital crimes with death (although this was a power specially retained by Phillip when he founded the settlement at Norfolk Island), to establish martial law, to appropriate all private stock, Indian corn, and potatoes, for the use of the public, to put everyone on half allowance until it could be known how much could be saved from the wreck, to put three locks on the storehouse and barn, of which one was to be kept by the Lt.-Gov., one by Captain Hunter, and "one by a person to be named by the convicts." These determinations were signed by all present. Ross wrote to Phillip that though there was "perhaps a want of sufficient authority for declaring martial law, which nothing but necessity could have induced us to do . . . we shall trust to His Majesty and the British Parliament for

such indemnification as the case may require. I hope and trust that your Excellency will authorize us to continue it until we are supplied with provisions, or, at any rate, that you will not forbid us." Phillip directed Ross to continue martial law while he thought it necessary. It remained in force until Aug., 1790, when a supply of food arrived from Sydney.

On the 22nd of March, at eight o'clock in the morning, so clear was the need of prompt action, all in the island were summoned to the lower flag-staff where the Union⁴¹ was hoisted; the marines were drawn up in two lines, leaving a space in the centre, at the head of which was the Union. The colours of the detachment were then unfurled, the *Sirius's* crew drawn up on the right, and the convicts on the left, the officers being in the centre.

"The proclamation was then read, declaring that the island was to be governed by martial law until further orders; the Lt.-Gov. next addressed the convicts, and after pointing out the situation of the settlement, he exhorted them to be honest, industrious, and obedient; this being concluded, the whole gave three cheers, and every person, beginning with the Lt.-Gov., passed under the Union flag, taking off their hats as they passed it in token of an oath to submit and be amenable to the martial law which had then been declared."

Surely a more impressive spectacle was seldom seen than this vowing of obedience by the law-abiding, and the lawless, brought face to face with famine. The mingled good and evil of our nature was shown on the same evening, when two convicts, who had volunteered to go to the wreck "to heave the livestock overboard," refused to return at night, and were fired at to make "them quit the wreck or put the lights out, but with no effect. On this John Arscot, a convict carpenter, offered to go off; and although it was quite dark, and the surf ran very high, yet he got on board, and obliged the other two convicts to quit the wreck by the hawser." The two had set fire to the wreck, but Arscot "happily extinguished the flames."

⁴⁰ Journals of King: in Hunter's Historical Journal. Stockdale. London, 1793.

⁴¹ For this daring service Ross asked Phillip to grant a pardon to Arscot. Phillip complied. In 1791 Phillip reported that Arscot had gone to Calcutta, and "it now appears that his term of transportation had expired prior to his emancipation."

On the 24th, King went on board the *Supply*, and sailed for Sydney, leaving a population of

Civil, military, and free	...	...	...	90
Belonging to the <i>Sirius</i>	...	...	...	80
Male convicts	...	...	...	191
Female convicts	...	...	...	100
Children	...	...	...	37
				498

He left with them 250 to 300 bushels of wheat, six bushels of barley, 130 to 140 bushels of Indian corn, and one acre of potatoes to be dug in May. There was a small stock of pigs, poultry, and goats, with one ewe. Without speedy relief starvation was sure.

Meantime in Sydney great efforts were made to eke out the scanty supply of food by substituting a proportion of ten pounds of fish for two and a-half pounds of pork. No pigs were allowed to be killed "under three months old," nor without information first given to head-quarters. "The provisions, when all collected under one roof and into one view, afforded but a melancholy reflection—it was well that we had even them."⁴⁸

On the 27th March, no relieving vessel having arrived, the weekly rations were reduced to four pounds of flour, two and a-half pounds of pork, and one pound and a-half of rice, with a less proportion for women. In November, 1789, many convicts consumed their rations so heedlessly, that of food issued on Saturday none was left on Tuesday night, and in Nov., 1789, provisions were issued twice in the week. In March, 1790, it was found necessary to serve out the food "daily to every person in the settlement without distinction." Similar regulations were made by the Governor at (Rose Hill) Parramatta. "The garden ground was enlarged, those who were in bad huts were placed in better, and everything was said that could stimulate them to be industrious. The night-watch was in perpetual activity, for robberies were nightly attempted or committed."

⁴⁸ Collins.

While Phillip thus confronted adversity, the *Supply* returned from Norfolk Island with tidings of the loss of the *Sirius*, "sufficient (said Collins) to have deranged the strongest intellect among us." Phillip assembled all his officers, civil and military. The weekly allowance of food was reduced to two pounds and a-half of flour, two pounds of pork, one pint of peas, and one pound of rice to all descriptions of people except children under eighteen months, who with regard to salt meat "were to have only one pound." Fishing and shooting became a public pursuit, and the fishing-boat was accompanied by an officer by night and by day, because the integrity of the fishermen was doubted. The *Supply* was ordered to Batavia under Lieut. Ball, R.N., to procure eight months' provisions for himself, and to hire a vessel and purchase for the settlement 200,000 lbs. of flour, 80,000 lbs. of beef, 60,000 lbs. of pork, and 70,000 lbs. of rice, with medical comforts, "sugar, sago, lard, vinegar, and dongaree." The *Supply* was expected to return in six months. She sailed on the 17th April, taking with her Lieut. P. G. King, Phillip's confidential envoy.

On the 20th April a pound of rice was substituted in the ration for a pint of peas. "The two pounds of pork, when boiled, from the length of time it had been in store, shrunk away to nothing." Throughout the settlement stalked gaunt famine visibly. Usually it pinches most, if not altogether, the poor. Here was one that laid its deadly gripe alike upon all. Then it was that Phillip gave up three hundred pounds of flour, his private property (already mentioned); and still with firm countenance he summoned offenders and thieves, "inculcating the absolute necessity for every man to cultivate his own garden, instead of robbing that of another." One convict was executed, and various sentences of flogging were inflicted. On a soldier who, while sentinel, robbed a garden, 500 lashes were inflicted. A reward of sixty pounds of flour was paid to a watchman who fired upon a garden-thief, and 500 lashes were ordered to be given to the thief; but as it was the Governor's garden that was robbed, Phillip remitted four-fifths of the punishment. At Rose Hill (Parramatta), where vegetables were more abundant, it was some consola-

tion to find that the convicts "behaved with much greater propriety."

Throughout the fatal month of May, when (Collins wrote) "very little labour could be enforced from people who had nothing to eat," neither Phillip nor any of his officers could have had any comfort in their minds except that which springs from a sense of duty performed; but they worked without ceasing. They procured salt from the water of the harbour, and more than two thousand pounds weight of fish were caught during the month. All this, however it might alleviate, could not remove their sufferings, and they looked upon the return of the *Supply* as "under God their dependence."

From England they seemed hopelessly barred⁴⁴. They had left it with a calculated supply of food for two years, and when the time elapsed, not an ounce of food nor a word of encouragement had been received. *Divisi toto orbe* from their native land, they might almost feel that they were forgotten. Yet it is pleasant to read of these gallant men that (Collins) they "had long conjectured that the non-arrival of supplies must be owing either to accident or delays in the voyage, and not to any backwardness on the part of the government in sending them out."

It is consoling also to know that they conjectured rightly. The *Juliana* had sailed from England in July, 1789, with stores and with despatches concerning grants of land and the new corps raised for service in the colony. H.M.S. *Guardian* followed in November, carrying nearly half-a-million of pounds of meat, and 300,000 lbs. of flour. The tardy *Juliana*, after calling at Teneriffe, at St. Jago, and at Rio Janeiro, found, at the Cape of Good Hope, the fleetier *Guardian*, which had struck upon an iceberg, and losing her rudder was tossed hopelessly upon the waves, in spite of the exertions of Riou, until a French frigate met and towed her to the Cape of Good Hope. There, to avoid the expense of keeping afloat a shattered hulk, Riou ran her on shore, and some of the stores, which had not been cast

⁴⁴ Phillip's first despatches, written in May, 1788, were not received in England until the end of March, 1789. It was not until June, 1790, that any despatches from England arrived in Sydney.

overboard to lighten the ship at sea, were afterwards forwarded to Sydney.

The brave Riou's services are commemorated in St. Paul's Cathedral. A despatch from himself at Table Bay (20th May, 1790) records his gratitude to twenty of the convicts whom he sent on to Sydney: "Without their assistance and support the *Guardian* would never have arrived to where she is. . . . I publicly declared that not one of them, so far as depended on myself, should ever be convicts."⁴⁵

Such are the gleams of light which occasionally illumine the dark ages of Australian history. Edward Riou will not be less regarded as a hero because he could elicit gallant support from convicts, and was manly enough to acknowledge his obligations.

With her accumulated stores the slow *Juliana* sailed from Table Bay, and hopes deferred were to be gratified amongst those whose hearts had so long been sick at Port Jackson. On the 3rd June, 1790, the signal for a ship was made at the South Head. The settlement was in an uproar of emotion. It was learned that the ship was the transport *Juliana*, from London, July, 1789, with 222 female convicts. The tidings she brought were eagerly devoured by the insatiate colonists. The loss of the *Guardian*; of the private effects of the colonists entrusted to her; the illness of the king; his recovery; tidings that 1000 convicts were to be sent at once to Sydney; that a corps of foot was to be raised for service in the colony; that Major Francis Grose of the 29th Regiment was to be its commandant; the change in the French Constitution; and the various domestic affairs of each officer and colonist, after a blank of three years, were poured into greedy ears. But the *Juliana* had brought no large supply of food, and the wolf was not yet driven from the door. Of the small quantity of flour brought by the *Juliana*, twenty casks were totally destroyed through the vessel's unseaworthiness.

On the king's birthday (4th June), Phillip pardoned all offenders under sentence; and on the 9th appointed a day

⁴⁵ The Secretary of State (Nov. 1790) instructed Phillip to pardon them "on condition of their continuing abroad."

of public thanksgiving for His Majesty's recovery, when "the attendance on Divine service was very full."

On the 20th another sail was announced, and the *Justinian*, storeship, arrived, after a passage of only five months from England. On the next day the full ration was restored, and the settlement breathed freely. In the same month the *Surprise*, *Neptune*, and *Scarborough*, transports, arrived, and the harbour would have been gay but for the condition of the new-comers. Two hundred and sixty-one deaths of male convicts had occurred in the three ships, and sickness still raged among them. Phillip reported (13th July) "the scene of misery which the hospital and sick tents exhibited" when the convicts were landed. They were too crowded on board, and thereby afflicted; "488 were under medical treatment" on arrival.

Of two men, very different in character, who arrived in these plague-smitten ships, a word must be said. The sagacity, energy, and enterprise of John Macarthur, of the New South Wales Corps, were to mould the destinies of Australia, and hasten by decades her material progress. D'Arcy Wentworth was to become the father of her greatest orator and patriot. They embarked in the same vessel, the *Neptune*, and a prophet might have said to her, *Cæsarem vehis et fortunas suas*. There were disagreements on board, and at the equator Macarthur exchanged duties with an officer on board the *Scarborough*. In all the ships there was pestilence. More than one hundred and fifty convicts died on board of the *Neptune*.

The father of John Macarthur had, with several brothers, fought for the Pretender at Culloden. His brothers were slain, and the solitary survivor, after fleeing abroad, settled in Plymouth. Twenty years after the death of his uncles, John Macarthur was born. He entered the army, and at the close of the war in 1783, studied to complete his education, his regiment having been reduced, and he being on half-pay. The expedition which winged its way to the South attracted a mind eager in character, and large in its conceptions. He purchased a commission in the New South Wales Corps, and with his young wife sailed to Sydney.

D'Arcy Wentworth, a dissipated youth, who was a tax to his friends, but had some knowledge of surgery, had been

permitted to become a passenger in the *Neptune*. The early chronicler, Collins, says of him, "There came out in the *Neptune* a person of the name of Wentworth, who being desirous of some employment in this country, was sent (1st Aug.) to Norfolk Island as an assistant to the surgeon there, being reputed to have the necessary requisites for such a situation."

On the 28th July, Phillip sent the *Justinian* to land stores at Norfolk Island, and to proceed to China to load with tea for the English Government. On the 1st of August the *Surprise* was sent to Norfolk Island with thirty-five male and 150 female convicts. Before following the fortunes of Norfolk Island, it may be stated that the *Supply*, surpassing expectation, returned to Sydney on the 19th September with many much-prized articles for the colonists; that the *Waaksamheyd*, hired by Lieut. Ball to follow him, arrived with her stores on the 17th Dec.; that for the flour purchased at Batavia, 10 $\frac{3}{4}$ d. per lb. were demanded; and that consequently Ball had procured (instead of 70,000) 200,000 lbs. of rice, his purchases altogether amounting to nearly £12,000 sterling.

To conclude the record of starvation and endurance it is necessary to return to the inhabitants of Norfolk Island, who were in March left by the *Supply*. The ill-fated *Sirius* still held together even in May, and when weather permitted a few sailors went on board to save whatever articles they could take on shore. On the 4th June (Captain Hunter writes): "Our distress did not make us forget that this was the birthday of our beloved sovereign. In the morning colours were displayed, and at noon three volleys of musketry were fired by the marines as an acknowledgment that we were Britons, who, however distant and distressed, revered our king, and loved our country." Disorder and thieving were severely punished. The sailors of the *Sirius* made fishing-lines and hooks, and fished when the weather permitted. A party of marines, and all the convicts, cleared ground for corn and potatoes, but Hunter wrote: "The people in general were reduced so low in bodily strength for want of a sufficiency of food that much work could not be expected." Much ground was planted with potatoes, as likely to yield the promptest crop. The lonely

islanders had some faint hope that when the *Supply* reached Sydney (in March, 1790) she might find that provisions had arrived from England, and might return to the island with relief. In May these hopes were abandoned, and the truth was surmised. On the 14th May the Lt.-Gov. and his Council issued the following order :

At a meeting of the Governor and Council held to consider of the very exhausted state of the provisions in this settlement, and to consult upon what means are most proper to be pursued in order to preserve life until such time as we may be relieved by some arrivals from England, of which we have been so long in expectation, but probably disappointed by some unfortunate accident having happened to the ships intended for this country, the state of the provisions having been laid before the Council, and the alarming situation of the settlement having been taken into the most serious consideration, the following ratio of provisions was unanimously resolved and ordered to take place on Saturday, the 15th instant, viz. :—Flour, three pounds per week for every grown person. Beef, one pound and a-half per ditto; or in lieu of the beef, seventeen ounces of pork. Rice, one pound per ditto. Children above twelve months old, half the above ratio. Children under twelve months old, one pound and a-half of flour, and a pound of rice per week. In future all crimes which may by any three members of the Council be considered as not of a capital nature, will be punished at their discretion by a further reduction of the present allowance of provisions."

Every day the starving people looked wistfully upon the vacant sea, and every day they looked in vain. But for a providential discovery of birds on their own small island (five miles by three only) they might soon have ceased to look. In April it was found that the Norfolk Island petrel, known amongst sailors as the mutton-bird,⁴⁶ crowded at night upon Mount Pitt (so named by P. G. King after the great minister), the highest point of the island, and bond and free went out in parties to capture them. Small fires were lighted to attract the attention of the birds. The creatures having lighted on the ground, could not rise again without the aid of some jutting eminence, and the hungry islanders rushed on them and killed them. So numerous were they, that although between two and three thousand were captured nightly, at the end of May they seemed as plentiful as ever. But who could tell when they would cease to visit a spot which had been changed from the cradle to the grave of their race? How precarious was the winged supply of food! The birds came to their nests in the ground. The time must come when the visitors would be all

⁴⁶ *Procellaria fuliginosa*.

destroyed, or the breeding season come to an end. Devoutly Hunter records that he might truly call them "birds of Providence," but adds that, "we reflected with pain that they must have an end, and that in all probability this would be the case before we got a relief."

Thus the weary time passed, when on the 4th of Aug. one of the seamen descried a sail. Rushing to his fellows, and crying as he ran, "A ship! A ship!" he stirred the whole community into a paroxysm of hope. The ship had an English ensign flying, but she made no sign of staying, nor even of making signals. The disappointment was crushing. "Every one (says Hunter) agreed in opinion that it would have been much better if no ship had been seen." By this time, too, to add to their anxiety, the "birds of Providence" "were very scarce."

On the 7th of Aug. relief came to them. The *Justinian* and *Surprise* arrived from Sydney with provisions and more convicts, and poured into the ears of the islanders the same news from England which had been so welcome to the exiles in Sydney. Martial law was abrogated. The ships discharged their cargoes in about three weeks and proceeded to China, and the islanders were again uninterrupted in their waterbound speck, until, in Jan. 1791, the *Supply* arrived to take back to Sydney the officers and crew of the *Sirius*.

The ships which arrived with succour from England in 1790 were long remembered as "the second fleet."⁴⁷ They carried the first instalment of the New South Wales Corps, afterwards to become the 102nd Regiment; and their arrival enabled Phillip to dispense with the doubtful services of Major Ross of the marines. The barren rocks which had been so niggardly in yielding food were to echo to the tramp of the soldier of the line, and it could not be

⁴⁷ The master of the *Scarborough*, Marshall, had accompanied the first fleet, and when leaving Sydney in 1788 left with a Mr. Clark (an agent for the contractors who employed him) a Newfoundland dog. Collins reports: "On the return of his old master (in 1790) Hector swam off to the ship, and getting on board, recognized him, and manifested in every manner suitable to his nature his joy at seeing him; nor could the animal be persuaded to quit him again, accompanying him always when he went on shore, and returning with him on board." One is grateful to those who did not sacrifice the dog when all were starving.

dreaded that old England would again leave her sons to imminent starvation after establishing all the marks of her power on her new possessions.

And now that the young settlements are rescued from the jaws of death, we may pause to observe the general features of the land, and how it was tenanted by the tribes which studded its surface throughout its length and breadth, its plains and mountains, marshes and lagoons; and who even in the stony deserts knew how to wring a livelihood from the land which threatened to become the grave of so many hundreds of Englishmen.

CHAPTER II.

AUSTRALIA.

It is pleasant to reflect that the name Australia was selected by the gallant Flinders; though, with his customary modesty, he suggested rather than adopted it. "Had I," he says in his "Voyage to Terra Australis," "permitted myself any innovation upon the original term Terra Australis, it would have been to convert it into Australia,¹ as being more agreeable to the ear, and an assimilation to the names of the other great portions of the earth."

Though insulated, Australia is so large that many writers speak of it as a continent. It contains about² three millions of square miles, and the whole of Europe contains only about one million more. But for its conditions of climate and soil, and the consequent limitations of its capacity to produce food for man and to supply his various wants, it might give scope for many powerful nations. Usually in a large territory high lands exist, and from them flow perennial streams, upon which navigation from the sea is possible; cultivation follows them as naturally

¹ A French work of fiction, by Jaques Sadeur, published in 1693—"Nouveau Voyage de la Terre Australe"—styled the imagined inhabitants "Australiens." A translation, published in London in 1693, not only used the term "Australians," but rendered "la terre Australe" into "Australia." A "Histoire des Navigateurs aux Terres Australes," published in Paris in 1756, called the natives "Australiens," but merely called the land "la Terre Australe." Flinders may have seen none of these books, and in neither of the French works is the name which pleased *him* given to the land.

² *Computations of area* are diverse and liable to be changed.

as the waters flow; men congregate in cities to avail themselves of surrounding advantages; population and wealth go hand in hand, and the country is called great.

Vast as is Australia, no high lands are in or near its centre. One chain of hills or mountains runs from the base of the Cape York Peninsula along the eastern coast, its highest points culminating in the Snowy Mountains or Australian Alps in the south-east, where the summit of Mount Kosciusko exceeds 7300 feet above the sea. Of this cordillera the watershed is sometimes less, seldom is it more, than one hundred miles from the east coast. A spur from it runs westward from the Snowy Mountains through the Colony of Victoria, dividing the northern waters, which are affluents of the Murray, from the shorter streams which run into Bass's Straits and the Southern Ocean.³

Curving from their sources in the Snowy Mountains, the Murray, the Tumut, and Murrumbidgee rivers find their way to the plains of the interior before they join the Darling River, which drains an enormous area, receiving tributaries from the western slopes of the cordillera in New South Wales and Queensland.

In both these colonies various rivers find their way eastward to the Pacific from the cordillera; and from Queensland other rivers flow to the Gulf of Carpentaria.

Roughly speaking, it may be said that westward of the 140th degree of E. longitude the well-watered portion of Australia disappears; the eastern cordillera being the genius of the difference.

Western Australia is poor in rivers, and the Great Australian Bight on the south coast presents the most irredeemably barren front to the Southern Ocean.

To the west of Adelaide the combined Murray and Darling Rivers carry their tribute to the sea at Encounter Bay; but evaporation and percolation have diminished its waters long before Lake Alexandrina receives it.

The Yarra Yarra at Melbourne in a comparatively short course flows from spurs of the Australian Alps, and several ever-flowing rivers run from them with rapid courses to the

³ In the first edition of this work some space was devoted to a physical description of Australia; Dr. A. R. Wallace's "Australasia" has made it superfluous to enter into details on the subject in this edition.

district of Gippsland before meandering through a series of lakes to the sea. The Snowy River, still more to the east, plunges from mountains in New South Wales across the border between that colony and Victoria, within whose territory it finds its way to the Southern Ocean less than a hundred miles from Cape Howe.

A general glance at the physical aspect of Australia, shows (between the one hundred and twentieth and one hundred and thirty-fourth parallels of longitude) hundreds of thousands of miles of land which are almost waterless, and for long years defied the efforts of explorers. The rarity or absence of surface water was as effectual a barrier as the icy regions of the North Pole. The rainfall, which on the points abutting on the sea near Adelaide, and the higher circumjacent hills, averages about twenty inches annually, becomes gradually less in a northerly direction, and amounts only to about five inches and a-half between the twenty-eighth and thirtieth parallels of latitude in South Australia, and is perhaps still less over a large portion of Western Australia. Passing northwards, the rainfall increases as tropical influences prevail, and at Port Darwin exceeds that near Adelaide.

But even the most sterile tracts, unlike the brown African desert, are seldom devoid of grass, herbs, or shrubs. The dreaded spinifex (*Triodia irritans*), useless for food, and harassing by its prickliness, may perhaps contribute to ameliorate the dryness of the waste. For the most part the country is level, or gently undulating, but there are occasional elevations. The atmosphere is pure as that of the desert. The interior of Australia might, in the winter months, be the sanatorium of the world. Crisp, clear, and exhilarating, the very air exalts the spirits. The sun is a present joy. But in the long days of summer his heat is excessive. The earth receives and reflects his parching ardours; animals gasp, and the dryness is oppressive to man, though more easily borne, and far less injurious, than the damp, sweltering heat of equatorial zones.

The thousands who resort to Egypt from Europe would wonder at the assertion that in Australia there is a climate as enjoyable as that of the desert, and without *many of its disadvantages*. Climatologists differ as to the

exceptional causes of the dryness and purity of the Australian air. Some ascribe it to the effect of a depressed and generally dry interior, others to the insular position, the great Southern Ocean, and the unimpeded courses of the trade-winds. Many causes, no doubt, concur.

The amount of rainfall is not inconsiderable on the east coast and in the cordillera. In Sydney the average is twice as much as in London. In Melbourne it equals that in London.

But at uncertain periods drought afflicts the land. The streams disappear on their slow course to the interior; the herbage is burnt to a colour browner than stubble. Where cattle and sheep depend for water only on what they find at a natural stream or pool even the dry stalks disappear in the neighbourhood. The weaker animals cannot travel to the food, becoming more distant daily by trampling and consumption; they sink in the mud at the head of the diminishing water, and are too weak to struggle out of it. They die, and their unburied corpses taint the air. One great accession to the pasturing capacity of Australia was brought about by dividing "runs,"⁴ with fences, and (by damming up watercourses or sinking wells) shortening the distance which live stock traversed to obtain water.⁵

When the country is parched by drought, the setting in of a hot wind dismays the inhabitants. Meteorologists are still making and comparing observations to account for the violence of this phenomenon. To the sea-coast on the Hunter, at Sydney, at South Australia, and yet more intensely, by contrast with the average temperature, at Victoria, the hot winds sweep with a blast like that of a furnace. A person suddenly leaving a substantially built, and therefore a cool house, can hardly believe that the scorching blast which salutes him is not caused by a

⁴ A run is the general term for the tract of country on which Australians keep their stock, or allow them to "run."

⁵ Since the first edition of this work was published in 1883, a great change has been wrought in Queensland, South Australia, and New South Wales by boring artesian wells, in many of which the supply of water seems exhaustless. It is to be hoped that it may prove so, for by means of these wells enormous regions where there is much grass, otherwise unavailable, are turned to use. The New South Wales statistician mentions one well as yielding five millions of gallons daily.

neighbouring fire. Fortunately the hot winds are rare, occurring only in the summer, and then only for one, two, or at most three days; lulling at night, and raging again in the forenoon.

In the interior, if a fire occurs simultaneously with a hot wind, and the growth of grass has been abundant in the spring, the devastation is as vast as it is rapid. The raging wind sweeps up the kindled grass, whirls it forward to set the fire-demon at work in countless fresh places, and amid the roar of the wind, the crackling of boughs and grass, the dense and lurid smoke, the settler sometimes vainly strives to save his homestead from the advancing flames.

One hot wind day is notable in the annals of Victoria as Black Thursday. The air was darkened with gloom which terrified; the captain of a ship in Bass's Straits lowered his top-gallant masts in expectation of some terrible convulsion, when at two o'clock in the day it was dark as midnight. It was not till Friday morning that the darkness waned.

In a prolonged drought the "heaven is as iron and the earth as brass." What the colonists call "the break-up of a drought" is welcome as spring in cloudy Europe. During the drought a tantalizing but common phenomenon is the massing of dark, rain-promising clouds. The settler eyes them with hope, and just as he expects their blessings a wind-storm rives them into thinness, and they gradually disappear, leaving no wrack behind. The end of a drought, after numerous disappointments, is generally sudden. The evening may have been fine; in the morning the rain is descending in torrents. One severe drought, in which thousands of sheep and cattle had perished, and many more had been driven to fresh pastures to save their lives, was thus broken up. For nearly seven days and nights, almost without intermission the flood-gates were opened. The rivers rose to unexampled height. Many lives were lost. The Nammoy river carried away to the far south the wrecks of buildings and the carcasses of sheep. There were instances in which all animals left alive by the drought were torn from their owner by the flood. When the *affluents* of the Darling escape from the cordillera, they

spread in flood time over many miles of land on each side of their ordinary channel.

But a flood is a "sweet restorer" of parched Nature. In an inconceivably short space of time the plains which appeared a mass of dust are sprinkled with emerging green, and grass and herbs leap into redundant life. In a few weeks the formerly perishing cattle lose the clammy disorder of their hair and their dull sad look. Their coats become sleek, their colours bright, and they gambol on the green. It is well when the owner, deriving such direct blessing from heaven, does not, Jeshurun-like, forget to whom he is beholden.

Not by laborious cultivation of sown grasses, but by consuming what nature offered, has the Australian flock-owner been enriched. One characteristic of Australian grasses deserves particular comment. They are not so succulent as many European kinds; but whether in consequence of their inherent qualities, or of the climate, or of both these causes, they support strength in a manner unknown elsewhere. A horse obtaining no food but the grass that he browses upon can without distress carry his rider more than fifty miles without check, and repeat the performance for many days. A high-spirited horse, fairly treated, wants no artificial food to keep up his courage, and maintains his condition although he has several long journeys in the week. It would, of course, be impossible that the fast work of racing or hunting could be performed by a grass-fed horse or an untrained one.

It has become an article of belief that the hot winds themselves, though unpleasant, are wholesome; that, like actual cautery, they exorcise evil effects; that by their force malaria and unhealthy exhalations are destroyed. If it be so, Australia should have a healthy future before her; but the carelessness of man may defeat the bounty of Providence. Neglect of precautions proved necessary elsewhere may neutralize even the natural advantages of the south. It is hard to imagine that if the air were not purified, as by fire, by means of its dryness, its cities and villages could have been exempt from the scourge of Indian cholera, as yet unknown in Australia. The influx of Chinese and others can scarcely fail in time to

introduce it in Northern Australia, and then it will be found whether the purer and drier air of the south can repel it absolutely.

The mountain chain, which qualifies the climate and the soil, yields also the minerals which make Australia famous. Iron was found in Tasmania by early voyagers. It was long known to exist in rich ore in New South Wales. Coal was found in the earliest days at the Hunter river. The Hunter river coalfield is estimated to exceed 8000 square miles, and New South Wales is deemed to possess 24,000 square miles of coalfields. In Queensland other large fields exist, but no important seams have yet been found except near the east coast cordillera. Gold is found in its flanks. In New South Wales at Bathurst and elsewhere, throughout Victoria, and in many parts of Queensland, the "yellow slave that puts odds among the rout of nations" has been found and exported by the ton. In 1892, after much search, the great granite tract of Western Australia was found to yield on its flanks rich stores of gold, and attracted speculators and scrapers from all parts of the world. Copper made South Australia rich, and abounds in New South Wales and Queensland. Tin crops up in the cordillera between New England and Darling Downs.

The cost of production, the measure of which is mainly the price of labour, has alone prevented the extension of iron-smelting and tin and copper mining. Diamonds, small, but of good quality, have been procured in the cordillera, and precious stones of many kinds.

Timber, hard and durable, and excellent for the carpenter's craft, grows in vast forests on the flanks of the cordillera, and various forms of eucalyptus are scattered over the whole island.⁶ The jarrah of Western Australia (*Eucalyptus marginata*) has a peculiar reputation for its power to defy decay when submerged and exposed to the attacks of the dreaded teredo, and has been largely exported to India. The iron-bark (*Eucalyptus sideroxylon*) became from its durability a synonym for toughness. The fragrant-wooded

⁶ 1894. In Wallace's "Australasia," 1893, it is stated that "there are more than 160 species of eucalyptus in Australia." Of the acacia genus *the same work states that* "there are nearly 300 species" there.

myall (*Acacia pendula*) formed a pleasant feature on the skirts of Liverpool Plains and elsewhere, drooping with delicate foliage. Nearly all the trees are evergreen, but the general hue is sombre. The currejong (*cooramin*) of the forest, and the casuarina which lines the rivers, stand with brighter green in cheering contrast to the dulness of surrounding leaves. Amongst the mountain forests and dense underwood all tints may be found, but they are reserved for him who woos them, being far from the thoroughfares of travel. The steep eastern flanks of the cordillera are for the most part thickly wooded, and dense jungles fill the ravines in the mountains and follow the streams downwards. On the less precipitous slopes to the interior an open forest is soon reached, and park-like glades, downs, and plains abound, until the great depression of the island is reached at an elevation of from six to eight hundred feet above the sea level. The larger streams are accompanied by lines of vegetation welcome to thirsty travellers. Much of the interior is not bare, but covered with a low growth of what the colonists call scrub—intermingled shrubs and small trees.

Some early writers, following Strzelecki's surmise, assumed that the cordillera, interrupted by Bass's Straits, reappeared in Tasmania. Mr. A. R. C. Selwyn, when geologist of Victoria, showed that this surmise was incorrect, and that the true extension of the cordillera is its deflection westward which divides the Murray river waters from the declivity to the sea. In Victoria the rocks which compose the chain are in great part of the upper and lower Silurian age, and in these have been found the gold deposits.

The lower Silurian rock system Mr. Selwyn estimated at a thickness of 35,000 feet. He it was who pointed out the fallacy of the generally-received opinion that gold would not be found at considerable depth, and in deference to his judgment Sir Roderick Murchison qualified in a later edition of his 'Siluria' a statement which was at variance with Mr. Selwyn's opinion. An area of more than 30,000 square miles presented prospective advantages to the gold-miner in Victoria alone. As the lower part of the Murray is approached, on leaving the hill country, the great tertiary depression of the interior is reached, which extends to its

rim at the base of the cordillera. Emerging from it, from south to north, are patches of granitic formation. Westward of the boundary between South Australia and Western Australia these outcrops are less numerous, but when the 123rd degree of E. longitude is reached an enormous tract of granite prevails, with but a narrow fringe of other formations between it and the western ocean. Proofs of active volcanic agency in the past are abundant.

The cordillera in New South Wales presents the same large tracts of Silurian formation, interspersed with granite and basalt, and broken by the vast tract of sandstone which encircles Sydney and spreads to the confines of the rich valley of the Hunter river. The bulk of the interior presents a campaign of tertiary formation. From the 32nd parallel of south latitude to the Gulf of Carpentaria a wide cretaceous band intersects it, while the eastern cordillera abounds in granite, carboniferous, metamorphic, volcanic, and Silurian outcrops.

In a physical sketch of the country the great Barrier Reef deserves mention. After Cook's adventure at the Endeavour River, many ships were wrecked, and new dangers were continually discovered. But the shortness of the route and the calmness of the sea allured the mariner, and reefs extending for hundreds of miles, surrounded by countless coral formations seen and unseen, did not deter the adventurous Anglo-Saxon from the pursuit of gain at the risk of the grave. Steam eventually freed the navigation from its greatest dangers.

Of indigenous fruits Australia could not boast. None but scanty berries incapable of yielding sustenance to man were found. They were pleasant to the curious, but almost useless to the hungry. But what it did not naturally yield Australia was prompt to receive.⁷ The rich alluvial soils on the river-flats of the Hawkesbury, the Hunter, the Mackay, and the Clarence are like the banks of the Nile in responding to the farmers' efforts; the basaltic soils of various portions of the cordillera are almost as productive, and are secure from damage by floods. Various elevations invite various fruits. The orange-groves of Sydney stand

⁷ Jam nova progenies cœlo demittitur alto.

where currants and gooseberries would shrivel in the heat, but within eighty miles the latter bear fruit luxuriantly on the cordillera. The pine-apples of Queensland are exchanged for the apples and pears of the south, and as far as Providence is concerned, there is no good withholden from the dwellers in Australia.

The climate and soil are deemed specially favourable for the production of wine of the best quality, although the delicacy of the manufacture and the want of skilled labour have made it a work of time to ascertain where and under what conditions the various grapes should be grown and their juices secured. Yet the wines made at Camden Park obtained distinction at the Paris Exhibition in 1855, and at an exhibition in Melbourne in 1880 a prize offered by the Emperor of Germany was won by wine made at Yering in Victoria. Tables of statistics will show the general productiveness of the soil.

No wild beasts of the forest threatened a colonist, as in old time in Mesopotamia. The dog, probably landed by Malay proas in bygone centuries, was the largest beast of prey. Unlike other animals on the continent, the dog was not marsupial. The 'native cat' of the colonists, a spotted creature of the order of *Dasyuride*, was the largest carnivorous marsupial of the continent. Kangaroos of many kinds, the wombat (*Phascolomys ursinus*), emus, swans, pelicans, geese, tribes of ducks, the platypus, and fish and eels, abounded upon the earth or in the waters; and from the trees, at his time of need, the Australian easily procured the opossum, the native bear (*Phascolarctos cinereus*), and flying squirrel. A gigantic bat was named a flying fox by the early colonists, and a gigantic swift which dwells in the mountain rocks might often be seen at dusk nearly a hundred miles from the home it could reach at any time with more than the rapidity of the wind. Snakes, some harmless and some deadly, and iguanas were continually seen. In the northern rivers and on the north-eastern coast the crocodile was found.

Insect life is redundant in this land of the sun, and lizards dart with fanciful speed amongst the grass and stones. The birds of the forest glittered with brilliant

colours under the clear Australian sky, and the shrill cries of swarms of parroquets glancing through the air imparted a foreign feeling even to those who were not already wearily conscious of their exile from England. Quail and snipe are occasionally abundant, though sometimes absent from a caprice unexplained by naturalists and unwelcome to sportsmen. The wedge-tailed eagle and numerous hawks soar for their prey, and descend upon it like a thunder-bolt. The bustard (turkey of the colonists) has been seen struck in air by an eagle and tumbling helpless to earth. The rare white hawk condescends to no carrion, but strikes his game for himself. The ibis visits in large flocks the cordillera country at intervals, and the early colonists gathered from its coming an apprehension of drought, believing that the evaporation of the waters of the interior drove it towards the high lands. Pigeons of large size and doves of singular beauty abound. Though song-birds are rare, the native thrush, without the sustained note of the European congener, has perhaps a mellowed voice. The startling and melodious voice of the bird called by the early settlers "the coachman," from the likeness of his note to the crack of a whip, astonishes him who sees from how small a bird such sound can come. The bell-bird, with metallic but mellow pipe, warns the wanderer that he is near water in some sequestered nook. The skylark is common, but soars not so high in air as his northern congener, and has no song comparable to that of the lark of England. The clattering laugh of the gigantic kingfisher (the laughing jackass) was eccentric and unmusical, but the joyous note of the magpie (*Gymnorhina tibicens*), as he trolled his flutelike morning carol, was always pleasing.

The flowers of the forest are plentiful, and excite wonder now, as they did when in their honour Cook's landing-place was called Botany Bay. The lily, the waratah, and many others claim admiration from the eye. The sweet-scented pittosporum and boronia may challenge other lands to produce an odour which surpasses theirs. Numerous varieties of the mimosa make the air heavy with perfume, and the wafted odour of the musk-tree after rain seems to have *come unalloyed* from the Spice Islands. The flame-tree

(of the order *Sterculaceæ*) of New South Wales bursts upon the eyes of the traveller with a blaze that justifies its name, and the orange masses of the silky oak of the Clarence river (*Grevillia robusta*), though less vivid, have a richness almost as startling.

In Tasmania the west and great part of the north are occupied by the Silurian formation which is found in the south-east of Australia, while volcanic rocks seam the centre of the island, and carboniferous strata characterize a great part of the west. The smaller area of the island (about 15,000,000 acres) and comparative superiority of its mountain heights furnished permanent streams, and the forest, when first seen by Europeans, asserted sway over almost all the soil which was not covered with water.

The colonists strove early to discover coal-measures which could be profitably worked. They sought for gold also, and found it, though not in the abundance which prevailed on the mainland of Australia. The tin mines which they discovered in later years were a more unmixed good.

The character of the soil, produced from the rocks which form the mountains and hills, promises a long continuance of fertility in a climate favourably modified by the closely-surrounding ocean.

The marsupial order prevailed as in Australia, but animals unknown on the Continent were found in the island. The tiger of the settlers (*Thylacynus cynocephalus*), the devil (*Dasyurus* or *Sarcophilus ursinus*), both carnivorous and savage, were in the island only, and were a problem to naturalists. There were, however, fossil remains of both animals on the mainland; and of a fiercer carnivore, large as a lion, but with feller weapons, which preyed upon gigantic kangaroos, now like itself (*Thylacoleo carnifex*), long extinct.⁷ The kangaroo and wombat were in both countries, as was the platypus,⁸ which, with its duck-bill, webbed feet, and mole-like body, once puzzled scientific men in

⁷ The author would not venture on this assertion except on the authority of Professor Owen, the monarch of comparative anatomy, who gathered the dry bones of antiquity and restored the forms of the past.

⁸ 1894. The author was in London in 1883 when the first edition of this work was published, and Professor Owen volunteered to look over the proofs relating to the Australian fauna. He made several notes with his own hand besides that relating to the *Thylacoleo*.

Europe. The poisonous nature of a wound from the spur of the male was well known to the aborigines, but was disputed by some persons, although the orifice in the spur indicated a purpose. Moreover, it was at certain periods only that venom was believed by the natives to be emitted.⁹ The dog of the mainland was not found in the island.

Most of the birds, and even the emu, were common in both places. The fish most highly prized by epicures—the trumpeter—was found only on the island coasts, and most frequently at the south; but whiting, flounders, and garfish vindicated the excellence of the fish of the sea, while in the Murray and other rivers of Australia the cod-fish, a gigantic perch, was esteemed by some as a delicacy.

Snakes were so numerous that when Lady Franklin (the wife of a governor), to rid Tasmania of them, offered a shilling for each snake killed, no less than 14,000 were produced in one year. Where lagoons abounded, and on moist margins of rivers in Australia, snakes were always numerous. In both countries the hawk tribe destroyed them. One in Australia, a keen but small brown bird, seemed to take pleasure in the dangerous sport. Darting down, he seized the snake near the head with his talons, and spreading his wings, the tips touching the ground, with firm but quivering tension, prevented the coils of the snake from involving him, and thus clutched his victim till

⁹ Professor Owen was much interested when informed by the author of an instance in which a native was wounded in the wrist by the spur of the platypus. Faintness followed, and the arm and glands were swollen for many days. A wasting of the arm succeeded, and some weeks elapsed before it resumed its power. When recovered, the man asked the author if he wanted any skins of the platypus, as he was about to avenge himself. He succeeded (going alone in a bark canoe) in killing several in one afternoon in the river Murrumbidgee. Professor W. H. Flower, in describing the platypus, wrote:—"On the heel of the male is a strong, curved, sharply pointed, movable, horny spur directed upwards and backwards, attached by its expanded base to the accessory bone of the tarsus. This spur, which attains the length of nearly an inch, is traversed by a minute canal, terminating in a fine longitudinal slit near the point, and connected at its base with the duct of a large gland situated at the back part of the thigh." The natives were so well acquainted with the power of the spur that they seldom suffered from it. The author's friend was wounded while drawing to the edge of a canoe a platypus he had speared. A companion made a *movement* which nearly upset the canoe, and in balancing his frail bark the *spearman* received his wound. He secured his prey.

it was powerless. The natives watched and admired the feat frequently.¹⁰

The gigantic king-fisher, the laughing jackass of Australia (*Dacelo gigas*), destroyed innumerable snakes, centipedes, scorpions, and all kinds of insect vermin, and, as various venomous snakes existed both on the mainland and on the island, those who knew the habits of the bird were loth to see it destroyed.

Over the lands thus glanced at tribes of men had roamed as lords long before Spaniard, Dutchman, or Englishman laid claim to the soil or to the title of discoverer. They subdued to their use the natural productions of the earth, but were innocent of any kind of agriculture. Ethnologists have been unable to determine whence they sprung, or how their occupation of Australia took place; but the weight of evidence implies that as powerful races rose to mastery in Hindostan and in the Malay Archipelago, the extruded weaker families drifted southwards and found new homes.

One learned writer, Dr. Latham, unable to account otherwise for the fact that the Tasmanians had hair differing from that of the natives of the mainland, was constrained to suppose that the former must "have come round Australia rather than across it." Yet he classed both families as varieties of a "Kelenonesian race."¹¹ In some islands of the Pacific he found it intermixed with the Papuan race, and it need hardly be said that the facilities for admixture were great on the northern coast of Australia, to which unnumbered shallows might in the course of centuries be

¹⁰ One fact known to the natives is more creditable to the maternal affection of the kangaroo than is a commonly entertained idea that this creature when chased throws its young from its pouch as a prey for its pursuers in order that the mother may save her life by sacrificing her offspring. The author was on foot in steep country with a native. The dogs pursued several kangaroos, and one of them, as it passed near the hunters, hastily threw its young one close to some bushes, under which it crouched. The native said: "Sit still, and if the dogs should not catch her she will come back for her young one." In effect the dogs singled out a different animal, and in a very brief space the mother, having made a circuit, returned to the spot by the way in which she originally approached it, went straight to the bush where the young one instinctively lay concealed, placed it in her pouch and departed.

¹¹ Prof. Owen wrote in the margin, "a long name is a good veil of ignorance." It was at his suggestion that the author added the note about the maternal affection of the kangaroo, mentioned to him in conversation.

borne by wind and current from Sumbawa, Timor, or the Coral Sea. Thus also, by repeated additions of fresh families, would the language and physical appearance of the Australians be modified; but the structure of the language in New Guinea differed so essentially, in the use of prefixes, from the suffix forms of Australia, as to show that it was not by the Papuan race that Australia was peopled.¹² More than one race has, however, been ascertained to exist in New Guinea.

The time is passing away in which observers can see the Australian natives as they were "when wild in woods the noble savage ran." It is interesting, therefore, to record the testimony of Dr. Pickering, a member of a scientific expedition fitted out by the United States of America. He reduced the remarkable races of mankind to eleven, of which the Australian was one.

After "surveying mankind from China to Peru," he wrote—"Strange as it may appear, I would refer to an Australian as the finest model of the human proportions I have ever met with; in muscular development combining perfect symmetry, activity, and strength, while his head might have compared with the antique bust of a philosopher."

To many who have lived for years in Australia such a statement would still seem strange, for there are hundreds of thousands of colonists to whom the disinherited race is known only by report, or by the sight of a ragged, despised lingerer asking, in the gibberish which has been taught him as English, for a coin which he may spend upon drink to rouse some animal excitement within him. But when the tribe was counted by hundreds, when with lordly port the warriors strode through the woods, unawed and undecimated by firearms, Dr. Pickering's description as regards the physical frame and development of the finest Australians might, except as to their countenances, often be thought true, so graceful in symmetry, so hardened by exercise and activity were the forms of many. As a rule, however, the muscular development of the legs was deficient.

¹² The sagacious Richard Watson, Bishop of Llandaff, the hammer of *infidels* in the eighteenth century, predicted that the mother language of *the Southern dialects* would be "discovered in some part of Asia."

Dr. Pritchard, in his work upon the natural history of man, assigns the Australian to a Pelagian negro race. The absence of woolly hair made it necessary to modify the negro type so as to include the Australian, whose hair is for the most part wavy or lank, sometimes curly, with an occasional instance of close curls not more nearly allied to the woolly negro than are the heads of some Caucasians. He considers the race allied to the Arafuras, or Alforas, of the interior of New Guinea. It may well be that some families of that tribe were landed at or escaped to the neighbouring shore of Cape York. It may be equally true that the Alforas themselves were but a hive thrown off from Hindostan in pre-historic times. The coarser and shorter haired Tasmanian race he affirms more positively to be the Pelagian negro; but ethnologists writing in European studies, and travellers on the spot, could not account for the fact that in the Tasmanian race, remote from every land but Australia, there was so marked a difference between the human air on the island and that of the continent.

It may be noticed that philosophers who deduce from a few skulls their ethnological theories often¹³ suffer from faulty induction, and races invented to suit theories thus constructed exist only in idea. In shape, in physiognomy, and in disposition, there were as wide differences amongst Australians as amongst uncultivated Europeans, though they escaped observation except from those who had profited by local knowledge. The prognathous type imputed to the Australian may often be seen in the hinds of Tipperary or the delvers in Staffordshire;¹⁴ and in intelligence, good-humour, and loyalty the despised black race often put to shame the boors among the vaunting Caucasian intruders.¹⁵

¹³ Prof. Owen wrote "always" instead of "often."

¹⁴ Prof. Owen wrote "good" as to this statement.

¹⁵ A native (the man wounded by the platypus) who was readier than most of his countrymen, though many were eloquent on occasion, boasted to the author that he had overcome in argument a doctor of physic who contended that the world revolved on its own axis.

Native: If it did we could not stand; we should tumble down.

Doctor: No; we don't fall from a moving coach.

There is no such towering elevation of an individual above the mass amongst savages as amongst civilized Caucasians; but comparing the savage with only the lower and uneducated European, it would be hazardous to affirm that the black is inferior to the white. Under existing conditions the former can produce no Shakspeare or Newton, but the latter can vie with it in types of degradation. Nor must it be forgotten that the first great poet produced by Russia was the grandson of a negress of full blood.

Surveying man throughout the globe, examining his structure, comparing the skulls of races, laterally, vertically, and by measurement of the base, Dr. Pritchard concluded

Native : But the coach has its top upwards. When the world had got us to the under side we should fall away.

Doctor : No; the flies don't fall from the ceiling.

Native : Well, how would the rivers run ?

Doctor : Oh, all the same as when we are on the coach.

Native : Ah, doctor, that won't do. Perhaps the river running the same way that the world was turning might run all right, but the river running the other way—how could that manage, always the wrong way—uphill ?

With great glee the triumphant casuist declared that the doctor was silenced.

As a contrast, it may be mentioned that an English peasant, grumbling at the "wrong things" taught, said to the author that the only good he could see in a school was to keep children out of mischief. "Why, sir, they teaches 'em as the world's round. That's all very well for people as hasn't travelled, but for you and me, sir, as has come out to the colony in a ship, it won't do, for we knows — well as it's flat."

Which of these men, the Caucasian or the Australian, would any reader prefer for a companion? Always cheerful, often witty, keen for sport, and an accomplished huntsman, the Australian was a general favourite. On one occasion he travelled from the Murrumbidgee (his native place) to Adelaide with cattle. The small vessel which was to carry his employer and others to Sydney was wrecked on Kangaroo Island. When the party escaped to the shore the native was rudely treated by some who grudged him room in the boat. But soon the scene was changed. He became their hope, and the grudgers cringed to him. "I was almost like a governor. The same men who wanted to keep me out of the boat came to me like sheep. 'Please, Jemmy, come and catch a kangaroo, or show us how. Oh, do!' It made me laugh. They did not deserve it, but I had to help them, for I did not want them to starve. They were a bad lot."

Sir Thomas Mitchell was accompanied in his official explorations by natives. He wrote:—"They have been described as the lowest in the scale of humanity, yet I found those who accompanied me superior in penetration and judgment to the white men composing my party." Such is the difference between personal experience and the evolution of a scheme *in a study*.

that there is in reality no material difference in human races, and that "of one blood were made all the nations of the earth." In spite of the manifold disintegrations of primitive speech, the researches of Max Müller point to the same decision by the independent path of comparative philology.

Though the Australian had an aptitude for language, by a singular infelicity it seems to have been thought easier to teach corrupted English than that of ordinary speech, and the colonists wantonly maimed their own language by addressing the natives in a barbarous jargon of mispronounced English words. The consequences were natural but misleading. Travellers' notes were often worthless. Their hosts could not converse with the natives except in a limited, inexpressive vocabulary, and the defect was imputed to the native, of whose language neither the traveller nor his host, the colonist, knew a word.

But as ignorance is often voluble in proportion to its excess, the passer-by accepted what he gathered in this perfunctory manner, and recorded it for the enlightenment of Europe. Sometimes when the native was weary of questions which he could not understand, he gave vent to an ejaculation of disgust, which was unduly recorded as an answer to the querist.¹⁶

But there have been faithful and capable observers. More than forty years ago Sir George Grey and Mr. E. J. Eyre threw a flood of light upon the manners of the Australians. Until they wrote, it might almost be said that the only valuable information had been given by Collins in 1798, except in missionary reports, to which the outer world gave no heed. He faithfully narrated what he saw. What he gathered by questioning cannot be so thoroughly depended upon.

¹⁶ "One gentleman published a vocabulary (of the King George's Sound dialect) which has been largely quoted from by other writers; in this the numerals as high as ten are given, although the natives only counted to four, and the translations of some words he has put down as numbers are very humorous; such as—'What do you mean?' 'Get out,' &c."—"Travels in North-West and Western Australia." Sir G. Grey. Vol. ii., p. 216.

The author has known similar cases, and has discussed them with the wearied witness afterwards with amusement.

As soon as Governor Phillip had established communication, the natives comprehended his position of authority, and gave him the highest title known in their language, derived from the creative Spirit, and associated with age and the respect due to it. They then looked upon the invaders as prompted and controlled by the *venerabile nomen* of the ruler, and invited the officers to be present even at their secret ceremonies, to which in after years they would admit none but their most cherished friends.

There is sufficient similarity between many language-roots throughout the continent to prove, if it were needed, a common origin. The word for "eye" and the word for "foot," in a land where existence depended so much upon sight, and upon tracking enemies or game, have, as might have been expected, a close likeness in far-distant spots. The pronouns also betokened generally a common stock. The numerals in use were limited. In some tribes only three were at command, in most there were four. For the number "five" a word signifying "many" was resorted to. This poverty proved that Australian tribes derived no aid from the great Polynesian family which spread from the Sandwich Islands to those of New Zealand, where denary enumeration prevailed, and the Maori could count in thousands.

But their migration must be ascribed to another source than the Pacific, or must have preceded the appearance of the sea-kings of Hawaii and their island conquests. It would appear that in the hills of the Deccan are to be found the nearest kindred of the dark race which was expelled from Hindostan, which finds to this day holes in which to hide in Ceylon and in islands afterwards conquered by the Malays, and which spread undisturbed by persecution over the broad lands of Australia. That the Deccan tribes speak a Turanian dialect might be credited on the authority of Prof. Max Müller if it were not accepted by others. Prof. Huxley concludes, "from description," that the people are "undistinguishable from the Australian races."

The learned Sir W. W. Hunter¹⁷ informs us that the Dravidian tribes were forced southwards in Hindostan,

¹⁷ *Imperial Gazetteer of India*. 1881. W. W. Hunter.

and that the grammatical relations of their dialects are "expressed by suffixes," which is true as to Australian languages. He declares of Bishop Caldwell, whom he calls "the great missionary scholar of the Dravidian tongue," that the bishop pointed out that the "South and Western Australian tribes use almost the same words for 'I,' 'thou,' 'he,' 'we,' 'you,' as the Dravidian fishermen on the Madras Coast." It seems that some of the wild hill tribes possessed a dual number and some did not. The Australian had a perfect form of dual. That all used flint weapons hardly needs to be said. We may believe that in a pre-historic age some powerful class or race of invaders sought to impose the peace of death upon the ancestors of the Australians in Hindostan.¹⁸

Hunted and despised, their badge was sufferance, their safety in concealment or flight. They could not share the civilization of their persecutors, although for centuries they marauded from their mountains and plundered the occupants of the land of their forefathers. Those who migrated southwards fled from island to island, and despised relics of the race still inhabit different lands; not hewers of wood or drawers of water for subsequent conquerors, but dependent upon the casual bounties of nature. In Australia they marched free from molestation. The mode in which they spread over the continent may be easily surmised. They relied only on the chase, and on seeds or fruits provided by nature. As the number of a tribe increased it was found desirable to seek new homes. Family after family, treasuring as best it could the traditions of its ancestry, wandered along the shore so bountiful in food for skilful sportsmen. Probably there were several points of departure on the wide expanse of the north coast whither more boats than one would drift or be propelled.

Thus from the north would the east and west coasts be gradually peopled. Spreading along the east coast, so rich with the food they loved, tribe after tribe would be formed, until the south coast, and in time South Australia, would

¹⁸ Dr. A. R. Wallace in his learned work "Australasia" (E. Stanford, London, 1893) arrives at the conclusion that the Australians "are really of Caucasian type, and are more nearly allied to ourselves than the civilized Japanese or the brave and intelligent Zulus."

be reached, unless, before such migrations had extended thither, some families had traversed the continent by another path, and preoccupied the land. Rivers would be ascended, and their watersheds would become the hunting-ground of the first-comers. When the coast range was reached, if the country offered game in quantity the range would be crossed, and another watershed would gradually be occupied. Tribal feuds would interdict friendly intercourse, and differences of language would arise. In time the most barren and grudging wastes would know the foot of man, and he would extort from them the slender sustenance they afforded. To imagine that he could do so by the mere exercise of animal faculties is not only to under-rate his capacity, but to place in a contemptible light the numerous explorers, who with firearms, implements, and civilized appliances have shown their heroism and perished in explorations.

A strange fact puzzled all colonists as to tribal relations. The practice of circumcision was found to prevail in the north at the Gulf of Carpentaria, in the south at the east of St. Vincent's Gulf, round the head of the Great Australian Bight; and, according to Mr. J. Forrest,¹⁹ among the tribes to the east and north of a line drawn from Port Culver on the south coast by Mounts Ragged, Jeramungup, and the Wongon Hills, to the Geraldine mine on the Murchison river. Nowhere on the east coast was it in vogue, nor even in the territory of Port Phillip, nor anywhere between Port Phillip and Moreton Bay. Could it have sprung up independently in two places divided by the whole depth of the continent? The intervening tract was deemed impassable. Later years showed that it could easily be crossed when certain water supplies were known, and it is not hazardous to conclude that the tribes of South Australia are offshoots of ancestors who crossed the continent from north to south. Several tribes in the intervening interior were found to have preserved the custom of circumcision.

It is still difficult to explain why the rite, prevailing at the Gulf of Carpentaria, was not traditionally adhered to by

¹⁹ "The Handbook of Western Australia," by the Rev. C. G. Nicolay. *By Authority.* Perth: 1880.

any tribes wandering along the east or by all on the west coast, as well as by the traversers of the continent. It may be that it was introduced at the Gulf by fresh arrivals after the first peopling of the coast, and that the next hive thrown off by the new-comers, ascending the Leichhardt or some river flowing northwards, in process of time sent off later hives, which, crossing the tropic of Capricorn, reached the lower Barcoo or Cooper's Creek, Lake Torrens, and eventually the southern sea. A special migration may have carried the rite to those regions in Western Australia in which Mr. Forrest declares that it is preserved. The hostility between tribes would often keep them so much apart from one another that the practice of one might be unknown to, or rejected by, another. The melancholy quarrelsomeness of mankind which made Greek war against Greek in the palmiest day of intellectual development was exemplified in Australia. Almost every tribe was in a state of chronic antipathy, war, or watchful apprehension. Yet they had heralds who moved from tribe to tribe with impunity, and became conversant with the languages of their hosts.

Isolation brought about changes in dialects. Sometimes for long distances a dialect prevailed with little change. Suddenly a difference appeared. As a rule the sea-coast tribes were ignorant of the language spoken in the interior. Their ancestors had clung to the sea-shore, which furnished peculiar food. Some fresh hive, which found the ground occupied on each side of it, would make the rare experiment of going inland. Its ramifications in a hundred generations would creep from one river system to another, until all the tributaries of the Barcoo, the Darling, and the Murray would be occupied. Occasionally an advancing band would encounter one coming from another point of departure, and each would treat the other as a deadly foe. Between the language of adjacent tribes there would then be a wide gulf, and glibly would colonists sometimes aver that the mutual ignorance was a proof of irretrievable incapacity in the race. Yet the language thus condemned had its inflections, its suffixes, and its dual numbers. As there was no "s" in the language it was free from unpleasant hissing, and was as

musical as any European tongue.²⁰ Those who spoke it might for loyalty to their laws and mutual kindness to one another put to the blush the best of their detractors.

It has been objected that ignorance of the meaning of some songs they sang proved a low order of intelligence. Yet in Europe thousands flock to operatic performances of which, if they could distinguish, they would not understand the words. New songs amongst the Australians with appropriate dances, were to them like the last composition of Mozart or Rossini to Europeans. The perfection of acting was aimed at by each man in the tribe. Woe betide the unlucky wight who committed a mistake in the public performance, or missed the proper turn in the air while singing by his camp-fire. Humiliation followed him for weeks from the good-humoured taunts of the tribe. The words of the songs or chants were few, but were often repeated as the harmony ran its round. The performance of the dances (or, as they were called in Sydney "corobborrees," whence the name became general amongst whites and blacks) was invested with traditional interest amounting to a cult. The composer who could minister to it was an especial favourite with his tribe, and of great repute abroad. The usual pictorial representation of a corroboree shows the natives with legs extended, with white lines painted on them. But no painting can portray the intensity and rapidity of the movement communicated to these lines, while, without letting the sole of his foot leave the ground, the dancer by the same motion gradually passed laterally over the ground, and caused the muscles on his thigh to quiver. Mr. Eyre remarks that this is "a peculiarity probably confined to the natives of Australia." Some of them excelled others in its performance. The women beat

²⁰ The Rev. Mr. Ridley, who spoke it well, wrote :—"The inflections of verbs and nouns, the derivation and composition of words, the arrangement of sentences, and the method of imparting emphasis, indicate an accuracy of thought and a force of expression surpassing all that is commonly supposed to be obtainable by a savage race. It need hardly be said that a very common statement that the Australians had no abstract terms—no adjectives such as "hard," "soft," "cruel," "kind," "cold," "hot," "warm," "severe," "gentle," &c.—has no foundation. Dr. Milligan, indeed, while making the statement with regard to Tasmanians, admits that his ignorance of their language impeded his inquiries.

time on folded skins at corroborees. They sometimes danced for amusement separately. Their dance was peculiar to themselves.

When a tribe accepted a new performance, its members made themselves perfect as soon as possible. At the first united rendering of the intricacies of the dance (usually performed some time after sunset) there were generally friendly natives from another tribe, and if they were gratified the new piece was conned carefully, and in due time re-enacted by neighbouring tribes. A careful observer noticed that the time occupied in transmitting a composition from Port Stephens in New South Wales to Seymour in Victoria, a distance of 700 miles, was three years. After traversing a hundred miles the language was unknown to the singers, for the song travelled overland, and the tribes of the interior spoke a different dialect from that of Port Stephens.

The great Kamilaroi dialect of Liverpool Plains and tributaries of the Darling differed much from that of the eastern coast. One noteworthy fact was the manner in which tribes speaking the same dialect were designated amongst the Australians. Almost invariably they were denoted by the word they used for "no." Thus Kamil was the negative. The termination signified that they were the persons using it, and the dialect became known under the same term, Kamilaroi. Wiradhuri (Mr. Ridley's spelling) were the persons using Wirräi as their negative, throughout a large tract on the Murray and Murrumbidgee rivers and adjacent territory. Numerous instances could be adduced. Rarely the affirmative particle was the ground of the name; and thus was found in Australia a repetition of the form of designation resorted to by the successors of Greek and Roman colonists in Provence.

The South Australian explorer, J. McDouall Stuart, recorded that near the centre of the continent an old native made a Masonic sign to him in 1860. When younger men repeated the sign, the astonished Stuart returned it, and the old man patted him in a friendly manner.

The people, thus scattered over their vast home, lived almost entirely on the fruits of the chase. They ate some seeds and roots, *but did not cultivate*, and they tamed no

animal but the dog of the forest. Flat stones to pound the gathered seeds were in use both in Western Australia, Victoria, and other places far removed from them. They could supply their needs, but they were sometimes indolent in doing so. Their stone hatchets were like those found in Europe. They were not perforated, but the handle was secured to them by various devices. To sharpen them gave toil for months. The tribes flourished best and were larger, and individuals amongst them were finer, where game was most abundant, or fish in sea or river furnished wholesome change of diet. In the most barren tracks they have been seen reduced to the verge of starvation, and under such trials the race would dwindle. But the opossum seldom failed them. It was almost as ubiquitous as themselves. Before white men disturbed the hunting-grounds the natives had no difficulty in procuring food.

From whatever quarter of the world they imported their ceremonial law, their intricate system of family distinctions, and their laws of food, they implicitly obeyed them throughout the continent. Their oneness of origin could not be doubted. The variations were but matters of detail, due to accidents. They did not tattoo like the Pacific islanders. They never marred the face, but raised with great care cicatrices which ridged their bodies. The scars, borne with pride in chosen pattern, were different on the men from those on the women. Every man had a family or class name, and could not marry a woman of that designation. Betrothals were early made, and always subject to the family distinctions. It may be doubted whether a girl ever attained the age of seven without having been betrothed within her tribe, in subjection to its marriage laws. The death of the husband transferred his widows to his brother of the same class-name. The children inherited the class-name of the mother.²¹ The name by which men and women were addressed was not the class, but an individual, name. The distinguishing class-names varied in different districts, but the system was the same. The individual name was frequently given with reference to the

²¹ It must be borne in mind that there were different customs in different tribes. When using general terms the author endeavours to refer to the customs most widely diffused.

place of birth, and every stream or hillock had its name well known to all the tribe. The principal stars had names, and by the position of the Pleiades the approach of summer was known. The territory was that of the tribe, but subject to this paramount right, families were specially recognised as having peculiar attachments to certain tracts. As there was no cultivation, there was no jealousy as to boundaries, except between tribes. The decisions of the tribe were made by common consent after discussion amongst the older warriors.

There were chiefs,²³ and their office was sometimes hereditary if the successor was wise and valiant. Otherwise he fell into the ranks. The tribes were glad to be led or advised by accredited sagacity, but there was no arbitrary prerogative. Where there was a leader he was rather *primus inter pares* than autocratic. On all occasions of difficulty the tribe consulted together, and the decision of the elders was final. The chieftain, if there happened to be one, accepted it implicitly. It was always given in absolute conformity to the traditions and ceremonies of the tribe, which no one thought of disobeying or changing, and of which the elders were the expounders.

Old age swept the decrepit out of consideration. They became mere hangers-on of the tribe, fed by the next-of-kin. Sometimes it is affirmed that they were abandoned as useless or superfluously lagging on the stage. The author has known no instance, but would not deny that it has occurred. He knew an instance of continued veneration for an aged warrior, and saw him buried reverently.

Amongst the laws expounded was one by which injuries were to be avenged or expiated. A culprit had sometimes to fight, and sometimes to stand at a certain distance to encounter spears hurled at him by the aggrieved. The sentence was never resisted.

It was only by slow degrees that the young man became free to eat of all the game in the forest. Not until he had

²³ In 1858 a Select Committee of the Legislative Council of Victoria was appointed to report upon the aborigines. In the replies to a query as to their form of government, about an equal number of witnesses described it as patriarchal, monarchic, and democratic. A similar number said they had none at all.

been formally received as a young man of the tribe by the rite of initiation could he venture to touch the kangaroo, emu, or other specified animals. Hunting was the pride of life. The throwing-stick or wommerah added enormously to the force with which the spear could be thrown, and the boomerang was dangerous in war, and useful in procuring birds. The war-boomerang and the boomerang thrown at game went straight to their mark, rotating rapidly. The returning boomerang was a plaything. It has been found nowhere else than in Australia.²³ Sir George Grey vividly

²³ The author cannot be deterred from this statement by the fanciful ideas that the *cateia* of Virgil was a boomerang—that anything like it has been invented in India, or was represented in the hieroglyphs of ancient Egypt. The natural grain of wood was not more favourable to an artificer in Australia than in any other country. Expert carpenters have vainly tried to make a boomerang, although having an excellent sample to copy. They could smooth the curved wood, but knew not how to warp the wings laterally. A card made to rotate and sent upwards at an angle of forty-five degrees, but without elevation of either end in its flight, will return to the sender, but it does not imitate the path of the boomerang. Three thin pieces of flat wood fastened crosswise in the middle will act like the card, but will not follow the circular course which kept the boomerang in air until it had traversed more than two hundred yards in forward movements while rotating with a velocity which, if one end be touched with fire, makes it look like a flying ring of light in the darkness.

The expert thrower can with great nicety, by accommodating the strength used, make the same boomerang follow always the same course and return to the same spot. Different boomerangs require slightly different treatment in throwing, and follow different courses.

The curved shape is well known. Of various lengths and widths, it forms a flat arc varying in width of wood, its curve varying from twenty degrees upwards. The boomerang made to return was more curved than the war-boomerang. Some tribes excelled others in the manufacture of the former. The perfect instrument thrown almost upright (to the right of the shoulder of the thrower) performed the whole of its flight in departing from the thrower without assuming a horizontal position. That position was acquired on its return before it floated to the ground. The ill-constructed instrument was thrown at a much less angle, the position became horizontal almost immediately, and the path in the air was less circular than that of the well-made boomerang. It was not in all places that appropriate tough wood was plentiful. The art which made the boomerang return to the thrower, after seemingly fantastic circles, was expended on the warping of the wings. The side which was undermost as it flew was flatter than the other. The thickness of the wood was greatest at about a third of the width from the outer edge of the arc. The edges were everywhere sharp. In each wing, or each half, there were slight, almost imperceptible warps, which ruled the flight. In forming them the *fashioner* warmed the wood over hot ashes (after it was shaped by the *tomahawk*), and while its flexibility was increased, warped the boomerang

described the use of the spear. The grey rock of the mountain was not more moveless than the hunter when, in approaching his game, he paused like a statue, while the innocent kangaroo vainly sought to detect an invader. Then when, reassured, the quarry relapsed into unwatchfulness, the spearman, keenly eyeing it, and never moving muscle when the kangaroo glanced towards him, advanced until near enough to launch his spear, which, hurled from the wommerah, pierced through the body of the victim. Without the wommerah the heavy spear was fatal, but at a less distance.

Birds were snared by similar stealthy advance with a bough held before the body. Placing grass or weeds on his head, and swimming noiselessly towards wild ducks, an expert native, with long wand and noose, would snare and secure more than one before the rest would take alarm.

Of the various forms of boomerang, some were made solely for throwing point-blank at birds or beasts.²⁴ Others were weapons of war, such as only the strong could use.

to the required degree, which was ascertained by experimental throwing. Different curvatures, specific gravities, and widths, made the flight capricious. The path of one was not always like that of another which appeared alike in shape; but the Australian could always fashion a sound piece of curved wood so as to make it pursue the course for which its gravity, and the width he allowed, fitted it. Light and broad, it floated slowly to the earth. Narrow and heavy, it hurtled rapidly through its course.

²⁴ It is to be noticed that Sir W. W. Hunter, in the *Imperial Gazetteer of India*, and Sir W. P. Andrew, in his "India and Her Neighbours," speak of the boomerang as the weapon of aboriginal tribes in the south of India. But the missile of those tribes was not like the "returning" boomerang of Australia. It was akin to those weapons for forward progress which the Australians hurled point-blank at game. Their rotation was rapid, and though the Australians had a different name for each variety, the term boomerang was applied by the colonists to all. This nomenclature was fitted to mislead, and has misled, writers in other countries. The author consulted friends, long resident in India, while revising the text. One, A. Pooley Onslow, Esq., did not recollect hearing of the practice of using the throwing-stick in India "later than about" 1828. All agreed that the returning boomerang was unknown there. Lt.-General W. C. R. Macdonald, C.B., acquainted with all parts of India, confirmed this statement. The Indian missile, as exhibited in the South Kensington Museum, was sometimes exactly like one variety used in Australia for point-blank throwing. It flew with a rotatory motion (as did the steel quoit used by the Sikhs), and great precision of aim was acquired with it. The use of the point-blank missile in India may be cited, perhaps, as a slight corroborative proof that the Australians migrated from Hindostan.

Some were mere playthings. The one which travellers delighted to see circling in the air and returning in waving circles to the thrower was made only for amusement, but the traveller often supposed that the implement was made to return to its owner in case of missing its object in battle; and thus an absurd error was received in England as truth.

The rapidity of rotation of all boomerangs made their blow sharp, and the weight and velocity of war-boomerangs made them dangerous. The boomerang made to return to the thrower was thrown with the hollow of the arc forward, and with great force, at an angle varying from 45 degs. upwards, from the shoulder of the thrower, according to its special construction and gravity; and the pressure of the air against its outer or flattest side insured its correct flight. No less than six lateral warps, and two shapings with the tomahawk at the ends, were comprised in the plaything. The thrower could cause it to strike the ground about fifteen yards from him, and then rise and pursue its returning course, though not so fast or far as when thrown in the normal manner. If it struck a tree the toy-boomerang was almost always shattered, and the Australians abstained from throwing it where trees were near. It was in open spaces thrown at wild ducks if it happened to be the only missile at hand; but as it would only travel in its circuit, it had only one possible point of intersection with the flight of the birds; whereas the weapons made for the purpose pursued them.

The boomerang of war was massive compared to the toy, and carefully constructed with warps peculiar to itself so as to insure its forward progress, ricocheting as it went at every contact with the ground until the great force communicated to it by the thrower was spent. Some were so heavy that only a powerful man could throw them well. The war-boomerang required less skill in construction than the toy, but when only stone hatchets were used, much labour was required in fashioning it. Its lateral warpings, which a careless observer might fail to detect, differed altogether from those of the toy-boomerang.

The *Sydney Gazette* of 1804 records that, at a battle among the natives, Bungaree, "distinguished by his remark-

able courtesy," threw a war-boomerang with such force that, striking at some distance "the right arm of one of his opponents, it actually rebounded to a distance of not less than seventy or eighty yards, leaving a horrible contusion behind, and exciting universal admiration." The author has known a war-boomerang break a man's arm, and at the same time inflict upon his body a blow from which he died.

The flight and forward bounding of the massive war-boomerang, thrown by a strong and expert arm, was as dangerous as it seemed marvellous. Rotating with a velocity which hurtled in the air, it was made to strike the ground in front of the object, and, unimpeded in rotation by the touch, to bound onwards. Any slight inequality of surface of the ground elevated or deflected it, and thus the enemy could not know beforehand what part of his body to guard; whereas the spear, which held one course, was easily avoided by the keen eye which saw it thrown. Various light instruments made for direct flight in the air by careful shaping and warping, were in use.²⁵ A few boys stealing towards wild-fowl, and throwing their weapons at the rising birds, seldom failed to secure several, for no flight could elude the rotatory missiles.

Clubs of various shapes, wooden shields, some narrow and angular to ward off club blows, some broad to receive spears, were used in battle. They were ornamented with lines carved skilfully in patterns. The spears were various. Some were of heavy wood throughout; some of light wood, with hard points neatly spliced and gummed to them. Some were of reed, and some (most common where the grass-tree, or xanthorrea, grew) were made of its shaft, with hard, sometimes barbed, points attached. The reed and grass-tree spears were thrown with the wommerah, a tough implement generally less than three feet long, with a small piece of wood fastened to its end at an acute angle. This fitted into a socket (secured by twine and gum) at the end of the spear behind the thrower, who, grasping the other end of the wommerah, and holding the spear over and

²⁵ As the colonists called them all boomerangs, the natives accommodated themselves to the term, and its use cannot now be avoided. Barracuan was the name of the returning instrument in the tribe with whose language the author was acquainted.

parallel to it with one hand, obtained the leverage afforded by the length of the wommerah, and hurled the spear with a force of which, without such aid, no human strength was capable. A reed spear could easily be thrown more than two hundred yards.

In 1805 Tipahe, a New Zealand chief, was present at a native battle near Sydney. He despised the dilatoriness of the warriors, but greatly admired the wommerah with which the spear was thrown, and but for the superior destructiveness of firearms would have introduced it in his own country. There was seldom much life lost in battle. The clubs of the losing party were dangerous to pursuers, who were usually content with victory. The women, though treated as chattels, warmly espoused tribal and other quarrels. Their shrieks of taunt or triumph were ever ready. The incidents most fatal to life were those attendant upon a raid of an armed band, unaccompanied by women, stealing upon an unsuspecting camp and spearing several men before dashing forward to complete their work, which spared only women captured as wives.

To describe the whole life of the Australians would need a large volume, but a few instances of their craft may be told. In climbing trees none could excel them. It was by mechanical aid that they overcame their greatest difficulties. With the stone tomahawk (promptly abandoned for iron when the colonists arrived) the hunter cut horizontal notches on which to plant his toe, while perpendicular incisions gave a hold to his fingers as he ascended tall trees. The dangerous crisis was in passing the place where the trunk terminated and large limbs branched out. The descent was more difficult than the ascent, for the notches were unseen as they were felt for. On the coast, and in thick forests where vines abounded, another plan was sometimes resorted to. A strong piece of vine, pliant like rope, was cut, and passed round the tree. Holding the ends, and leaning back with foot firmly planted against the trunk, alternately stepping upwards, and jerking the vine higher and higher, the native quickly walked to the point of danger, the expanding limbs, where the utmost care was required. Passing that difficulty, and leaving the vine for *use in the descent*, he drew his tomahawk from his belt (of

twine of opossum fur, wound round his body) and sought the branch in which lay the opossum or flying squirrel, whose traces he had detected on the bark of the tree.

The wild dog had been tamed, and assisted in catching small game, such as kangaroo rats, bandicoots, &c. Birds' nests were an easy prey, and eggs or nestlings furnished food. For fishing there were nets, weirs, and spears. Often men would dive and spear fish under deep water clear enough to permit sight. Eel-spears had several prong-points. Governor Phillip found the natives at Port Jackson using fish-hooks made out of oyster-shells. A weed (a polygonum) which commonly grew near water was plucked, thrown in masses on the fire, submerged steaming in a pool, and had the effect of stupefying the fish, which, coming to the surface in that condition, were secured without trouble. In one part of Central Australia the leaves and twigs of a shrub called pidgery, or pituri, were dried, preserved in closely-woven bags, and bartered with other tribes. A small quantity had an exhilarating effect, and pidgery was highly prized. Sometimes weapons were bartered. Grass-tree, of the kind fit for spears, grew only in certain places, and the spears were exchanged with friendly tribes for boomerangs or clubs. Grubs found in trees or amongst rocks, gum, manna, iguanas, snakes, roots of many kinds, frogs, mushrooms, nuts, berries, seeds, and all four-footed or two-footed creatures, fell a prey. But no native would eat a snake which had not to his knowledge been prevented from biting itself in its agonies. Immediate suction was the remedy resorted to for a snake-bite. If alone, and bitten on a part to which he could not apply his own mouth, the sufferer on joining his friends, stoically died, deprecating useless attempts to contend with the inevitable.

On approaching a river which they wished to cross with bag and baggage, one or two men would detach themselves from the main band, select a tree from which to strip a sheet of bark, shape the bark, and carry it to the river. There it served as a canoe in which to transport the whole company by degrees. There was no accomplishment which more surprised, or was more useful to the Europeans, than the skill with which Australians tracked animals or men. Sir John Lubbock cites with admiration an incident

recorded by Mr. Gideon S. Lang, who saw a native detect, without alighting from his horse, the name of the person whose footprint was on the road. Such occurrences were common. It was on the rock, the scanty lichen, or hard and barren places, that the tracker made his white companions wonder.

The reputation of courage and skill in war was the chief object of ambition. The pre-eminent man usually took several wives. Wives were sometimes given away. The husband had unrestrained power over them and his children. The women were drudges in the tribe; they carried burdens. They were at best treated with contemptuous kindness, and often brutally. The husband was a law to himself; but there were instances of affection which redeemed human nature from the cruelty of the system. Children were generally treated kindly, but sometimes were put to death in early infancy to shake off useless burdens. Cannibalism was known in some tribes, but was abhorred in others. When resorted to, it was with secrecy and mysterious eagerness, as if the appetite were sharpened by a superstition as to supernatural results. It was sometimes unjustly imputed, when white men, driving the natives from their camps, found human hands preserved in nets. They were thought to be morsels for food, but they were the trophies of success, carried by the Australian as the scalp of his enemy was carried by the Cherokee. Custom varied so much in different tribes that a hand was carried as a memorial of a lost friend in some places.

Burial ceremonies differed in various districts. In some places graves were carefully dug with sticks; the body, wrapped at full length in bark of the melaleuca, was, amidst wailings and cutting of flesh by the women, buried with the property of the deceased. At other places bodies were interred in different postures. Some tribes exposed their dead on small trees, on which they had made a platform for the purpose. Some constructed a low platform, supported by stakes and forked branches. Some placed the body in the hollow of a tree, some in a cave. The mourning for a chieftain or distinguished warrior was intense and prolonged. For the young or undistinguished little display of *grief was evinced*, and sometimes there was utter indiffer-

ence. The suit of woe was, as in China, white, pipe-clay being daubed over the body, not in the grotesque and waving lines used in equipment for dance or war, but in large unsightly masses.

When death took place there was often suspicion of sorcery in a neighbouring tribe, and the karadgy, or leech and sorcerer, of the tribe of the deceased was called upon to divine the cause, and point out the quarter whence it came. In Western Australia the sorcerer (or boylya) watched the fumes arising from leaves and twigs thrown into a grave prepared for the deceased, and was deemed capable of seeing, although hidden from common eyes, the way in which the aroused evil spirit would wing its flight. It would go to the quarter whence the offence had come. War and reprisal would ensue with the tribe which lived in that direction. In South Australia the body was opened, and, on examination of the entrails and omentum, it was decided whether foul play had been used. Sometimes the wise men received intimations without these practices, but the witenagemote had always to determine what steps should be taken to avenge the death. Revenge was a sacred duty.

The raising of ridges on the skin, prevalent in many tribes, was unpractised in others. As the man became a warrior he added to his adornments. The women also had their peculiar marks, but it does not appear that they were compelled to be scarred. The men were proud of scars which indicated hardihood. The face was never disfigured.

Many travellers were astonished to find in caves figures of men and of animals vividly painted with some art and great care. On the sides of rocks heads and hands of gigantic size have been often seen. Governor Phillip wrote (May, 1788) that he saw figures of men, "shields, and fish roughly cut on the rocks, and on the top of a mountain I saw the figure of a man in the attitude they put themselves in when they are going to dance, which was much better done than I had seen before, and the figure of a large lizard was sufficiently well done to satisfy everyone what animal was meant." Flinders described these paintings on rock, which he saw on Chasm Island in the Gulf of Carpentaria. Subsequent explorers, Allan Cunningham, Captain Grey,

and others, observed them at other places. They appear to have been more numerous on the northern and western coasts than elsewhere, but to have been elaborated with greater care at a distance from the shore than close to it.

The rite of induction of young men has been alluded to as witnessed by Phillip's officers in Sydney. There, as in districts far northward, and as in some of the tribes in South Australia, the outward sign testifying the admission was the loss of a tooth. A place was set apart for the ceremony, and seldom changed. Women and children never visited it. The occupation of it by white men confounded the natives as much as the destruction of St. Peter's or Notre Dame would astound Romans or Frenchmen. A raised oval or circular ridge inclosed a space of about eight hundred superficial feet. It had but one inlet, though the mound was but a foot in height. Another sacred symbol was a mounded cross, made similarly of earth. All around the space were trees whose bark was graved with marks and patterns of winding lines, or of angular figures enclosed one within another. Strange dances were exhibited, which in various order signified that in the chase and in war the young men were to assume new functions. The dog, the kangaroo, the hostile tribe, were to be subject to their prowess. Strange articles were shown and songs were taught which no woman or child could see or hear. Even a special call (or coeey), with its response was taught, to be used only out of hearing of the uninitiated. Seated on the shoulders of one man, the boy submitted to the operation by which his tooth was knocked out by a blow from a stone on an instrument applied to the tooth.

Usually the young men spent some subsequent weeks in the mountains apart from the general tribe under the tutelage of esteemed warriors, perfected their memories as to the rites they had witnessed, and gave assurance of observing secrecy. The loss of the front teeth was noticed by Dampier in 1699, and by Flinders in the present century, in tribes where circumcision was practised. But on the east coast the first ceremony existed, and the latter was unknown. Many tribes of the interior and on the south *and west coasts* adopted neither practice, but all had cere-

monies by which they formally received the young as members of the body politic.

The origin of the practice of "knocking out the tooth" could not be explained by the performers. They did it because their fathers did it. It was one of those remnants of a religious cult of which the form was preserved when the spirit had waned from remembrance.

From the ceremony of initiation Europeans were carefully excluded in Australia, except in those rare instances in which they had won the confidence of a tribe; and the fact that Phillip's officers were permitted to see the ceremony described by Collins, proves the tact of the governor.

The rite of admission to the Australian tribe did not confer privilege to eat all kinds of food. Stage by stage as he grew older the man acquired new rights. Women also were prevented from eating certain animals, so that the objects reserved became the exclusive spoil of men in matured strength in a position of authority. In mere infancy the child might partake of any food given to it. Disabilities took effect after about nine or ten years. The food was always cooked, by broiling, or by baking in hot ashes, or in an excavated oven lined with stones. No vessels were used for boiling water, and the art of pottery was unknown.

Among the objects never shown to women or to children was a magic stone—a transparent crystal of quartz like, but smaller than, the mysterious stone which Dr. Dee traded with in England and Europe in the reign of Queen Elizabeth. Carefully wrapped in a ball of twine of opossum fur, a notable crystal was deemed a talisman, and sometimes sent from tribe to tribe to work its marvels. The missionary Threlkeld records that he was mysteriously shown one (there called *murramai*) which was sent to Brisbane Water (a short distance north of Sydney) from Moreton Bay. In South-Western Australia the same veneration was felt for it, but the name was there *teyl*. Death was the sentence on any one who showed the *murramai* to a native woman, and a grim comment on the "conflict of laws" was furnished in the Hunter River district, when a white man, having, in spite of remonstrance, broken the native law, was killed by a native delegated by the tribe to do the deed, and the slayer

himself was captured, and in turn destroyed at the hands of an English hangman.

The conditions of life after the inroads of white men were abnormal ; but many natives were known who had passed the term of seventy years, and were then, though feeble for a forest life, hale enough to have enjoyed some years of shelter from its inclemencies. Their dwellings were but scanty huts improvised from pieces of bark or boughs, as each successive camp was selected in wandering over their hunting-grounds. They wore rugs made of opossum or other skins, neatly preserved and made pliable, and deftly sewn together with twine made from fur, or (occasionally) from the inner bark of trees. They made excellent fishing nets. The patience and skill displayed in the manufacture of weapons, when a stone hatchet was their only tool, were marvellous. The stone hatchet was discarded when the iron tomahawk was obtainable from Europeans, and spread from tribe to tribe by means of barter. In the same manner the old-fashioned tinder-box with flint and steel superseded the former custom of procuring fire by friction. The natives on the north, south, east, and west, and in the interior possessed the art of producing fire, but the substances used varied in the different localities. The combustible grass-tree (xanthorrhoea) was commonly used. If materials were not at hand, or they were damp, it was difficult to obtain fire, and the natives were careful to carry it as they moved from camp to camp. This habit, and their slackness to exhibit the process of ignition, which involved vehement labour for a few minutes, has led some persons to believe that there were tribes ignorant of the process. It seems highly improbable that there were any such. The institution of heralds who moved with impunity from tribe to tribe over great tracts of country would of itself render such ignorance almost impossible. The twirling stick made to rotate between the palms of the hands was the only power used. A drill-bow, such as that used by the Iroquois of America, or by the Maoris in working jade, was never thought of by the Australians. By the method in use, if the operator relaxed his energy for one moment, all the previous exertion was rendered futile. When the fire *appeared there* was usually sweat on the brow.

This general description of the habits of the race must suffice for these pages.

In the excellent "Kamilaroi and other Australian Languages," by the Rev. William Ridley,²⁶ will be found most valuable information, not unattended with internal proof of the vague, second-hand manner in which knowledge has been sometimes assumed to have been gathered. The "Australian Aborigines," by James Dawson,²⁷ must be commended for its fulness and general accuracy.

The former life of the scattered tribes of Australia quickly became impossible after settlers appeared in any district. The new comers, for the most part as ignorant of the manners and laws of the disinherited race as any unmoved denizen of Wapping, were ready to denounce it as an encumbering tree which ought to be cut down without delay or remorse. Not making allowances for the forced impossibility of living their former life, and the powerful obstacles to their adoption of a new one, the public soon accepted the local maxim that the Australian black was the lowest type of man. It is but just to show some of the influences which tended to crush him.

It was common among the settlers to attract or inveigle into their service some young lad who was able to run errands or to ride. He still associated with his tribe when they frequented the neighbourhood of the settler's house. He knew his native language; he venerated native traditions. He was duly initiated in the mysteries, and, having been long betrothed, when he reverted to his tribe as he grew to manhood, he was denounced as another proof of the incorrigibility of his race. An instance may be told.

Sir George Grey tells of one Miago taken on board *H.M.S. Beagle*, and found attentive, clean, and cheerful, wearing European dress and waiting at the gun-room mess. The *Beagle* left him at Swan River, and he became again a savage, wearing war-paint, and inbruing his hands in blood.

"Several persons told me," continues Sir G. Grey. "You see the taste for a savage life was strong in him, and he took to the bush again directly.

²⁶ Government Printing Office. Sydney: 1875.

²⁷ Published by Mr. Geo. Robertson in Melbourne in 1881.

Let us pause for a moment and consider. Miago when he was landed had amongst the white people none who would be truly friends of his; they would give him scraps from their table, but the very outcasts of the whites would not have treated him as an equal; they had no sympathy with him; he could not have married a white woman, he had no certain means of subsistence open to him, he never could have been either a husband or a father if he had lived apart from his own people. Where amongst the whites was he to find one who would have filled for him the place of his black mother, whom he is much attached to? What white man would have been his brother? What white woman his sister? He had two courses open to him: he could either have renounced all natural ties and have led a hopeless, joyless life amongst the whites, ever a servant, ever an inferior being; or he could renounce civilization and return to the friends of his childhood and to the habits of his youth. He chose the latter course, and I think that I should have done the same."²⁸

The absolute submission of the individual to the will of the tribe left Miago no other course. But those who imputed to him inborn, untameable savagery have been confuted by the result in every case in which the black child has by accident been taken from the tribe before it had been able to learn the language and traditions of the people.

An infant whose parents were shot at Toongabbe in the last century, another who was permitted at the Hunter River to be suckled by a white woman whose child had died, and who when the foster-child grew would not part with it to its mother; these and many similar instances proved that it was the hold of native language and tradition which was too powerful to be broken. The two instances cited were accompanied by a feeling of repugnance to being deemed members of the race which was daily, by ravages of drink and disease, undergoing degradation before the eyes of the changelings.

Mr. Eyre says—

“The character of the Australian natives is frank, open, and confiding. In a short intercourse they are easily made friends, and when such terms are once established, they associate with strangers with a freedom and fearlessness that would give little countenance to the impression so

²⁸ On the east a native (who had been sent to school and had carried off prizes amongst white boys) when he returned to the bush entered the corps of native Police, and sadly said to his commanding officer (as quoted by the good missionary Ridley), “I wish I had never been taken out of the bush and educated as I have been, for I cannot be a white man; they *will never* look upon me as one of themselves; and I cannot be a black fellow, for I am disgusted with their mode of living.”

generally entertained of their treachery. On many occasions where I have met these wanderers in the wilds far removed from the abodes of civilization, and when I have been accompanied by a single native boy, I have been received by them in the kindest and most friendly manner. . . . I have ever found them of a lively, cheerful disposition, patiently putting up with inconveniences and privations, and never losing that natural good temper which so strongly characterizes them. . . . It is a mistaken idea, as well as an unjust one, that supposes the natives to be without sensibility of feeling. A fine intelligent young boy was by his father's consent living with me at the Murray for many weeks."

The old man took the son to Adelaide, where the lad died.

"For nearly a year I never saw anything more of the father, although he occasionally had been within a few miles of my neighbourhood. One day I accidentally fell in with him. Upon seeing me he immediately burst into tears, and was unable to speak. It was the first time he had met me since his son's death, and my presence forcibly reminded him of his loss."

The same grief mastered him when he went to Eyre's house. The name of a lost friend is never mentioned by the natives, and when they have heard it from unthinking or rude lips they have been known to go away silently in tears.

It is just to add that Eyre depicts, like other writers, the brutal treatment of women, the occasional licentiousness in manners, and the absence of respect for chastity which prevailed.

Count Strzelecki, who had wandered in many lands, travelled and observed much in Australia. He found analogies between the skulls of Europeans and natives.

"In many instances it was even remarked that the facial angle of the white was more acute, the superciliary ridge, the centres of ossification of the frontal bone, and the ridge of the occipital one more developed, and the inferior maxillary more widely expanded, than in the skulls of the aborigines. Yet, notwithstanding a partial inferiority in shape in some of the details, the native of New South Wales and Van Diemen's Land possesses on the whole a well-proportioned frame. His limbs, less fleshy and massive than those of a well-formed African, exhibit all the symmetry and peculiarly well-defined muscular development and well-knit articulations and roundness which characterize the negro; hence, compared with the latter, he is swifter in his movements and more graceful. . . . When beheld in the posture of striking, or throwing his spear, his attitude leaves nothing to be desired in point of manly grace."

One obstacle to obtaining information as to Australian ideas of the supernatural was the fact that they were closely bound up with the tribal ceremonies, of which women and children were allowed to know nothing, and of which none

would speak to any European except to the few who were implicitly trusted.

In November 1882 Mr. James Manning read to the Royal Society of New South Wales an elaborate paper,²⁹ embodying information which he had procured in frequent conversations in 1844 with a native whose confidence he had obtained. The accurate narrative given to Mr. Manning about the ceremonies with which young men are initiated, and the injunction of secrecy, are corroborative testimonies to the genuineness of his paper. Differences between customs of tribes make it probable that the tradition intrusted to Mr. Manning would not have found an exact counterpart in any remote locality; but the great fact of belief in a Creator and Ruler was perhaps common in all.

The Rev. Mr. Gunther, who was for many years a missionary at Wellington Valley, far from the scene of Mr. Manning's inquiries near the Murrumbidgee River, received from the most aged natives assurances that their people firmly believed in a creative and all-powerful Deity, and the name ascribed to him was there almost the same as that which prevailed among tribes speaking diverse dialects.

There have been many disquisitions as to religious belief among the Australians. Count Strzelecki came to the conclusion that they recognised a God, believed in an immortality of everlasting enjoyment among the stars, and reserved their fears for an evil spirit, indicating them by mysterious belief in omens. That they believed in an informing soul in their own bodies, was the result of inquiry in all parts of the continent.

Sir George Grey ascribed no religious faith to them, but described their superstitious observances.

The Rev. Mr. Ridley, after years of intelligent labour and study, wrote:—"Their tradition concerning Baiame,³⁰ the

²⁹ Various opinions were expressed at the meeting of the society. One speaker said that "his experience of the aborigines of Northern Queensland supported what had been stated in Mr. Manning's notes."—*Sydney Morning Herald*, 4th Nov. 1882.

³⁰ Baiame, in the Kamilaroi widely-extended dialect. Baiamai, in the equally widely-extended Wiradhuri. Biumbai (though Mr. Ridley does not mention the fact), on the Lower Hunter River, once thickly populated by a people who have disappeared within the memory of the author, who spoke and has survived their dialect. The Rev. Mr. Threlkeld spells the

Maker of All, as a ray of true light which has passed down through many generations, may well suggest to their Christian fellow-countrymen, that this branch of the family of man has been from the beginning an object of our Heavenly Father's preserving mercy."

It would be presumptuous in any one observer to pronounce dogmatically on such a subject. But long acquaintance with the perishing race, and frequent conversations with them on their mysteries, lead the author to believe that Mr. Ridley was right—that waning tradition of the Creator survived more or less in memory, and that the rites and ceremonies preserved amongst the Australians³¹ were the relics of a cult carried to the continent by the ancestors of the nomads who were roaming over it when the English took possession.

By ordinary observers who never sought to penetrate the inner mind of the race they were deemed absolutely without religious ideas, but their dread of evil spirits was recognized. Without doubt much of the religious belief held by the first voyagers from the Arafura Sea was dissipated in the course of ages of dispersion. That the race was of one origin is capable of proof by language and many ceremonies. That those ceremonies were remnants of the ritual of the decayed religion can hardly be doubted. Nor are the Australians the only instance in which incrustations of forms have been allowed to stifle the essence of religion among men. The vine, which in their native woods climbs over and eventually strangles the life of a tree, and stands proudly in its stead, is a fit emblem of the Australian

Hunter River word *Beumby*. By giving the Italian pronunciation to *Biumbai*, the sound is obtained which Threlkeld intended to convey. As Mr. Threlkeld's labours have been published this explanation is necessary.

³¹ A similar conclusion was reached in another quarter of the globe. In a paper read by Sir Bartle Frere in London to the Royal Colonial Institute (22nd Feb. 1881), he said it was "irresistibly borne in upon anybody who carefully studies the habits and characteristics of the South African races, that they are all, without exception, the degraded descendants of races who have once been in a state of higher civilization. By 'degraded' I mean simply men who have lost what their ancestors once possessed of higher culture and more complete civilization, rather than men who have succeeded an ancestry ruder and less humanized. We find them, in fact, in South Africa descending in the scale of humanity and not ascending. This, however, is a matter of opinion, and I only state the result at which, in common with many close observers of these races, I have arrived."

condition. Of prayer no relic remained. Yet there was left a consciousness of a Great Creator, undefined, unapproached by man. The astronomer does not bring down the spheres, but attunes his mind to their harmonies; and the golden link of prayer binds man to the ineffable power which created him. Without it he becomes rudderless on the ocean. When wholesome humility dies out in the mind, unclean spirits fill the void. And so, with the Australian, the relics of worship, retained in his solemn ceremonies, did not bar the way to base superstitions and dread. The darkness of night, the deep recesses of unfathomed pools, the neighbourhood of dense woods which defied the beams of the sun, were all believed to be under the power of some evil one. Yet was the belief vague. No native would voluntarily go alone at night to a haunted region. But when the tribe thought fit to move at night, it did so; and if pressing danger urged him, even a single man would thread his unerring way in the murkiest recesses from which otherwise he would have shrunk.

For years the colonists strove to gain sight of a water-monster described to them by the natives. It dwelt in deep river or mountain pools. Doubtless traditions of dangers from the crocodile, or shark, spread among tribes which knew not the northern rivers, or the sea, invested any deep water with a reputation for containing its monster; and the distorted fancy was thus founded on reality.

One great difficulty in weighing the peculiarities of the Australian race was the diversity of customs in different tribes. The habits of one tribe have often been accepted as the rule of all, and a local observer has built a general theory upon an exception. Thus in some tribes in South Australia cannibalism was a rite. Mr. Gason reported that the Dieyerie³³ tribe (near Lake Hope) were bound to eat a portion of their relations in obedience to a code under which the mother ate her children, or the children the mother, but the father and his children were forbidden to partake of a similar horrible repast, while "uncles, aunts, nephews, nieces, grandchildren, grandfathers, and

³³ Quoted in "South Australian Aboriginal Folk-Lore." Taplin. *Adelaide: 1879.*

grandmothers ate of each other." The tradition was that the rite was ordained in order to prevent inordinate grief at the death of relations.

The "South Australian Folk-Lore" (Taplin), published by the Government (1879), declared that the Narrinyerri tribes, which occupied the territory around Lake Alexandrina (extending from Cape Jervis to Lacepede Bay), shrank with horror from cannibalism of any kind. The Narrinyerri were in some respects esteemed as having a more highly-formed social polity than other tribes in the colony. They are distinctly affirmed to have believed in a future state, and in a ruling Deity. They had numerous totems (derived, as usual in Australia, from names of animals), and marriages could only take place amongst them in strict compliance with defined law or custom, which prescribed the classes within which marriages were allowable. Contrary to the ordinary custom of the continent, the child was of the father's class. This exception occurred also amongst the Kurnai tribes, which occupied Gipps' Land, in Victoria, as well as in some other parts of the continent. The Kurnai tribes were made the subject of elaborate comment by Mr. A. W. Howitt³⁴ in 1880. He became acquainted with them long after seizure of their country by Europeans had annihilated their organization, and when remnants of them were gathered at two mission stations maintained by aid from the government, and by the zeal of missionaries. The elder members doubtless retained knowledge of their smitten institutions,³⁵ but reverence for what was once supreme law is impaired by its

³⁴ "Kamilaroi and Kurnai" (Melbourne, 1880), by L. Fison and A. W. Howitt, with Introduction by Dr. Lewis H. Morgan, of America.

³⁵ An instance was furnished by the able and excellent Moravian, Rev. F. A. Hagenauer, who presided over the Presbyterian mission, Ramahyuck in Gipps' Land, where waifs from various tribes were assembled. The daughter of an old man was selected on the station to marry a young man to whom, by Australian law, she ought not to be married. The old man told Mr. Hagenauer: "You may marry them like the white people. I cannot, because it is against my law. I will come back when they are married." He absented himself on the day of the ceremony, and on his return proved by his friendly demeanour to his forbidden son-in-law that no personal dislike actuated him in clinging to the doomed law of his forefathers. (Evidence before Royal Commission in Victoria, 1877.) One man sadly remarked to the author that perhaps the decay of the race was due to its modern disobedience to its ancient marriage laws.

destruction or decay, and the study of lifeless relics is more difficult than that of living forms.

As the work which includes Mr. Howitt's monograph is one of the most recent which deals with Australian customs, it is necessary to allude briefly to one or two points on which he dwells. He and his fellow-worker (Mr. Fison) in the "Kamilaroi and Kurnai" have expended much pains in an attempt to prove that the Australian customs confirm the theory that man evolved from a brutal state the differences which now distinguish him from brutes. This is not the place in which to deal with the general question whether the Creator gave to man reason and speech when He placed him upon the earth. On that question elaborate works exist in many languages; and some axioms have been laid down which experience does not confirm. "Speech," said Humboldt, "is the necessary condition of the thought of the individual." Yet a deaf mute Australian was, within the author's own knowledge, expert in all the arts necessary to his condition.³⁶ If set down wheresoever the want of water would not cause speedy death from thirst, he could wrest ample living from the land in a manner which would have astonished learned linguists. But he had learned wisdom from his tribe. He had caught, in the words of Max Müller, "something of the rational behaviour of his neighbours," by whom he was called "the stupid one." But without passing that Rubicon of language which Max Müller declares no brutes can cross, he was far removed from their sphere. There seems no need, and no justification, for putting forward the Australian as autochthonous, and progressive to the state in which he was found in the eighteenth century.

There are problems in Europe which might better engage the attention of those who think that man evolves his own faculties. Ample literary evidence is at hand, and yet those problems are not solved in the sense demanded by believers in the capability of men to augment their mental powers. None will dare to assert that since the days of

³⁶ As the tribe could not appease him by explanations they were careful not to provoke him to anger. Except when angry he was good-natured, and, as the tribe were studiously gentle in their demeanour to him, he was *seldom angry*.

Socrates and the master spirits of his time the human mind has advanced.³⁷ Shakspeare and a few others comfort us with the thought that it has not retrograded, but no other land can show the flood of light that shone in Greece, when her scanty freemen raised painting, sculpture, architecture, literature, and philosophy to heights perpetually aimed at, seldom reached, and never surpassed. Leaving as beyond discussion in these pages the unspeakable blessings conferred upon man by Christianity, the world has little to show except in mechanical contrivances and discoveries, flowing from the inductive system. Recorded gains indeed are never lost. Material advantages are innumerable, but mental transformation, by way of heightened faculty, no one will venture to claim as the result of man's exertions. The bare idea of John Stuart Mill confronted by the easy superiority of Socrates would drive such a thought from the most boastful.

Mr. Howitt, reflecting on the condition of a group of persons all connected by blood, has evolved a theory that originally "brothers had their wives in common, or a group of sisters their husbands in common,"³⁸ and that from this promiscuous intercourse the savage mind engendered an elaborate code which made such intercourse impossible. It was common to many Australian tribes to have a comprehensive term which included many relations. Thus a father's brother's child and a mother's sister's child on the River Peake in South Australia bore the same relative term to their cousin. At Lake Alexandrina, in the same colony, the cousin bore one appellation if male, and another if female. As there were terms to comprehend a grandfather's or grandmother's brothers and sisters, and as every living relation bore a significant term reciprocated by another, the

³⁷ The judgment of Mr. Lecky (*History of European Morals*) and Mr. Galton (*Hereditary Genius*) go far beyond the affirmation in the text.

³⁸ He adopts the terminology of Dr. Morgan (*Ancient Society*). A "consanguine family" signifies intermarriage of brothers and sisters in groups. A "Punaluan family" indicates intermarriage of several brothers to each other's wives in a group. A "Syndiasmian family" indicates "the pairing of a male and female, but without exclusive cohabitation." Not one of these forms was extant in Australia, and yet it is attempted to derive the intricate and unswerving marriage laws of the tribes from them!

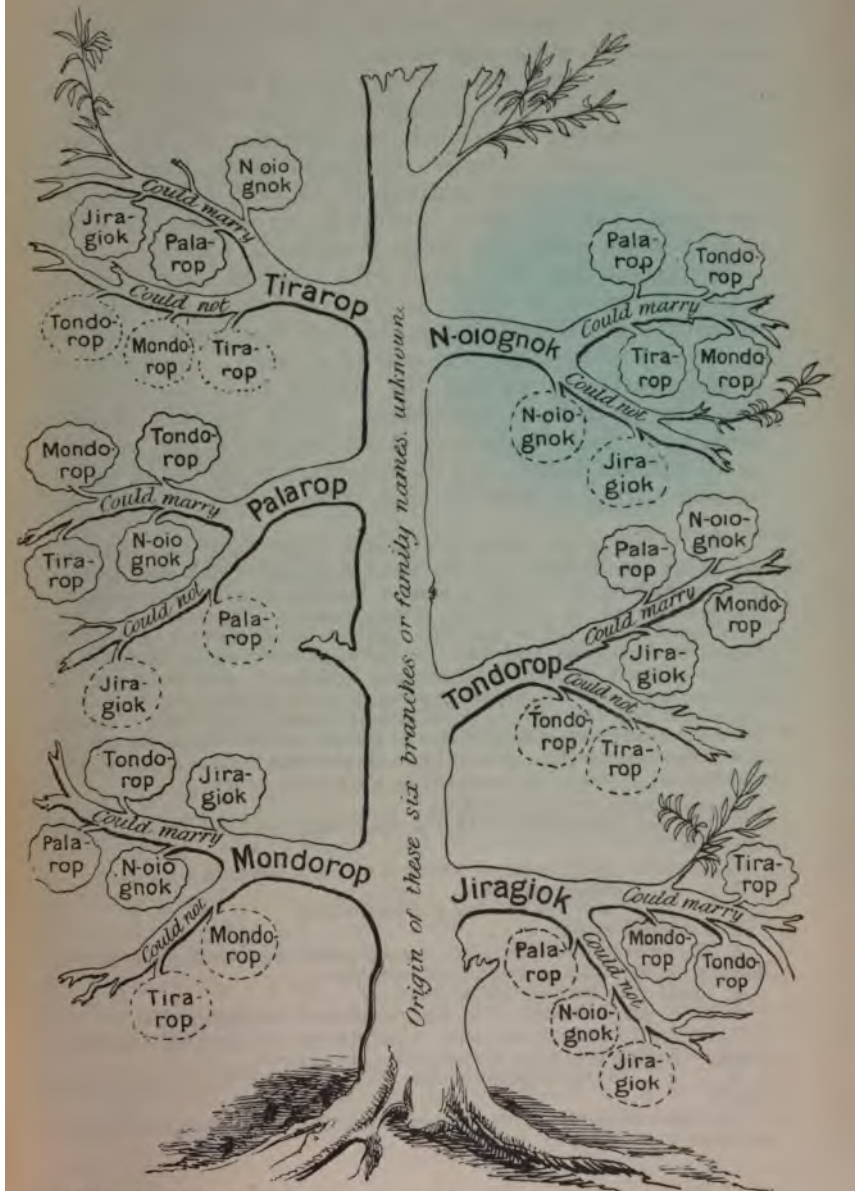
acquisition of the terms which flowed trippingly from the tongues of the natives became difficult for Europeans. The Rev. G. Taplin (editor of the "South Australian Folk-Lore") exclaimed that it was "remarkable how precisely the Australians designate relationships for which we have no distinctive name."

Bearing this fact in mind, and knowing that though handed down only by oral tradition the tribal laws were implicitly obeyed, let the reader observe the accompanying tree, or intra-tribal marriage code, recorded by the good Roman Catholic missionary, Bishop Salvado, in Western Australia. It is selected, not as the most complicated, but as one of the simplest recorded. It may be asked whether, as some such code exists throughout the continent, it does not carry conviction with it that the tribes brought their polity from afar. That they did so, and that local changes were sometimes effected, is more easy to believe than that a homogeneous system was excogitated by hundreds of tribes independently throughout the continent.

A glance at this tree, and a knowledge that generally children were betrothed to members of the permitted totems within the tribe at an early age by their parents, will show how little dependence can be placed upon the following statement in a work published by the Government of Victoria in 1878:³⁹ "A tribe is in fact an enlargement of a family circle, and none within it can intermarry. A man must get a wife from a neighbouring tribe either by consent, or by barter, or by theft." A more erroneous statement could hardly be made, though it is contained in an elaborate Introduction by the editor who probably was misled by reading that marriages were exogamous as to the totem, and imagined that they were exogamous as to the tribe. Doubtless there were marriages outside of the tribe, but they were exceptional luxuries; arising from conquest in a warlike raid, or, if two tribes were friendly, from barter.

The Gipps' Land district, separated from the interior by the mountain-barrier of the Australian Alps, probably, as Mr. Howitt supposes, facilitated changes in custom to the full extent to which absence of intercourse with other tribes

³⁹ "Aborigines of Victoria." Edited by R. B. Smyth.



MARRIAGE LAWS, NEW NORCIA, WESTERN AUSTRALIA.

would impair tradition. Yet in Gipps' Land none could marry a person of his own totem.⁴⁰

Differing in detail, the marriage laws of Australia are one in principle, and barred promiscuous intercourse or incest. Implicitly obeyed, and much too intricate to have been devised by a race defective in mental gifts, they either prove its capacity for legislation, or else that it imported its ceremonial law as other wanderers or conquerors have carried theirs within the range of authentic history.

To imagine that the Kurnai tribe invented a complicated system in order to relieve themselves from a difficulty in which it is gratuitously supposed that they were placed, is to invent a problem for the sake of a theory. No evidence is discoverable to warrant the setting aside the account given by the natives themselves. Their law was handed down from their forefathers, treasured unchanged, obeyed by all without demur, and no instance was known in which passion stirred a member of a tribe to defy the law by

⁴⁰ The names of the classes or totems in Gipps' Land were different, according to Mr. Howitt, from any found elsewhere. They were derived from small birds. As Mr. Fison remarks, this fact is not deeply important. The Kurnai had the institution, though under a different name. The Narrinyerri tribes had no less than eighteen totems derived from quadrupeds, birds, reptiles, and fish. In the same work which recites their totems ("South Australian Aboriginal Folk-Lore") will be found an amusing instance of the confused manner in which persons, presumed to be conversant with the customs of the natives, enlarge upon them. Among the most widely-spread designations of totems are the Keelparra (crow), and Muqwarrah (eagle). Among printed questions sent to a person who had had many years' experience among the natives were:

4. Is the tribe divided into clans?
5. Has each clan a totem?—that is, some beast, bird, &c., the symbol of the tribe?
6. Are there class names, or a kind of castes in the tribe?
7. . . . clan marriages . . . ?
8. . . . Marriage customs and ceremonies. . . . ?

The answers were:

4. The tribe is divided into five classes, called respectively—Condalkoo, Boolkarlie, Moattillkoo, Bullalre, Toopparlie.
5. These clans have no totems whatever.
6. There are class names—the Keelparra and the Muqwarrah.
7. Only a Keelparra can marry a Muqwarrah. A Keelparra must not marry a Keelparra, nor a Muqwarrah a Muqwarrah.
8. . . . At times (betrothment) "which must in due time be carried out."

12. Blood relations are not allowed to marry. These aborigines are very strict on that point.

marrying within a prohibited section. Can popes or kings allege an equal conformity to their codes?

¶ The aborigines of Tasmania have been a stumbling-block to theorists. Their coarse, short hair differed from that of Australians; they had neither the marvellous boomerang nor the forceful wommerah; and yet unless they could be proved to have migrated from Australia, it seemed necessary to admit that they sprang from Tasmanian soil, and such an evolution seemed to imply that every island could generate its own race; in which case so many independent races and languages ought to have existed as would have defied computation, and were clearly incompatible with the proofs furnished by comparative philology. One learned writer surmised that the Tasmanians sailed or rowed round the continent; another rejected the theory because the skill in navigation required for such a feat could not have been subsequently lost. Others have deduced them from the Africans, and supposed that at one time land extended, and man roamed, from Australia to Madagascar.

Yet, different as to stature and hair, the islanders were in some points like the Australians. Like them they raised cicatrices to adorn their bodies. Like them they venerated stones of rock-crystal; like them they initiated young men in tribal mysteries; like them at those mysteries they used among other symbols which women and children might not see, an oblong piece of wood which, swung by a string in swift circles, caused a booming sound. At those mysteries also, on island and continent, there were observances which might seem derived from the Dionysiac orgies which had their counterpart in Hindostan, as well as among the islands of the Pacific, but were screened from the public gaze in Australia. Australian and Tasmanian men at their dances, by simultaneous hissing and rapid vibration of the lips, made a fierce sound, quite unlike the quivering roar produced by the Maoris in their war-dance.

There was no wild dog in Tasmania, but his presence on the mainland was easy to account for on the supposition that the wandering Malays, who frequented the northern coasts for many centuries, had left dogs on shore. On the other hand, the *Thylacinus cynocephalus* and the *Sarcophilus ursinus*, though both marsupial, were not found on the

continent. The islanders speedily obtained dogs after the arrival of the English in 1803.

Like the Australian, the Tasmanian natives shrank from naming their departed friends; and often, if the deceased person had borne the name of an animal, or tree, or locality, they invented a new word to describe the object.

No sound like that of the letter "s" was contained in either vocabulary.

Most observers remarked that there was no trace of religious usage in Tasmania, but a dread of evil spirits. But Clark, long a catechist among the natives herded at Flinders' Island after capture, testified that "the greater portion, but not all of them, believed that they were to live after the body died." It may be that, as in Australia, the relics of their religious cult were enshrined in the ceremonies which they observed. "If," said Father Clark (as the natives called him), "so few die joyfully blessing God, are they singular in that respect? The last words of one who died at Flinders' Island were, 'Lord Jesus Christ, come and take me to Thyself.' This was in the hearing of the greater portion of the people who are yet alive. He was a good man." Clark himself shed tears of joy when relating the happy deaths of some of his dark disciples. The race was therefore not incapable of religious impressions or of prayer.

Like their neighbours they believed in sorcery, and are said to have believed in necromancy, but there is no record of their traditions; nor can there ever be, for the last of them, Truganini, died in 1876. Some of the white invaders saw the whole race disappear, and fragments of ill-compiled vocabularies are all that remain to tell of a people which has passed away.

The great possession—fire—was procured at will by the Tasmanians in the same manner as by the Australians.⁴¹ Both of them ascended trees by notching the bark. It was not strange that viewing the space from notch to notch, and not seeing the men who used them, Tasman conjectured that they were a race of giants.

⁴¹ Sir John Lubbock ("Prehistoric Times") gives an illustration of Tasmanian fire-sticks presented to him by G. A. Robinson, the conciliator of the shattered remnants of the tribes.

On the whole, it may be more easily credited that the race of the island once occupied the mainland and was driven southwards by more warlike or skilful tribes than that it separately invented similar traditions and observances. To float across Bass's Straits in a canoe might sometimes be hazardous, but in calm weather was easy. Many recorded instances of drifting canoes exceed by far the width of Bass's Straits. The so-called catamaran of Southern Tasmania, moreover, could not be filled with water nor upset.

To ascribe the habits of the islanders to chance when they conform to those of the continent would be a wild abandonment of reason, when the similarities are found to be abundant. To account for the dissimilarities is difficult; but on the supposition that frequently in the lapse of ages families would land on the northern coast of the continent, it is highly credible that the intermingling of fresh blood would produce physical differences, and thus the race on the continent might diverge in appearance from that which was isolated in the southern island. Thus also any invention, such as that of the boomerang or the wommerah, would remain unknown in the island, although it would be communicated gradually on the continent.

The number of the islanders at the date of British occupation has been computed at 7000,⁴² divided into about a score of tribes, estranged by warfare, and speaking four differing dialects. They roved from place to place within their tribal limits. Like their neighbours on the continent, when they sent out a war-party they composed it of men only. If they apprehended an attack, they sent their women and children to mountain recesses, and watched the object of dread. Thus for days an exploring party led by

⁴² Mr. J. E. Calder published (Tasmania, 1875) an account of the natives, in compiling which he consulted official documents in Hobart Town. The decrease in the tribes puzzled Mr. Calder. "It was," he said, "assignable to very different causes than the hostility of the whites, to which it has been so much the fashion to ascribe it, for up to the time of their voluntary surrender to the government they not only maintained their ground everywhere (the towns excepted), but had by far the best of the fight: . . . in this unequal contest the musket of the Englishman was far less deadly than the spear of the savage, at least five of the former dying to one of the latter."

Sir Thomas Mitchell, in Australia, was followed (within the author's knowledge from information in after years from the tribe) by an agile band whom he never saw, but who did not return to their families till he had quitted their domain.

The huts of the races were of the same temporary character, but it was observed that on the stormy west coast of Tasmania they were more substantial than elsewhere. On the south and west coasts, the island tribes used a catamaran of logs, or a bundle of buoyant bark bound together, but narrowing at the end. Cannibalism was rejected by them with horror. It is affirmed that in no instance did the Tasmanians perpetrate outrages upon women during the war of extermination. Funeral ceremonies varied. Sometimes there was burial; sometimes burning; sometimes the remains were placed in a hollow tree. Grief for a distinguished or beloved friend was, as on the continent, attended with the cutting of the face with flints and the melancholy wail of mourners. White was also the suit of woe for both races.

Mr. J. E. Calder, who had seen the Tasmanians in their degradation, and who compiled his account of them after reference to published and MS. authorities, thus described them:—"It has been customary to rank the Tasmanian savages with the most degraded of the human family, and possessed of inferior intelligence only. But facts quite disprove this idea, and show that they were naturally very intellectual, highly-susceptible of culture, and, above all, most desirous of receiving instruction, which is fatal to the dogma of their incapacity for civilization."⁴³ To a question from Mr. Bonwick—whether they were capable of true civilization—Mr. Calder answered:—

"Yes, undoubtedly: and I give as an example (one, Arthur) whom I knew well, who was captured when a mere infant, and brought up and educated at the Queen's Orphan School at Hobart Town. His ideas were perfectly English, and there was not the smallest dash of savage in him. He was a very conversable man, fond of reading, and spoke and wrote English quite grammatically. One of his neighbours was a grasping and unprincipled fellow, who mistook Arthur for a person with whom

"*The Native Tribes of Tasmania*," p. 31. (J. E. Calder, Tasmania.)

he might do as he pleased, and encroached on a cultivated part of his land, which Arthur had no idea of suffering. (After vain expostulation, Arthur employed a surveyor.) This operation proved that Arthur was right, and that he knew his proper boundaries quite well. When he saw that his opponent was satisfied, he said: "Well, Mr.—, though you have tried to wrong me, I will treat you differently from what I believe you would have done to me if I was in your place. You can come on my land and remove your crop when it is ripe."⁴

Mr. Bonwick adds that Arthur had not thoroughly adopted the civilization of his conquerors, for "such conduct was scarcely that generally adopted by our enlightened countrymen." Mr. Bonwick knew the hero of this tale, and declared that "his face presented no aggravation of the native features, though sufficiently betraying the black man. If standing on the steps of the Piazza di Spagna in Rome, he would have been often selected as a model for his magnificent head." Such was one of the pure blood of the vanished tribes of Tasmania.

APPENDIX.

THERE was, in 1883, a collection of weapons called boomerangs in the South Kensington Museum, and the description in the catalogue spoke of the curved throwing-sticks for killing game as the returning boomerang of the Australians. The explanation of the returning movement was stated (p. 29) to be due to the continuance of rotation "after the forward movement has ceased by which means the axis of rotation continuing parallel to itself, and the fore-part of the weapon being tilted upwards, in falling, it glides backwards on an inclined plane."

This description is true of a card struck upwards so as to make it rotate. It will return on an inclined plane to the person who sent it, but it will return almost as if pulled back by a thread. So will three thin pieces of wood fastened cross-wise. Neither the card nor the wood will return if projected almost perpendicularly. In some tribes a toy-boomerang was made which was thrown almost horizontally, but upwards: and its path was, though it went far, somewhat similar to that of

⁴ "The Last of the Tasmanians," p. 353. James Bonwick. London: 1870. Arthur was married to a half-caste. They had no children. Mr. Bonwick sadly records the fact that Arthur became dissipated, and while plying as a boatman between Hobart Town and Oyster Cove, was drowned by the upsetting of a boat in 1861.

a card. But the boomerang whose path has not been explained pursued a totally different course.

	D		Thrown to the right of the thrower (A) it went in a circuit.
E		C	Starting from A it would at B be 40 or 50 feet high : still rising it would be at D more than 100 feet high and 80 or 100 paces from the thrower ; at G it might be as high or higher than at D, and would then, if a perfect instrument, float
F		B	
	G A		

THROWER.

in gyrotory rotations to the ground. Thrown almost perpendicularly so as to strike the ground between A and B it would rise in the air and pursue a course similar to, but not quite so lengthy as, that just described. The point at G might be variable according to the strength imparted. The boomerang might finish its main circle at F, or, if remarkably good, might first pass over the thrower's head, and then commence its descending gyrations.

A boomerang made narrower and heavier would make the circuit without rising more than 40 feet, and continue its course (without ever assuming a horizontal position) until it reached the ground (after passing the thrower) at or beyond B. Rarely there were left-handed natives. They made boomerangs which circled from left to right. They could, however, by lowering the head and bringing the left hand over the right shoulder, throw a right-hand boomerang; and, *vice versa*, a right-handed man could throw a left-hand boomerang. Though one side of the instrument was flatter than the other, and the warps of each half were almost, but not quite, identical, it was not the fact that so long as the flattest side was thrown outermost the boomerang might be thrown indifferently by making a handle of either end. Therefore the left-handed man could not throw a right-hand boomerang by simply making a handle of the opposite end to that used by the right-handed man, and throwing from left to right. The natives when fashioning a boomerang always insisted that if it performed the first half of its circuit well, and failed in its second, it was because the end not used as a handle was deficiently warped, and they proceeded to warp it properly. There remains, to vouch for their accuracy, the fact that each boomerang was constructed so that it could only be thrown properly by using the end fitted by the fashioner to be the handle.

The catalogue remarked at South Kensington (p. 35) that the *fac-simile* of the Egyptian boomerang, 167 to 169, fig. 18, "with practice could be made to return to within a few feet of the feet of the thrower." The figure in the catalogue did not show the thickness of the ends of the weapon, or the roundness of its ends, but to anyone conversant with the returning boomerang of Australia, a sight of the *fac-simile* showed that it was absolutely impossible for the so-called Egyptian boomerangs to pursue the path of the Australian.

The same thing may be said of those shown as Dravidian boomerangs. Other weapons were exhibited as "modern African Iron Boomerangs," but unless every missile hurled so as to rotate is to be called a boomerang, it is difficult to discover why the term is thus applied.

A tomahawk or a knife may be made to rotate, but always with forward progress; and a glance at the weapons of the Kolis of Guzerat, and the *Marawar* of Madura, as well as those from Kattyawar, in the South

Kensington Museum, proved at once that they were missiles for straight-forward progress. The Australians used many varieties of such weapons, but they did not call them returning boomerangs, and it is a pity that by an unhappy confusion of terms the circling instrument has been associated with the progressive one. If any person were to show an Australian native the instrument figured 20 in the Catalogue, and stated (p. 30) as "found to fly with a return flight like the Australian boomerang," the Australian would need great command of countenance to restrain his laughter. The author regrets that he can furnish no scientific explanation of the course of the circling instrument, but is consoled by the fact that a valued friend—the late Professor W. P. Wilson, a Senior Wrangler of Cambridge—when he saw the instrument thrown in Australia, declared that no explanation had been given of its path. Reasons which apply to the return of the card were, in his opinion, inapplicable. [1896. The number of people whom the author met in England (in a few short years) who had implicitly believed that the plaything was a weapon for war, proved how hard it is to weed out a popular error.]

CHAPTER III.

PHILLIP'S EXPLORATIONS.

OF the physical geography of the territory which he was to govern Phillip was entirely ignorant. The explorations of Cook had been confined to the coast. From the natives it was difficult to procure information. La Perouse had fired upon them while at Botany Bay, and the English convicts provoked them by assault and theft.

Phillip's settlement was established upon a rocky and sandy site, altogether unfavourable to agriculture. The virgin soils, which needed no enrichment, on alluvial flats, had yet to be discovered; and, when discovered, to be cleared of the forests and undergrowth which shrouded them. Even at Sydney there was a rugged covering of eucalyptus, banksia, and straggling underwood. The Hawkesbury River was not known until the energies of the colonists had been bound down to the barren soil close to them; and westward of the Hawkesbury the Blue Mountains of the cordillera effectually barred them from the plains of the interior.

As early as in March, 1788, Phillip commenced his explorations with boats, and examined Broken Bay, at the mouth of the Hawkesbury River. The south branch, which he thought "the finest piece of water he had ever seen," he called Pitt Water, in honour of the great Prime Minister. In April he made an inland incursion towards the mountains, but was unable to reach them in the time at his disposal; and, during his brief absence, five ewes and a *lamb* were killed at Sydney by dogs. After several other

excursions he was successful in tracing the course of the Hawkesbury River from Broken Bay to Richmond Hill;¹ and, intent as he was on the useful, he had yet an eye for the picturesque, and reported the wonderful charms of the river scenery.

The ravages of past floods were visible in the lodgment of large logs in branches of trees, at a height of thirty to forty feet above the level of the river.

In Phillip's earliest excursions he had not discovered good land for cultivation. That at Parramatta was better than the sand of Sydney, but it was poor. When the rich soil at the Hawkesbury was known, the colonists were *adscripti glebæ* elsewhere; and there was, moreover, some risk of attacks by the aborigines, the ill-treatment of whom, by the convicts and others, had aroused an unfriendly feeling which Phillip and his wiser comrades vainly strove to remove. In April 1791 Phillip headed an exploring party of officers, soldiers, and convicts. Bennilong and another native accompanied him, "carrying their own provisions." Phillip intended to trace the Nepean River, previously named by him, but he had to return without seeing the Nepean. In June 1791 two officers, Tench and Dawes, and two soldiers, went to explore. Civilly treated by the natives, they ascertained that the Nepean was an affluent of the Hawkesbury. Tench invited travellers "among polished nations to produce a brighter example of disinterested urbanity than was shown by these denizens of a barbarous clime to a set of destitute wanderers on the side of the Hawkesbury."

While Phillip was gaining knowledge of the eastern territory, a brother officer, Captain Vancouver, H.M.S. *Discovery*, found and named King George's Sound in the west.² Phillip was intelligently solicitous to establish

¹ "In the sixteen days we were then out all those branches which had any depth of water were traced as far as the boats could proceed." Phillip's despatch, 13th Feb., 1790. On this occasion he named the "Blue Mountains."

² Writing from the Cape of Good Hope, Vancouver told Lord Grenville: "It is my intention to fall in with the south-west cape of New Holland, and should I find the shores capable of being navigated without much hazard, to range its coast and determine whether it and Van Diemen's Land are joined, which from all information at present extant, appears somewhat doubtful." His voyage was mainly directed to the Pacific

friendly relations with the native race. His intention to guard them from wrong was made known to the government before he left England. From Sydney he wrote (May 1788):

“It was my determination from my first landing that nothing less than the most absolute necessity should ever make me fire on them, and though persevering in this resolution has been at times rather difficult, I have hitherto been so fortunate that it has never been necessary. Monsieur La Perouse, while at Botany Bay, was not so fortunate; he was obliged to fire on them, in consequence of which, with the bad behaviour of some of the transports’ boats and some convicts, the natives have lately avoided us, but proper measures are taken to regain their confidence. . . . When I first landed in Botany Bay they appeared on the beach, and were easily persuaded to receive what was offered them; and though they were armed, very readily returned the confidence I placed in them by going to them alone and unarmed, most of them laying down their spears when desired, and while the ships remained in Botany Bay no disputes happened between our people and the natives. . . . When I first went in the boats to Port Jackson they appeared armed near the place at which we landed, and were very vociferous; but—like the others—were easily persuaded to accept what was offered them, and I persuaded one man, who appeared to be the chief or master, to go with me to that part of the beach where the people were boiling their meat. When he came near the marines, who were drawn up near the place, and saw that by proceeding he should be separated from his companions, who remained with several of the officers at some distance, he stopped, and with great firmness seemed by words and actions to threaten them if they offered to take any advantage of his situation. He then went on with me to examine what was boiling in the pot, and expressed his admiration in a manner that made me believe he intended to profit from what he saw, and what I made him understand. . . . Their confidence and manly behaviour made me give the name of Manly Cove to this place. . . . As their curiosity made them very troublesome when we were preparing our dinner, I made a circle round us. There was little difficulty in making them understand that they were not to come within it, and they then sat down very quiet. . . . I have never been able to make them eat with us, and when they left us they generally threw away the bread and meat, but fish they always accepted, and would broil and eat it.”

Even in this early despatch Phillip narrated much that he had learned about the customs of the natives, their carvings on the rocks, &c. He wrote it under difficulties, and at different times, apologizing for its unconnected nature, and said the “situation does not

Ocean, but he paused sufficiently to discover in 1791 and to name after the king “one very excellent port”—King George’s Sound. There he remained some days. Vancouver reported his discoveries to Phillip from Monterey (near Nootka Sound) by the *Dædalus* storeship, under Lieutenant Hanson; but Phillip had left New South Wales before the *Dædalus* arrived there in April, 1793.

permit me to begin so long a letter again, the canvas house I am under being neither wind nor water-proof." Phillip was not the only one who recorded the friendly bearing of the inhabitants. Collins informs us that at the outset they

"conducted themselves sociably and peaceably towards all the parties of our officers and people, and by no means seemed to regard them as enemies or invaders of their country and tranquillity. How grateful to every feeling of humanity would it be, could we conclude this narrative without being compelled to say that these inoffending people had found reason to change both their opinions and their conduct."

But though Phillip used every precaution, and strictly enjoined his subjects not to deprive the natives of their spears, their boomerangs (called wooden swords by the English at first), their gum, and other articles, which, there being no thieving amongst themselves (Collins says), "we soon perceived they were accustomed to leave under the rocks, or loose and scattered about upon the beaches," the white man was unrestrainable. It was too late discovered that a boat's crew from one of the transports had first given offence, and had been driven off with stones by the blacks. What cared convicts (who could obtain a few shillings for a stolen weapon) for Phillip's prudence? What recked the crews of the transports, who were collecting curiosities, the manner in which convicts had obtained them?

Again, the French—who as birds of passage had no such cogent reasons for good conduct as weighed upon Phillip—had no scruple in firing on the natives with or without provocation. Thus the very tribe, and often, perhaps, the very men, whom Phillip endeavoured to conciliate at Sydney, and with whom he had himself established friendly relations, were wantonly fired upon at Botany Bay.³ With

³ 1894. Though the editor of the "History of New South Wales from the Records" takes exception to this use of the word "wantonly," the author cannot withdraw it. Not only Phillip, but many others have shown that an officer, like Prouse, living in a "stockade guarded by two guns" at Botany Bay was under no necessity to fire upon the natives. The firing was evidently wanton. Mr. Barton says there "is no evidence that any natives were killed by the French." It is quite as much to the purpose to say that there is no evidence to the contrary, and that the act of "firing on them" was confessed by the French, and is officially recorded by Governor Phillip as having been so confessed. It can hardly be contended that a slayer should escape condemnation by means of a plea

great loyalty, and accepting La Perouse's declaration that only necessity induced him to allow the natives to be fired at, Phillip, nevertheless, recorded his mortification at these untoward events. Thefts, and assaults upon the native women, by convicts, who (Collins writes) "were everywhere straggling about," were indeed sufficient to provoke ill-feeling without the addition of violence with fire-arms. In March, 1788, several convicts came in from the woods, one wounded with a spear, others much bruised. They denied (but Collins said there was too much reason to believe) that they had been the aggressors, as Phillip on returning from an excursion found natives shy who had formerly been friendly, and who, after much invitation, pointed to bruises upon their bodies.

By the 21st May, 1788, violence had reached the phase of murder; a convict's clothes were brought in bloody and pierced with spears. Phillip wrote: "I have not any doubt that the natives have killed him, nor have I the least doubt of the convicts being the aggressors." On the 30th of the same month two more convicts were found killed. The annalist says: "As it was improbable that these murders should be committed without provocation, inquiry was made, and it appeared that these unfortunate men had a few days previous to their being found, taken away and detained a canoe belonging to the natives, for which act of violence and injustice they paid with their lives." Phillip went to the spot with an armed party. On returning he met about 200 natives, but had no means of discovering murderers among them. He wrote to Lord Sydney: "Whether from their superiority of numbers, for we were only twelve, or from their not being accustomed to act with treachery, the moment the friendship I offered was accepted on their side they joined us, most of them laying down their spears and stone-hatchets with the greatest confidence." Phillip sighed for more efficient guards over the convicts, and for more faithful co-operation on the part of the commanding officer of the marines.

that he was a bad shot, and that after lapse of a century the body of his victim cannot be produced. The wanton firing by the French was a serious impediment to Phillip in his labours to establish friendly relations with the natives, and a historian acquainted with the customs of the *natives* was bound to deplore and to condemn it.

He was indebted to his own loyal bearing for the confidence he inspired amongst the natives.

In later times his conduct was not imitated. The slaughter of any black, whether suspected or not to have been implicated in some deed of violence against life or property—indeed of every black found by the avenging band—became a common practice under the assumed sanction of government; when bodies of native police were let loose by their hardened officers to slay any and every black who could be hunted down. To whom this sin is chiefly due it may be difficult to pronounce. But that it has been a sin crying aloud to the covering heavens, and the stars the silent witnesses, can be denied by none who know the course of Australian history.

It is true that when a black man was shot his countrymen did not distinguish between the slayer and others, and that they endeavoured to retaliate upon any white man. But it is equally true that this savage *lex talionis*, which smites the innocent instead of the guilty, was the practice of dissolute whites who were, in early days of settlement, the border pioneers. It is sad, but true also, that sons of English gentlemen have linked themselves with the atrocious practice, and have not been ashamed to glory in it, to the horror of their auditors.⁴ But not thus did Phillip act. In June, 1788, he offered a free pardon to any one giving information as to a native reported to have been killed by a convict; but he obtained none. In July there were further collisions, although even while the relations between the two races were becoming hostile, there was a family of natives in one of the coves of the harbour, which was continually visited by the convicts in the most friendly manner, although none of the family would venture into the settlement.

In August a party of natives landed from their canoes in a threatening manner, menacing a sailor who resisted their successful attempt to kill and carry off a goat. Phillip followed them, but could not identify the robbers among the natives he encountered. In this manner, without any common language for intercourse with the natives, unable

⁴ "Our Antipodes," p. 111. Colonel G. C. Mundy. Third Edition. London: Bentley. 1855.

to restrain the passions of his convict subjects, and goaded by the increasing hostilities, Phillip passed several months; and finally determined to cut the knot of his difficulties by seizing one or two natives in order to acquire their language from them. Accordingly, on the 30th Dec., by Lieut. Ball, of the *Supply*, and Lieut. George Johnston, of the marines, "a young man was seized and brought up." A second was seized, but after dragging into water beyond his depth the man who seized him, he escaped. The captive, Arabanoo, was manacled and confined in a hut close to the guard-house, near the Governor's dwelling, and a trusty convict was employed to watch him. Phillip took care to send him down the harbour several times so that his friends might converse with him and know that he was well treated. He speedily became a favourite among his captors, and through him a limited vocabulary was obtained. Phillip thus explained (Feb. 1890) to the Secretary of State his resort to force.

"Not succeeding in my endeavour to persuade some of the natives to come and live with us, I ordered one to be taken by force, which was what I would gladly have avoided, as I knew it must alarm them; but not a native would come to the settlement for many months, and it was absolutely necessary that we should attain their language or teach them ours, that the means of redress might be pointed out to them if they were injured, and to reconcile them by showing the many advantages which they would enjoy by mixing with us. A young man, who appeared to be about twenty-four years of age, was taken in Dec. (1788), and unfortunately died of the small-pox^a in May, when he was perfectly reconciled to his situation, and appeared so sensible of the advantages he enjoyed, that, fully persuaded he would not leave us, I had for some time freed him

^a Some discussion has taken place about this outbreak of small-pox. Phillip said:—"Whether the small-pox which has proved fatal to great numbers of the natives is a disorder to which they were subject before any Europeans visited this country, or whether it was brought by the French ships, we have not yet attained sufficient knowledge of the language to determine. It never appeared on board any of the ships in our passage." (Its ravages amongst the natives were great, and as they) "always retired from where the disorder appeared, and which some must have carried with them, it must have been spread to a considerable distance, as well inland as along the coast. We have seen the traces of it wherever we have been."

Further observation confirmed the supposition that the disease, of which Captain Cook's companions had in 1770 seen no traces, was introduced by the French.

The early settlers, when able to converse with the natives, came to that conclusion. In a paper prepared by Jamison, the principal surgeon (*Sydney Gazette*, 14th Oct. 1804), it was stated: "It is generally accredited by the *medical gentlemen* of the colony on its first establishment, that the small-pox

from restraint. His behaviour gave good reason for forming a more favourable opinion of the people of this country than has been drawn from the report made by those who formerly touched on this coast."

While Arabanoo was alive small-pox was raging amongst his countrymen, and from motives of humanity two suffer-

had been introduced by the crews of the French ships then in Botany Bay; since that period no vestige of the disease has ever appeared."

Early colonists saw in the interior old men apparently marked with the strange disease whose introduction was attributed to the French. The natives concurred in declaring that only at that epoch were its ravages heard of amongst the tribes, and none but the aged bore traces of it in 1835. Some inquirers have thought otherwise, but the proofs on which they relied have been resolved into instances of a disease known as native pox which sometimes produced severe pustules. In 1831 there was an outcry in the Bathurst district against the Government for allowing the settlers' lives to be endangered by the "small-pox" alleged to be raging among the aborigines. On examination by medical men it was found that native pox, of more impressive character than usual, had been mistaken for the dreaded disease.

[1896. In the "History of New South Wales from the Records," the editor discredits the idea that the French introduced smallpox in 1788. He says "the testimony of the early settlers and the natives thus alleged (by Rusden) amounts to nothing more than tradition, and is not entitled to any weight unless it can be connected with ascertained facts." But the editor misses the important point that the authority of Thomas Jamison, the principal surgeon in 1804, whose serious statement was quoted from the *Gazette*, was unimpeachable, and was that of an expert. He accompanied Phillip in the *Sirius* from England as surgeon's first mate in 1787. He became assistant surgeon during Phillip's rule. He knew the "medical gentlemen" whose opinion he cited; and he was himself principal surgeon when he published it. If such testimony can be brushed aside as "not entitled to any weight," it is difficult to imagine how any testimony can be accepted as trustworthy. Governor Phillip, writing in Feb. 1790, after the capture of Bennilong, said: "Whether the small-pox was brought by the French ships, we have not yet attained sufficient knowledge of the language to determine." [Ninety years after the publication of the determination, it is rather late to dispute it. Mr. Barton, in an appendix (*La Perouse at Botany Bay*), accumulates a number of statements made by Tench and others, but they are all dated before the arrival of the time when exhaustive conversation with Bennilong could enable the colonists to form a correct judgment as to the facts. The reference to Sir T. Mitchell's seeing natives suffering from an eruption in 1831 near the Liverpool Range, is pointless. It was in that year that medical men (as referred to in the foregoing note of 1883) ascertained that the fears of the dwellers beyond the Dividing Range (of which the Liverpool Range is a part) were groundless, and that the affection of the natives was merely the native pox.] Some time, of course, elapsed before conversation with Bennilong could be free and instructive. He was captured in Nov. 1789; he escaped after a few months, and only took up his abode in Sydney permanently in Nov. 1790. None of Tench's observations extended beyond 1791, and allowing considerable intelligence to Bennilong, it must be admitted that the "medical gentlemen" could not expect to "determine," in Phillip's phrase, before 1792, with regard to the introduction of small-pox.]

ing men and a boy and girl were, with Arabanoo's help, taken to a hut in the settlement. The men died, but the children recovered. We are told by Captain Hunter, that from the moment of their introduction Arabanoo's solicitude excited admiration, and that when he fell a victim to the disease "every person in the settlement was much concerned for the loss of this man."

Even while Arabanoo was alive, hostilities had not ceased, and enraged by the "death of a convict," sixteen others went off (March 1789) to avenge themselves upon any natives they could meet. They encountered some, who killed one of them and wounded six others. The Governor sent out an armed party under an officer, who found the dead convict, and a boy left also for dead.

"The day following, the Governor, judging it highly necessary to make examples of these misguided people, who had so daringly and flagrantly broken through every order which had been given to prevent their interfering with the natives as to form a party expressly to meet with and attack them, directed that those who were not wounded should receive each one hundred and fifty lashes, and wear a fetter for a twelvemonth; the like punishment was directed to be inflicted upon those who were in the hospital as soon as they should recover from their wounds; in pursuance of which order seven of them were tied up in front of the provision store, and punished (for example's sake) in the presence of all the convicts."

It was about this time that Major Ross had made his obstructiveness oppressive to the Governor, that famine was severe, and that six marines were executed for robbing the rapidly-diminishing stores, and one cannot but sympathize with the gallant bearing of Phillip under his many-sided difficulties. To maintain a firm front towards the natives, while the convicts were being punished, he sent out two armed parties—"one toward Botany Bay, the other in a different direction, that the natives might see that their late act of violence would neither intimidate nor prevent us from moving beyond the settlement whenever occasion required." Such is the testimony of one witness. Phillip afterwards wrote:—

"From the time our native died orders have been given to take another whenever an opportunity offered; but the men were always on their guard, and I was desirous of its being done without the necessity of firing on them. Towards the end of November two natives were taken, and one of *them* proved to be a chief who had been frequently mentioned to us as a *great warrior*. The necessary precautions were taken to prevent their

escape, but it was effected by the chief a fortnight after he was taken. . . . The other remains; he lives with me, and every possible means are used to reconcile him to us, in which I make no doubt but that we shall succeed." "Your lordship has been informed that some of the convicts have been killed and wounded by the natives; but that has, I believe, never happened but when the convicts have been the aggressors. I have always found them friendly, and still retain (Feb. 1790) the opinion I first formed of those people. That they do not betray a confidence placed in them I have reason to believe, from their never having attempted to take that advantage which they might have done from the confidence which has been frequently placed in them by myself and those who have been with me in the different excursions, and from the confidence some of them have placed in us, nor do I believe they would ever have been hostile but from having been ill-used and robbed, which has been the case though every precaution that was possible has been taken to prevent it."

Later (June 1790) he wrote that the natives were not dangerous; they do not "'want innate bravery,' but are sensible of the great superiority of our arms. . . . People go out to rob the natives of their spears and the few articles they possess, and as they do it too frequently with impunity the punishments they sometimes meet with are not to be regretted. They have had a good effect." The manner in which the two natives were seized in Nov. 1789 was told by Captain Hunter. An armed boat's crew, espying two natives on the beach at the north part of the harbour, enticed them by holding up fish:

"The men with much confidence came forward unarmed, and with much cheerfulness received the fish. At this time there were about five of our people on the beach, and the boat lying afloat with her stern close to the shore, and the sailors lying on their oars. Mr. Bradley, who was in the stern of the boat, seeing the opportunity good, gave the signal for securing them; in a moment their heels were knocked up and they were tumbled into the boat, followed by those who secured them, and the boat immediately pulled off. They called out to their friends the moment they were taken hold of, but though a considerable number appeared in the skirt of the wood, on seeing arms in the hands of those in the boat, who stood up ready to fire, they did not venture an attack."

One of these natives was Bennilong, who became a fast friend to Phillip. The other, after seventeen days, escaped with an activity which surprised his gaolers. The two native children were overjoyed at the sight of their countrymen, who now for the first time knew of the welfare of the children—no natives having visited the settlement, and the death of Arabanoo having frustrated the hope of intercourse by his means. Now also the kind treatment shown to the children was useful in conciliating Bennilong. Soon

after his capture the whole settlement was reduced to a minimum of rations, and we may infer that he fared no better than the Governor himself, who scrupulously took no more than any convict was entitled to. Bennilong, who, we are told, "enjoyed every comfort that it was in His Excellency's power to give him, managed his escape so ingeniously (in May 1790, before the close of the starvation period) that it was not suspected till he had completed it." The native children remained contentedly, but declared that Bennilong would never return; and Phillip seemed to be foiled once more. The natives had nevertheless a keen appreciation of the quality of mastery; and respected dignity. The kindness of a considerate person elicited faithful service, while the roughness of others excited their contempt. They had discovered that Phillip's position was that of a chieftain, and that he was a man of his word.

It happened that (7th Sept.), four months after Bennilong's escape,⁷ the Governor, "who had uniformly directed every undertaking in person since the formation of the colony," went to the South Head to give instructions about the erection of a column there. It was reported by Mr. White that he had just seen Bennilong, who had sent as a present to the Governor a piece of a stranded whale. Thereupon Phillip resorted to Manly Beach, where the whale was lying, and saw not only Bennilong, but Colebe, the native who had been captured with him originally. Though Bennilong appeared much changed by his rustication, he received the Governor politely, and presented several natives to him by name. He promised to return to Sydney in two days. He expressed satisfaction at seeing Collins.

The natives were numerous, the Governor's small party was unarmed, and Phillip was retiring towards his boat by degrees, conversing with Bennilong about presents of hatchets. Bennilong pointed out to him a native by name, to whom Phillip advanced. The stranger made signs of repulsion. Phillip threw down his sword, and moved forward extending cordially both his hands; "the *savage* not understanding this civility, and perhaps thinking

⁷ Collins.

that he was going to seize him as a prisoner, lifted a spear from the grass with his foot, and fixing it on his throwing-stick, in an instant darted it at the Governor." As on two occasions natives had been violently seized by Phillip's command, the fears of the savage were not unnatural. The spear entered above the collar-bone, and the barb passed out at Phillip's back. Other spears were thrown, but without effect. The boatmen landed with their muskets, only one of which would go off. The Governor's party retired, Lt. Waterhouse having with difficulty broken the offending spear,—and in about two hours the Governor reached Sydney, where the spear was extracted, and the wound pronounced not mortal. Phillip gave strict orders that the natives should not be fired at.⁸ The untoward occurrence, which might have embittered more and more the relations between the whites and blacks, really led to their improvement.

Bennilong promptly resumed intercourse with the settlement. The native girl, who had been kindly treated, and lived with the clergyman's wife, played her part in bringing about a reconciliation. Some officers accompanied her to the North Shore to meet Bennilong and his friends, and Bennilong declared that he had severely beaten Willemering for wounding the Governor, but that the spear had been thrown by Willemering under the influence of fear, and an impulse of self-preservation. In ten days the Governor himself, with an armed party, visited Bennilong, and received his explanations, presenting at the same time to the natives some fish taken the preceding day, when the largest quantity ever caught (nearly 4000 of 5lbs. average weight) had been taken "in two hauls of the seine."

Proof that the Governor was not angered by the assault upon him bore appropriate fruit. Bennilong, after some days, kept his promise to visit the Governor; and being now convinced of Phillip's sincerity, applied in October for a hut in the settlement. It was built for him of brick, twelve feet square. In November he took possession of it, and Phillip's kindness and perseverance were rewarded by the establishment of complete and friendly communication. Writing on

⁸ Summary of Phillip's Despatches, *Hunter's Journal*, p. 464. 1793. Quarto edition.

the 18th Feb. 1790, Phillip said: "Bennilong lives with me, and will soon be able to inform us of their customs and manners." As Phillip mentions that Bennilong had "recovered from the small-pox before" he was captured, the evidence obtained from Bennilong must have been useful to the medical gentlemen who, according to Jamison (the principal surgeon) believed that the disease was introduced by the French.

In December a convict employed in shooting game was speared by a notable warrior, Pemulwy. The man averred that he had given no provocation, and had never fired at a native except on one occasion, when he "possibly wounded the spearman," Pemulwy. Phillip was by this time able to show his sense of justice without appearing revengeful, and sent out two armed parties to punish the offender. They were out four days, but failed in their object "to destroy or make prisoners of six of the offending tribe." It is noticeable that at this time Phillip was so far trusted by the natives, that several of them remained contentedly in the settlement while the avenging army (for it contained fifty-two persons) went against their countrymen. He who was true to his word, when once known to the natives, was always trusted by, and might always trust, them. Another party sallied out at night to surprise the natives at their fires, but after two days they returned without having seen one native. Phillip issued an order on this occasion to the effect that he would make a severe example of natives wounding anyone; and declared that the troops would put six natives to death if they could not capture that number. Bennilong had returned to Sydney when the avenging expedition was sent against his countrymen. Captain Tench, who commanded the expedition, said that the slain convict "had long been suspected by us, of having, in his excursions, shot and injured them."

At Parramatta good feeling existed generally, but in June 1791, the wanton destruction of a canoe of a native who had left it while he went with fish to the township, enraged its owner, Baloodery, beyond all bounds. He threatened to revenge himself on all white men. It was of no avail that the government punished the six offenders, and tried to *delude him into the belief* that one had been hanged. The

natives kept aloof from Parramatta. About three weeks after the loss of his canoe Balloodery wounded a white man, did not deny the fact, and was forbidden by the Governor to visit any of the settlements. "How much greater claim to the appellation of savages" (writes Collins) "had the wretches who were the cause of this, than the native who was the sufferer?" In August, Balloodery, "than whom," Collins says, "he had seen no finer young man in the country," ventured into Parramatta, and armed parties failed in attempts to capture him, although shots were fired.

In the following month Phillip compelled a sailor, who had sunk a native's canoe, to present a complete suit of clothes to the owner, and to remain on board his ship while she stayed in the harbour. Balloodery for some months went armed; but falling sick (Dec. 1791) was restored to favour, Phillip allaying his doubts by taking him by the hand, and promising that after recovery in the hospital he should be outlawed no longer. Thus, dispensing even-handed justice, Phillip persevered; retaining his good name so completely with both races, that when he quitted the colony in 1792, he bore with him the goodwill of the whites, and was accompanied by Bennilong and Yemmerawannie, who in spite of the wailings of their friends determined to follow him to England.

No one can tell whether his humane and just system could have been continued successfully when, with the extension of settlement, the boundary of occupation by the whites became indefinitely large, and more and more free from the control of head-quarters. It is probable that want of means would have defeated even Phillip's determination; but he would not have shrunk from using all the means at his disposal, and endeavouring to enlarge them; whereas in later times outrages were condoned.

In the time of his successor, Hunter, two white men had been killed by natives at the Hawkesbury. Settlers at that river thereupon seized three native boys (who were living peaceably with other white settlers), tied their hands, stabbed them, killing two, and firing at the third, who, though his hands were tied behind his back, jumped into the river, and swam so manacled, and escaped. The bodies of the murdered boys were found buried in a garden, and

their slayers were tried on the 18th Oct. 1799. The evidence was conclusive; the court was unanimously of opinion that the prisoners were guilty (not of murder, but "of wantonly killing two natives;" and to the shame of Hunter it must be recorded that the prisoners were admitted to bail, and a special reference,⁹ as it was euphoniously called, was made to His Majesty's Ministers.

In Jan. 1802, Lord Hobart announced his decision to Governor King. He had "perused with great attention" Hunter's report, had considered the circumstances of the trial, the difference of opinion "amongst the members who composed the court, as well as the length of time that had elapsed," and "had ventured to recommend the prisoners as proper objects of His Majesty's mercy." The Governor was to pardon them, "annexing such conditions as you shall think most adequate to the due attainment of the ends of justice." Having thus condoned the slaughter of unoffending fellow-creatures, and made it almost impossible for a governor to do justice, or to hope for support in doing it, Lord Hobart proceeded in the ethical vein of diplomacy to

"lament that the wise and humane instructions of my predecessor relative to the necessity of cultivating the goodwill of the natives, do not appear to have been observed in earlier periods of the establishment of the colony with an attention corresponding to the importance of the object. The evils resulting from this neglect seem to be now sensibly experienced, and the difficulty of restoring confidence with the natives, alarmed and exasperated by the unjustifiable injuries they have too often experienced, will require all the attention which your active vigilance and humanity can bestow upon a subject so important in itself, and so essential to the prosperity of the settlement."

He hoped that the Governor would be able to persuade the inhabitants to show "forbearance and plain honest dealing;" and, with sentiment which reminds one of Sheridan's popular comedy, wished that, while the criminals were now to be pardoned, it should be "clearly understood that on future occasions any instance of injustice or wanton cruelty towards the natives will be punished with the utmost severity of the law."

Thus did the Secretary of State condone a murder of a class difficult to detect, more difficult to prove; and now, it seemed, to be pardoned on proof. As the Secretary of State

⁹ *Infra*, p. 192.

had full power to direct the Governor to remove the offenders from the colony, it cannot be urged that he had no alternative but to allow them to be executed. This wide departure from Phillip's rule of justice was a fitting prelude to the almost universal abuse of power which afterwards prevailed on the field and the scaffold. In the first, firearms were pitted against wooden weapons. The victims of the second, whose countrymen could not be called as witnesses in their favour, and if called would have been refused by the prosecutor and judge, have been hanged in the name of justice, with all the solemnity of British law.

Subsequently to the first famine, both Sydney and Norfolk Island were reduced to great privations. In 1791 the suffering was depicted in the ghastly countenances of the population. Again Phillip despatched a vessel, the *Atlantic*, to procure food in India; but before the arrival of relief the scale of rations was reduced to a minimum.

Mortality prevailed among the convicts. Of 122 who arrived from Ireland in 1791, only fifty were alive in May 1792. Collins tells us: "The wretches who were concerned in committing robberies were in general too weak to receive a punishment adequate to their crimes. Their universal plea was hunger; but it was a plea that, in the situation of the colony, could not be so much attended to as it certainly would have been in a country of greater plenty." The gallantry of Phillip found occasion to show itself during the famine. Persons invited to dine at Government House were informed by the aide-de-camp that they must provide themselves with bread. Phillip with his own hand wrote on the invitations to John Macarthur and his wife—"There will always be a roll for Mrs. Macarthur."

Amongst the standing crops of maize frequent depredations took place; and the despondency of 1790 was paralleled when, in May 1792, the weekly ration was reduced to one pound and a-half of flour and four pounds of maize per man; women, and children ten years of age, receiving one pound less of maize. Sufferers in exposed boats have told us of the wild and significant glances which are shot around when provision has failed, and the idea of self-preservation by cannibalism furtively enters the mind. Dimly a kindred

thought appears, in the account (of Collins) that it was "a melancholy although natural reflection that, had not such numbers died both in the passage and since the landing of those who survived the voyage, we should not at this moment have had anything to receive from the public stores; thus strangely did we derive a benefit from the miseries of our fellow-creatures!" The arrival of the *Atlantic*, however, on the 20th May, with rice and inferior flour, raised the drooping spirits of the colonists; and on the 26th July, the *Britannia*, with a large supply of beef and pork, flour, and clothing, enabled Phillip to raise the ration until further orders, and to relieve the sufferers at Norfolk Island. Phillip wrote to King (Aug. 1791):¹⁰ "When the *Atlantic* arrived we had only thirteen days' flour and forty-five days' of maize in store, at one and a-half pounds flour, and four and a-half pounds maize per man for seven days." A scale of increased ration spread general joy throughout the colony.

In Sept. 1791, Phillip was comforted by the return of his confidential envoy, King, who had conferred with, and brought despatches from, the Secretary of State. Having left Sydney in April 1790, in the *Supply*, he sailed in a Dutch packet from Batavia in August. The master and all but four of the crew were struck down by fever, and King, compelling the convalescent to sleep on deck, navigated the vessel to the Mauritius.

Only four of the twenty-six who left Batavia were able to leave the Mauritius. Touching at the Cape of Good Hope, King was able in December, off Beachy Head, to make signals for "a boat, which came off, and demanded forty guineas for setting me on shore, which was reduced to seventeen, for which I was put on shore with great difficulty at Dungeness lighthouse 19th December, and on the 21st I arrived in London and delivered the despatches" (King to Nepean). Phillip's conduct was highly commended. King was specially appointed Lt.-Governor of Norfolk Island,¹¹

¹⁰ King wrote from Norfolk Island that a convict died 26th July, 1792, after suffering inexpressible torments, from eating his week's allowance in one meal. After this a regulation was made to issue the allowance twice in the week, as others had been similarly voracious.

¹¹ King's naval promotion, about which Phillip was anxious, followed in 1791.

and returned to the south in H.M.S. *Gorgon*. At the Cape of Good Hope he took the risk of drawing bills on the Treasury to pay for live stock and supplies of which Sydney was in sore need. Having arrived in Sept. 1791, King, after earnest conferences with Phillip, returned to Norfolk Island on the 4th Nov.

Writing to Sir Evan Nepean on the 23rd Nov., he said he "found discord and strife in every person's countenance, and in every corner and hole of the island, which you may easily conceive would render this an exact emblem of the infernal regions." "General murmuring and discontent at Major Ross's conduct assailed me from every description of people."

On former occasions he had earnestly impressed upon the authorities the necessity to arrange for the due administration of justice on the island. He now reminded Nepean of the "great necessity there is for some regular and authorized mode of distributing justice." Sending prisoners for trial before the Criminal Court in Sydney entailed the removal (as witnesses) of some of the most useful people on the island. A Criminal Court on the island was needed, but capital sentences might be stayed until the Governor in Sydney had signified his approval. Law-books, such as the Judge-Advocate in Sydney was possessed of, were a prime necessity. King had no desire for arbitrary authority. On the contrary, in one of his earnest pleadings for a duly constituted Court, he wrote to Nepean: "As a civil Governor, I cannot approve of the martial law."

Ross, relieved from his post at Norfolk Island, returned to Sydney and embarked 13th Dec. in H.M.S. *Gorgon* with his detachment of marines, "those excepted (Phillip wrote) who have become settlers, or who remain for the service of the colony until the remainder of the New South Wales corps arrive."

In Feb. 1792 Grose arrived as Lt.-Governor and commandant of the new corps. It bears an ill name and frequently deserved censure. But the previous misconduct of the officers of the marines led, in great measure, to that of the new corps. Power corrupts all but the purest minds, and its abuses are written not alone in the acts of tyrants, but in those of mobs. The marines first, and

their successors afterwards, knew the dependence of the Governor upon their aid, and made their power felt. As the extent to which the marines obstructed Phillip has been often lost sight of, although it was significant and oppressive, it is necessary to record it here in order to show that the New South Wales Corps, in some of its misdoings, only followed the evil example set by the officer who had commanded the marines.

The marines who accompanied Phillip in 1787 were engaged for a period of three years. Their conduct was in various respects ill-calculated to make the Governor desirous to retain them, if they had been willing to remain. They thwarted him on the vital point of administering the law. The principal officer was Major Robert Ross (who was also Lt.-Governor); Meredith and Tench were Captain Lieutenants; and George Johnston and several others were First Lieutenants. Ross wrote complaining letters at an early date to Sir Evan Nepean: (10th July 1788) "Never was a set of people so much upon the parish as this garrison is;" he had to apply, not to the Commissary, but to the Governor, for "a single nail:" "This country will never answer to settle in;" (if ever able) "to maintain the people sent here it cannot be less than probably a hundred years hence." (16th Nov. 1788) "In the whole world there is not a worse country than what we have yet seen of this." (If the Secretary of State should send more people) "I do not scruple to say that he will entail misery on all." Everybody in the settlement wished to leave it, according to Ross.

His foolish prophecies might be forgiven, but insubordinate intrigues of a Lt.-Governor were intolerable. His corps furnished the majority of the members of the Judicial Court (for Naval officers were few in number), and the Governor's dependence on the court was made an engine to coerce him.

In May Phillip wrote that the officers disliked controlling the convicts except when "employed for their own particular service;" not having anticipated it, they thought it a hardship "to sit as members of a criminal court." Another grievance was the absence of power in the Governor to "*immediately grant lands*" to the officers.

There had been a court-martial (March 1788) on one soldier for striking another, and Ross put Tench, the President, and the officers under "arrest, for passing what they call a sentence . . . of such a nature as . . . tends greatly to the subversion of all military discipline." Phillip, after calm efforts to arrange matters, and succeeding only so far as to maintain respect from all, deemed a general court-martial impracticable, and ordered the officers to return to their duty. Five officers were under arrest, and only one would be left "for duty," if a general court were held. Ross admitted that "in our then situation" a general court-martial could not be granted, but he complained bitterly to Stephens, Secretary to the Admiralty, and said that "unless some decisive step is taken by their Lordships to put a stop to the present dissension and the restoring subordination"—no commanding officer could "carry on the service."

In October 1788 the whole framework of the society was in jeopardy. At the request of Ross, Phillip had issued a warrant for a court-martial on an officer, for "neglect of duty and contempt and disrespect" to Ross. The "thirteen senior officers, when assembled, declared that they could not sit as members of a general court-martial under that warrant, being as a part of His Majesty's Marine Forces amenable only to the authority of the Commissioners for executing the office of Lord High Admiral of Great Britain. . . . They declined sitting (Phillip wrote) "under the Act of Parliament made for the Army." He ordered a "court of inquiry into the particulars of the charge," intending, if they should find sufficient grounds, to appoint another court of inquiry to examine fully—"which was the only means I had of doing justice, as no court-martial could be held." Again the Governor was foiled. The court of inquiry reported that they could have officiated if called upon before the application for a court-martial; but, under the circumstances, were precluded. It transpired that Collins, the Judge-Advocate, had doubted whether he could administer the required oath to the officers, thirteen of whom in their turn signed a document stating that they held themselves amenable to the annual Act for the regulation of Marine Forces, and the Articles of War, and, there-

fore, not to the Act of Parliament under which Phillip governed the colony (although that Act had been formally promulgated and publicly read when Phillip founded the settlement). Phillip directed the Judge-Advocate to take the evidence on both sides, with a view to transmit it to England, when Ross (perhaps doubtful of the issue) informed Phillip that the officer complained of had "fully satisfied him," and Ross therefore desired "that he might be permitted to withdraw his request for a court-martial." Phillip "therefore ordered the officer to return to his duty." In narrating these events (27th Oct. 1788) Phillip added: "The present situation of the detachment will be obvious to your Lordships." As to that of the colony he wrote (30th Oct.) that the officers—

"declared against what they called an interference with convicts,¹² and I found myself obliged to give up the little plan I had formed on the passage for the government of these people; and which, had even that been proposed to the officers, required no more from them than the hearing of any appeal the overseers might find it necessary to make, and a report from the officer to me, or to the Judge-Advocate, if he thought it necessary; but which never has been asked of the officers, as they declined any kind of interference."

The Judge-Advocate wrote separately to Sir Evan Nepean to justify his opinion that the marine officers could not "hold a general court-martial under the warrant of the Governor;" but, considering the circumstances—the distance from England, &c.—he thought they might "waive the privilege of being assembled in conformity with their own Act of Parliament," and "act under the authority" of the Governor; "throwing themselves, with the strong plea of necessity," on the Lords of the Admiralty to procure them "an indemnification for having so acted."

It must be borne in mind that famine was beginning to threaten the settlement, while Phillip was thus obstructed by those who should have heartily assisted him; and that to his earlier reports he received, for a long time, no answer from England. It was not until June 1789 that the

¹² All that Phillip had asked was "that officers would, when they saw the convicts diligent, say a few words of encouragement to them, and that when they saw them idle, or met them straggling in the woods, they would threaten them with punishment. This I only desired when officers could do it without going out of their way; it was all I asked, and it was pointedly refused."

Secretary of State dealt seriously with the subject, and in the same month Phillip acquainted him with further troubles in which Ross was a prime mover. Phillip's tact had at the time secured the services of no less than fifteen criminal courts; but in April 1789 one Captain Campbell, a close friend of Ross, objected to sit,¹³ and while it was unknown whether others would join the recalcitrant Campbell, Ross, suggesting that they might do so, said "he knew of no Articles of War to compel them." Under the forms previously observed the senior officers of the detachment and of the Navy were named in General Orders, and afterwards "a roster for that service was kept;" the Judge-Advocate sent to "the Adjutant for the names of the officers next for that duty, whose names being inserted in the precept signed and sealed by me (Phillip), were then shown to the different officers who were to compose the court by the Provost-Marshal, which is always done one or two days before the court is to meet."

When Campbell refused to act, Phillip appointed a court of inquiry; but the members "did not think themselves competent to give an opinion on a private dispute, which appeared to them to involve in itself a point of law." Phillip dissolved them, and Ross officially informed him that Campbell would protest against the statement that "the matter was of a private nature." Subsequently Campbell "declined making any protest." Striving to keep these dissensions from the knowledge of his subjects, Phillip instructed the Adjutant to—

"give the Judge-Advocate *as usual* the names of the officers who were next for the duty of the Criminal Court, but he then came to inform me that Major Ross did not choose to let him give the names at the Judge-Advocate's request, and desired that it might appear in General Orders, or that a verbal message might be sent him from me. The message was sent, and in the names given to the Judge-Advocate, Captain Campbell's appeared, and he sat the next day as a member of the Criminal Court. I had sent for several of the officers before the Court met, in order to point out the consequences which would follow their refusal of so essential a part of their duty, and the officers I saw on that occasion assured me

¹³ [1896. In the "Historical Records of N.S.W.," Vol. I., Part 2, p. 242, is a letter from Campbell to Collins, then Judge-Advocate, offensively warning Collins:—"You have effectually precluded Captain Campbell from sitting as a member of any Criminal Court that it may be necessary to assemble here, and of which you are a part."

that they had never doubted its being a part of their duty after they heard the Act of Parliament and the Commission read which established that Court; but Major Ross, afterwards, on the 6th May, telling me that he was still of opinion that many of the officers did not think the sitting as members of the Criminal Court any part of their duty, I desire that Major Ross would assemble the officers, that their separate opinions might be taken on that head."

The opinions were taken on the same day. The majority agreed with Captain Tench, who always thought it his duty "from the moment he read the Act of Parliament." Some said that they had never seen the Act till they arrived in the colony. Captain Campbell's opinion was not asked for, as Phillip knew it already, and "judged it best for the quiet of the settlement to let him sit as a volunteer when his name was returned." Ross was displeased at Phillip's tactics, which he called 'oppressive;' as converting into a duty "what they had volunteered." This being reported to Phillip he directed the Judge-Advocate to interrogate some of the senior officers on the subject formally. They concurred generally as to Ross's language. The officers at once informed Ross that they had been examined; Ross asked what they had said, and (Phillip wrote 5th June) the officers referred him to the Governor "for the questions and answers; but Major Ross has never mentioned that business to me, and I have therefore thought it best to let it rest in its present state."

One characteristic answer deserves to be recorded as that of one who was always bold in duty, though eventually cashiered for an act which was of the highest order of duty, but subjected him to technical censure. Captain Lt. George Johnston told the Judge-Advocate:—"I do not recollect that the Major asked the officers to join in refusing with Captain Campbell to sit as members of the Criminal Court, but recollect his saying that officers were not to be driven, and believe he wished them to concur with Captain Campbell's refusal;" he also called it "an oppressive duty."

Phillip regretted troubling the Secretary of State with such affairs, but "the service and situation of this colony rendered it unavoidable," and thus discontents which had existed from the time the detachment landed still continued. The decision of the Home Government was not *sent to Phillip* until his confidential envoy (King) had con-

ferred with the authorities at Whitehall. Mr. Grenville then wrote (Feb. 1791) that the law officers were of opinion that "military officers serving in New South Wales are bound to perform the duties of members of the Criminal Court when they shall be duly summoned for that purpose," and that they would be guilty of a misdemeanour in refusing to do so.

In 1790, unconscious that the marines would shortly be recalled, Ross set a baneful example to the corps which was to succeed them. Famine stalked through the land. Death was the penalty for robbery. Phillip himself reported that before arrival of supplies, "from the smallness of ration" to which the settlement was reduced, the labour of the convicts "became what was little better than a cessation from all labour." Yet even then Ross was disloyal to the Governor, on the plea of maintaining the dignity of his corps.

Phillip was compelled to report (Feb. 1790), because "every obstacle thrown in our way is rendered doubly embarrassing from our situation." He encouraged garden-
ing in order to eke out the supply of food. "A watch," consisting of twelve convicts, was set to prevent robbery of gardens, orchards, &c. "Soldiers and sailors, when stopped by the watch, were left at the guard-house till next morning, when if nothing criminal was laid to their charge they were delivered to their proper officers." The night-watch was under the direction of the Judge-Advocate. A soldier having been stopped one night in the convicts' camp, Ross

"sent the next morning to tell the Judge-Advocate that he considered a soldier's being stopped when not committing any unlawful act, as an insult offered to the corps, and that they would not suffer themselves to be treated in that manner, or be controlled by the convicts, while they had bayonets in their hands. (Here I beg leave to observe to Your Lordship that the last sentence respecting the bayonets was never mentioned to me till this business was settled. I should not have been induced to withdraw the order which directed the night-watch to stop a soldier by so pointed a menace, for I should not have thought it could tend to the good of His Majesty's service.)

The order was (Art. 5) :—"Any soldier or seaman found straggling after the tap-too has beat, or who may be 'found in the convicts' huts, is to be detained, and information given to the nearest guard-house." Ross did not deny that

robberies had been checked, but considered that Phillip's order "had put the soldiers under the command of the convicts." Phillip withdrew it regarding "soldiers found straggling—driven to the necessity of withdrawing an order calculated for the public good."¹⁴ Ross found fault with others as well as with the Governor. When Phillip reported the concession he had been compelled to make with regard to the night-watch, he added:—

"out of the sixteen officers remaining for duty in the settlement, five have been put under arrest by their commandant and are only doing duty till a general court-martial can be assembled . . . a sixth is suspended . . . both Adjutant and Quarter-master have been equally under his displeasure, whilst the Judge-Advocate's conduct has been complained of by Major Ross as Commandant of the Detachment, and as the Lt.-Governor; and the Judge-Advocate in his turn has represented his having been treated in such a manner by the Lt.-Governor and by Captain Campbell, before convicts and others, that he wished to resign his office."

Fortunately for the colony, Phillip was highly regarded in England. Though it was long before the despatch (June 1789) reached him, he was informed that the obstacles with respect to trying officers of the marines by court-martial would probably have been removed by legislation if "the detachment had been continued, . . . but as it is so shortly to be relieved, it is to be hoped that no further inconvenience will be experienced during their continuance abroad." Their discontent and desire to return had "led to the making arrangements for relieving them." A corps would be "raised for that particular service." Three hundred rank and file, with a suitable number of officers, would be ready to embark in Oct. 1790. Any of the returning marines would be allowed to quit the service in England, or "to be discharged abroad upon the relief," and to settle "in the country if they prefer it." (This was to be encouraged.) If any of the detachment

¹⁴ The original order was dated 7th Aug. 1789; the new (9th Nov.) declared that, notwithstanding Article 5, "the night-watch is not in future to stop any soldier unless he is found in a riot or committing an unlawful act, in which case such soldier is immediately to be taken to the nearest guard." Amongst the Records is preserved a letter from Phillip, in reply to petulant complaints from Ross. "The time cannot be far distant when a legal inquiry can take place, and all complaints will then be attended to; till when His Majesty's service requires some little forbearance on your part as well as on mine."

“can be prevailed upon to enlist, and add strength to the new corps, it will be by far the most desirable plan,” and Phillip was empowered “to offer to each non-commissioned officer or private a bounty of three pounds,” and to the well-behaved, “after further service of five years, their discharge and a suitable quantity of land,” with implements, seeds, &c. Each non-commissioned officer might have one hundred acres, each private fifty acres, free of all quit-rent for five years, but subject afterwards to an annual quit-rent of one shilling for each ten acres. (At the same time Phillip received instructions as to the object of his earnest solicitude—grants to free immigrants.) All grants were to be reported within twelve months.

Later in the year Phillip was informed that the new corps “raised to serve within your government instead of the marines now doing duty has been complete for some time past.” Some had already sailed as guards in convict ships, “the remainder, under the command of Major Grose,” would shortly embark. The marines would return under Ross, but “if a number sufficient to compose a company” should accede, “you may recommend any three officers . . . whom you may judge to be most deserving of His Majesty’s favour to be appointed to that company and to be incorporated in the New South Wales Corps, with the rank of Captain, Lieutenant, and Ensign.” Phillip promptly announced his intention to avail himself of the permission thus accorded to him; and the decision of the law officers in England, that officers in the colony were bound to officiate in the Criminal Court, promised to relieve the Governor from anxiety on that point, in spite of the evil example of Major Ross.

In July 1791 the Secretary of State (Grenville) announced that Major Grose would sail in the *Pitt* with a company of the new corps, and before his arrival (Feb. 1792) the dissatisfied Ross had left with a detachment of marines in H.M.S. *Gorgon*. But he left one of the best elements of the marine corps—George Johnston—behind him. In Nov. 1791 Phillip had failed to raise “a company from the marines to be annexed to the New South Wales Corps, and I believe it failed from no other cause than the doubts *the men had as to receiving any allowance*

of spirits, and the fear of being obliged to pay for their rations." Before his despatch reached England the able administrator, Henry Dundas, was at the helm in Whitehall and had written to Phillip (Jan. 1792) to praise him for his excellent services, to assure him of hearty support, and to apprise him that "as a condition of enlistment the New South Wales Corps had been promised the usual ration except spirits, without any deduction from their pay. This will be explained to you by Major Grose on his arrival, and will, I have no doubt, operate as a strong inducement to some of the marines to enlist in the additional company."

In April 1792 Phillip was able to write, "most of the marines who were selected to remain until a sufficient force arrived for the service of this country, have offered to enlist and form a company annexed to the New South Wales Corps, under the command of Capt.-Lt. George Johnston, whom I have nominated to the command. . . . (He is) in every respect deserving of the bounty which His Majesty has been graciously pleased to authorize me to bestow." Thus were secured for the colony the services of one who was to be the most effective instrument in repressing a serious rebellion, and a not less dangerous outbreak of lawless violence on the part of a Governor. It will be seen, however, that the evil example set by Ross infected the new military corps, was foolishly imitated by Grose, and continually tormented the colony until confronted by the firmness of Phillip's old friend, King, who became Governor in 1800.

Some writers have suggested doubts whether Phillip, or his superiors in England, paid sufficient attention to the religious requirements of the colony.

A commission under the King's hand was issued to the Rev. Richard Johnson in the same month in which Phillip's commission as Governor was issued (Oct. 1786), and on the same day as the commissions of the Lt.-Governor, the Judge Advocate, and the Surgeon. His salary was equal to that of the principal surgeon and other "high" officers.

He made no complaint against Phillip. "As yet (he wrote to Nepean July 1788) everything is, as you may easily *suppose*, very unsettled, but I hope in time our situation

will be rendered more comfortable; and even now, all things considered, thank God I have no reason to complain."

Royal instructions directed Phillip to "enforce a due observance of religion" and to "take such steps for the due celebration of public worship as circumstances will permit." When he sent King to command at Norfolk Island he directed him "to cause the prayers of the Church of England to be read with all due solemnity every Sunday," and one ought not lightly to give credit to aspersions against a man so dutiful and upright as Phillip.

Johnson was acquainted with Wilberforce and was the close friend of the Rev. John Newton, some admirable letters from whom (to Johnson) are printed in the "Historical Records of New South Wales, Part II." In one of them he expresses a hope that Phillip's successor will treat Johnson better than Phillip had treated him.

Though Phillip had a reputation for humanity, the law was a terror to evil-doers. Executions of robbers of the public stores have been mentioned. In Nov. 1789 a woman died on the scaffold for breaking into the hut of a convict by day and stealing apparel. It was not to be wondered at that the prisoners strove to flee from their place of exile. In Sept. 1790 five of them escaped under the guidance of John Tarwood. They took a small boat or punt from Parramatta, and Collins says (page 136) that "they no doubt pushed directly out upon that ocean which, from the wretched state of the boat wherein they trusted themselves, must have proved their grave."¹⁵

Bryant, a native of the west of England, bred a fisherman, and employed by Phillip as Government fisherman, was more successful in 1791. His pecculations of fish having been detected he was strictly watched, but still

¹⁵ The compiler of history here finds an instance of the difficulty of relying on an isolated passage in gathering his facts, for in a later part of Collins' work (p. 245) we are told that H.M.S. *Providence*, in 1795, bound from the coast of Brazil and driven northward in her voyage to Sydney, took shelter at Port Stephens, and there "found and received on board four white people (if four miserable, naked, dirty, and smoke-dried men could be called white), runaways from this settlement." They told a melancholy tale of their sufferings, but "spoke in high terms of the pacific disposition and gentle manners of the natives." They were the men whose entombment in the ocean Collins had previously noticed as undoubted.

employed, and although his intention to abscond had leaked out, and his term of sentence had, by his own account, expired at the time (a statement borne out by Stockdale's published list of prisoners), this expert and daring sailor, with his wife and two children (one at the breast) and seven male convicts, put to sea in March 1791 in a small fishing-boat, with which after great hardships he made his way to Timor on the 5th June. Their tale that they had been cast away at sea found credence at first, but the behaviour of Bryant's companions created suspicion, and the Dutch Governor arrested and handed the runaways over to the captain of H.M.S. *Pandora*, who with ninety-nine of the crew had escaped from her wreck. The convicts were taken to Batavia, where Bryant and some others died. The remainder, of whom his wife was one, were sent to England, where the story of their sufferings excited pity, and it was ordered that they should be merely kept in Newgate until their original sentences had expired.¹⁶

Fired by the exploit of Bryant, in Nov. 1791 a band of twenty Irish convicts, newly arrived, determined to walk to China; but they made so little progress that they were apprehended in the neighbourhood in small parties, famishing and naked. Another party of Irishmen seized a boat in 1793, and they succeeded in steering as far as Broken Bay, where the boat was found a few weeks afterwards. Two of the convicts had been speared by the natives, and the rest found their way back, accidentally or otherwise, to Parramatta. In Sept. 1794 there was a rumour that the Irish were about to seize a boat called the *Cumberland*, bound with provisions to the Hawkesbury. Notice was sent overland to the settlers there, and an armed long-boat was ordered to meet and protect the *Cumberland*. While these precautions were taken, some Irish prisoners stole a six-oared boat from Parramatta, and escaped to sea. They could not rival Bryant's seamanship, and steered south instead of north on reaching the open sea. They imagined that they were at Broken Bay when

¹⁶ A free pardon was granted to Mary Bryant soon afterwards. It mentioned that she had "traversed upwards of three thousand miles by sea in an open boat."

they were found at Botany Bay. One being wounded in an attempt at plunder, the rest surrendered. Other Irish prisoners made similar unsuccessful attempts, and Collins recorded that they seemed incapable of profiting by experience, always attributing their failures, not to their own folly, but to their "bad luck." *Cœlum non animum mutant qui trans mare currunt.*

Such, Phillip wrote (Nov. 1791), "is the ignorance of the Irish prisoners that some of them have left the settlement to go to China, which they suppose to be at the distance of only 150 miles; others, to find a town which they supposed to be a few days' walk to the northward."

It was not strange that the convicts ran risks in order to flee from the half-starved settlement. Only the satisfaction of doing duty could reconcile the officers to their exile. Most of the convicts had no pleasure in good deeds, and their main object was to escape to their old haunts.

The want of proper records had prevented Phillip from knowing at what date the sentences of the prisoners expired, and though the power to remit sentences (sent to him in a despatch¹⁷ 13th Nov. 1790) enabled him, after long delay, to surmount some difficulties, it was not easy to employ the energies of the emancipated. In March 1791, he reported that men who alleged that their sentences had expired, wanted to return to England. "To compel these people to remain may be attended with unpleasant consequences; for they must be made to work if fed from the public stores, and if permitted to be their own masters they must rob, for they have no other way to support themselves. . . . I have no means of knowing when the sentences of any of those convicts expire who came out in the first ship. . . ."

Mutiny on the part of the convicts provoked stern treatment in voyages. On board the *Albemarle* at sea, Lt. Bowen shot one mutineer (1791) when a mutiny was in full career—coerced the others, and caused one to be hanged at the foreyard-arm, "with unanimous approbation of Lt. Young, the master, officers, surgeon, sergeant, and every other person belonging to the ship, and soon after Lyons

¹⁷ A despatch from Phillip, 5th Nov. 1791, shows that Grenville's tardy despatch of Nov. 1790, was not received by Phillip until the 22nd Sept. 1791.

shared the same fate, and four or five others were severely flogged.¹⁸ This was but one of many cases in which actual or suspected mutiny induced severity on the part of the guards, who knew that their own fate would be sealed if the convicts should gain the upper hand.

The reason alleged for the absence of proof of the terms of sentence of prisoners sent by the first fleet was the unsatisfactory one that the masters of the transport-ships had left the lists with the shipowners in England. The claimants of freedom were told to wait for accounts from England, but one of them was so indignant at the continuance of his term that he railed in presence of the Governor, was tried for disrespect, and sentenced to 600 lashes and to wear irons for six months. At a later date (July 1791) the convicts whose sentences had expired were collected and informed that those who wished to become settlers should be encouraged; those who declined to settle would have to labour for their provisions, while though no obstacle would be thrown in the way of those who wished to return to England, the Government would afford them no assistance. The wish to return to their friends was general, a few only wishing to become settlers, and none engaging to work. One man who had been most useful in the erection of various buildings was, in 1790, declared free, absolutely, two years before his sentence had expired; but the prudent Phillip made an agreement with him that he should work two years longer in the colony, food and clothing being supplied to him. To mark the contrast between good and bad conduct, this grace was conferred at a time when two other convicts were executed for repeated crimes.

In Jan. 1792 it was falsely rumoured that Phillip was about to seize the corn in private hands, whereupon he notified that the settlers who had maize or other grain for which they had no secure storage-room, might send it to the public store, and withdraw it as they required; and,

¹⁸ After suppression of the mutiny the *Albemarle* (4th May) touched at St. Jago, where P. G. King in the *Gorgon* had touched. King informed Secretary Nepean of the fact thus:—"It seems the convicts on board the *Albemarle* rose, with the intention of running away with the ship to America. Mr. Young very properly hung two of the ringleaders, and I believe a third was shot in the insurrection." Governor Phillip afterwards highly commended Young's conduct.

further, that the right of every man, free or bond, to his crop, was secured by the law; while at the same time a fair market price would be given by the government for provisions.

To guard against losses of cattle Phillip employed convicts in enclosing ground at Parramatta.

In Nov. 1791 Phillip was constrained to assemble the newly-arrived convicts, and declare that runaways would be fired upon, and that recaptured prisoners would be put on a desolate place or chained together and fed on bread and water, until their sentences of transportation had expired. Further, as there were rumours that the stores were to be attacked, he promised instant death to every one taken in the attempt; while at the same time he displayed clemency for past misdeeds. In Dec. 1791 the convicts at Parramatta, disliking the regulation that their food should be issued daily, "met in rather a tumultuous manner before the Governor's house at Parramatta" to request that the provisions should be issued on Saturdays. The Governor dispersed them without granting their request, and as murmurs were heard in the crowd, with confused threats to obtain otherwise what was refused to entreaty, he told them that they were led by eight or ten designing men, whose names he knew, and that on any open discontent he would make immediate examples of them. This first public meeting unconvoked by authority in Australia promised implicit obedience to orders, and was dismissed. The meeting was ascribed by Collins to the spirit of villainy lately imported by the new-comers from England and Ireland. Phillip issued a proclamation declaring that in case of riot or disturbance, every convict seen out of his hut at night, or during hours of rest from labour, or absent from his labour during working hours, should be deemed to be aiding and assisting the rioters, and be punished accordingly. Meetings of the convicts were strictly forbidden, and all complaints were to be made through the superintendents.

Towards the end of 1792 some sailors who left some of the vessels in the harbour were enlisted in the New South Wales Corps, and also several "convicts of good character, to complete the company formed from the marines under Captain Johnston." In Oct. 1793 conditional pardons

were given to twenty-three convicts thus enlisted. Attendance of convicts at Divine service was enforced; in summer when the heat was great, and the want of a building made out-door service oppressive, "the church-call was beaten" at a quarter to six in the morning; and the Rev. Mr. Johnson preached "wherever he could find a shady spot." Remission of sentence was given without much delay where Phillip thought it consistent with the public interest. Barrington, a convict who arrived in Sept. 1791, was conditionally emancipated in Nov. 1792, and received at the same time a grant of thirty acres of land near Parramatta. He had, as a pickpocket, plied his roguery in fashionable assemblies in Dublin. His exemplary conduct when transported speedily earned a pardon, and he behaved well afterwards. He was a constable for some time, and in 1796 Governor Hunter gave him a free pardon and made him a superintendent of convicts. A "History of New South Wales," dedicated grandiloquently to the King, was published in his name, but he disclaimed the authorship, and it is probable that his name was used to excite curiosity and attract buyers. There is nothing original in the work, which is a mere copy of other publications.¹⁹ In 1800 he resigned because of infirmity, and received a pension. He died in 1804.

Amongst the chronicles of the early days the report of the finding of a gold-mine by a convict named Daly deserves notice, if only to show how a stupid report will sometimes hold its ground. Even in recent times persons have been known to assert gravely that as gold has been found in other parts of the colony, it is likely that Daly may have found it at Sydney. That the geological conditions are adverse to the idea matters not to such people. They are of the tribe of fools and fanatics who believed in England in 1873 that Orton was Sir Roger Tichborne. Not even the confession of a criminal can tear their deception from them.²⁰ Daly in Aug. 1788 made, from a guinea and a brass buckle, some specimens of gold which he said he had found "down the harbour." An officer was sent with him to see the spot. When Daly found further deception

¹⁹ *Supra*, p. 51 n. ²⁰ In 1894 the man Orton confessed his roguery.

impossible he showed the remains of the guinea and buckle and confessed that he had resorted to this sham discovery in order to extort valuables from the officers of two ships then in the harbour. He was punished with 100 lashes and sentenced "to wear a canvas frock with the letter 'R' cut and sewn upon it, to distinguish him more particularly from others as a rogue." Four months afterwards the poor wretch was executed for housebreaking; and one of the receivers of the stolen goods, a woman, was sentenced to have her hair cut and to wear a canvas frock on which the letters "R.S.G." (receiver of stolen goods) were painted in large characters. So quaint were the devices with which Phillip fought his battle among his curious subjects.

The struggle to extort food from the soil has already been adverted to as one of Phillip's principal cares. One James Ruse, the first freed settler, declared in March 1791 that he would relinquish all claim on the Government provisions and support himself on his own farm. Phillip granted him "thirty acres in the situation which he then occupied." Two months afterwards it was rumoured that Ruse was starving, and the Governor offered him some salt provisions, but Ruse declined them and proved that he was setting not only a good but a successful example; though it is painful to find that his farm (Experiment Farm, as it was called) was sold in 1793 in consequence of the failure of a crop. In 1794 he settled at the Hawkesbury.

Phillip impressed upon every Secretary of State the urgent necessity of procuring free settlers. He did not, like one of his successors, Macquarie, contemplate the formation of a virtuous community by emancipating convicts, by making them magistrates to administer the laws they had been condemned for breaking, and by inviting them to his table. During Phillip's sojourn there were several Secretaries of State—Lord Sydney; W. W. (afterwards Lord Grenville); and Henry Dundas, afterwards Lord Melville.²¹

²¹ It may be convenient to record some of the changes. In 1782 the colonies were under the control of "the Office of Plantations," a branch of the Home Department. In 1793, at the commencement of the French war, the Home Department managed war affairs. In 1794 a Principal Secretary for War was appointed, and the business of the colonies was transferred to him, as Secretary for the Colonial and War Department. This arrange-

Confident in the future, he "did not doubt (July 1788) that the country would prove the most valuable acquisition Great Britain ever made; at the same time no country offers less assistance than this does, nor do I think any country could be more disadvantageously placed with respect to support from the mother country on which for a few years we must entirely depend." Fifty farmers would do more in one year than a thousand convicts in producing food.

The free settlers for whom Phillip had sighed did not arrive during his term of office, but as they were sent out in response to his entreaties, their landing may properly be mentioned in the record of his services.

On the 15th Jan. 1793 a ship was sighted, and at night "a large fire for the information of the stranger was lighted at the South Head." She was the *Bellona*, with stores and provisions, a few female convicts, and five free settlers with their families. It does not seem that general information had induced them to immigrate, for four of the new settlers had, in the *Sirius* and *Lady Juliana*, visited Sydney before. On this occasion the English Government paid their passage-money, gave them implements, guaranteed to them two years' provisions, and assigned to them convict labour free of expense, with one year's clothing and two years' rations for each convict so assigned.

Man is gregarious, even when pecuniary profit might prompt him to separate from crowds, and the new settlers²² clung to the neighbourhood of Sydney and Parramatta instead of selecting their farms at the Hawkesbury. They called their selection "Liberty Plains," only one convict

ment lasted until 1854, when exigencies of war caused the creation of a separate War Department, and the Colonial Department had also its Principal Secretary of State. Phillip's correspondent (until 5th June 1789) was Lord Sydney, who was succeeded by Mr. Grenville, who gave way to Mr. Dundas in 1792. The Duke of Portland held the seals for a short time (1794), but in 1795 Mr. Dundas (strongly entreated) resumed them as Secretary for the Colonies and War. He was succeeded in 1801 by Lord Hobart. In 1804 Lord Camden, in 1805 Lord Castlereagh, in 1806 Mr. Windham, in 1807 Lord Castlereagh, in 1809 the Earl of Liverpool, successively held the office. In 1812 Earl Bathurst accepted it, and held it until 1827, when he was succeeded by Lord Goderich.

²² The *Bellona* settlers are in "situations of their own choosing."—*Despatch from Grose. Cf. supra, p. 43 and n.*

settler being permitted to select with them. It was but a few miles to the westward of Sydney, in the direction of Parramatta. One hundred and twenty acres were given to Thomas Rose, a farmer, from Blandford, Dorsetshire, who was accompanied by his wife and four children. To two other married men eighty acres, to the single men sixty, were granted, while the convict settler was content with thirty. The *Bellona*, although she arrived after Phillip's departure, brought answers to his despatches, and conveyed permission to grant lands to officers, which permission was at once acted upon by Grose at Parramatta, the Kangaroo Ground, and other places.

The results of cultivation at these places were not encouraging, and agricultural settlement gravitated to the Hawkesbury.

When, after Phillip's departure, Lt.-Governor Grose availed himself of the newly-received permission to grant lands to officers in the army and navy, he introduced at the same time a pernicious principle. Collins (p. 268) narrates and applauds the fact that the officers, "not being restrained from paying for labour with spirits, got a great deal of work done at their several farms (on those days when the convicts did not work for the public) by hiring the different gangs." Thus was annihilated the prudent system under which Phillip at Sydney, and, under his orders, King at Norfolk Island, had striven to keep the convicts sober: Thus also was begotten the craving for profit by the sale of liquor, which corrupted so many officers in the times of Grose and Hunter, and the repression of which caused so much ill-feeling under Governor King.

As early as Nov. 1791 Phillip suggested the imposition of a duty on spirits, which King afterwards imposed. "The landing of spirits (Phillip wrote) without having a permit has been prohibited in the Port Orders . . . but if some duty was laid on all spirits landed in the settlement it would more effectively answer the purpose. The duties so collected would of course be applied for the benefit of the Crown."

Phillip had not been unwilling to study the comfort of the officers so far as it was compatible with the diligent discharge of their duties and proper care for the morals of

the convicts. It had been found that persons arriving with goods of which there was a scarcity in Sydney, demanded exorbitant prices for their wares. He had represented the matter to the Secretary of State, and the *Bellona* consequently carried wine, spirits, and other articles to be distributed to officers, civil and military, at prime cost.²³

The rough method of fixing the price at which importers might sell their goods was for many years the only method by which the "shameful impositions" of which officers complained were resisted. It naturally created antagonism between the importer and the Governor who regulated the price. Phillip was often consulted by the Secretary of State after his return to England, and the government store which Governor King, in concert with the English authorities, established in after years may not unfairly be ascribed in part to the counsels of Phillip, as to whose retirement it is necessary to say a few words.

From the first he received the hearty thanks of the government. In June 1789 they informed him of His Majesty's approval of his "conduct in the arduous and important service committed to his care," of his success in encouraging marriages, and promoting the welfare of his abnormal subjects. The despatches to him were friendly and confidential. In 1790 his health was seriously affected. In June 1791 he requested permission to return to England. "A complaint in his side," afflicting for more than two years, "at times puts it out of my power to attend to the charge (of governing) in the manner I wish, and the state of the colony requires." He "would wish to return" if he should recover his health, and therefore only sought for "leave of absence." But in Nov. 1791 he asked "permission to resign the government," that he might go to England for the relief from his ailments. In March 1792 his application was repeated.

The Secretary of State was loth to lose his services. The Colonial Office knew what did not meet the public eye, and what Collins, the Judge-Advocate, abstained from publishing in 1798, although well acquainted with the facts. The obstructions thrown in the Governor's way by Major Ross and some of the officers as to the control of convicts and

²³ Collins, p. 262.

the administration of the law, were such as only a man of ability, tact, and resolution could be expected to overcome.

Lord Sydney wrote to Sir Evan Nepean (Dec. 1790), as to the situation of "our friend Phillip." Mr. Grenville wrote earnestly to Phillip (Feb. 1791) to express his hope that he would arrange to govern "for a short time longer."

Mr. Dundas showed similar confidence in 1792. He congratulated Phillip on his excellent services, and entrusted him with uncontrolled discretion as to granting lands and assigning convict servants. But Phillip did not think himself fit to govern properly. A few days before he sailed he wrote to his friend King:—"My ill state of health obliges me to return to England." After his return a disinclination to part with his services is shown by a letter from himself to Mr. Dundas (23rd July 1793), representing that on the ground of ill-health he was compelled to ask to be "permitted to resign the government of New South Wales." To the last Dundas "lamented" the ill-health which deprived the Crown of Phillip's services. Others sought for the appointment. In Oct. 1793, Captain Hunter, late of H.M.S. *Sirius*, applied, and Lord Howe on the following day recommended him for it. When Phillip was consulted, he suggested (26th Oct.) his old comrade P. G. King as the person "most likely to answer the intentions of the Government in the present state of the colony." But Hunter's influential supporters prevailed.

Before Phillip sailed for England he sent thither an accurate account of the land in cultivation, and it is proper to present a summary of it. At Parramatta the Crown had $316\frac{1}{4}$ acres cultivated, 308 of them in maize. At Toongabbe the Crown had $696\frac{1}{2}$, of which 511 were in maize. In private hands there were $690\frac{1}{4}$ acres in cultivation, mostly in maize; of the total of 1703 acres cultivated, there being no less than $1186\frac{1}{2}$ in maize, and $208\frac{1}{2}$ in wheat. The farms were at and near Parramatta, Prospect, the Ponds, the Field of Mars, and the Eastern Farms, all of which places were situated near Parramatta, or on a way leading to it from Sydney. It is interesting to observe that Phillip had planted in his Parramatta garden three acres of vines. The number of settlers was sixty-seven, but of these only one (James Ruse) began to cultivate on his own account.

before July 1791. Phillip, anticipating a new era in which the colony would be self-sustaining, felt justified in believing that he left the colony safe from starvation.

The live stock taken to the colony encountered terrible risks on the voyage. Out of 119 cows embarked from various ports, only 28 were safely landed; but the public stock (as it was called) amounted in Dec. 1792 to 3 bulls, 15 cows, 5 calves, 11 horses, 105 sheep, 43 pigs, and a number of goats. To each emancipated settler, to each marine settler, and each settler from the *Sirius*, Phillip gave one ewe, and she-goats as they could be spared, begging the recipients to cherish them.

Bushranging, or robbing in the bush, could grow to no great dimensions while the inhabited territory was small; but garden robberies were frequent; and the early annals teem with notices of Cæsar, a convict black (not Australian), who absconded with a musket in May 1789, was apprehended, confined in fetters on Garden Island, escaped thence with a boat and provisions, was wounded by the natives, cured in hospital, and sent to the more confined sphere of Norfolk Island with a pardon, but returned subsequently only to pursue his old career, and to be shot in the bush in 1796, having given, according to Collins, more trouble than any other convict in the settlement.

The population at Phillip's departure is usually estimated at about 3500 in New South Wales, and 880 in Norfolk Island, but no accurate census was made at the time. As the currency at the Cape of Good Hope and Batavia (to both of which the colony resorted for supplies) consisted of dollars, dollars became, practically, for some time the coin used in Sydney.

It is worthy of mention that sperm-whale fishing was commenced during Phillip's government. The ship *Britannia*, belonging to Messrs. Samuel Enderby and Sons, carried convicts to New South Wales in 1791. The master, Thomas Melville, saw whales not far from Port Jackson. He revealed the secret to Phillip, imploring that he might be exempt from the necessity of carrying the convicts to Norfolk Island as had been intended. The Governor sympathized; Captain P. G. King (recently returned from *England in H.M.S. Gorgon*) warmly co-operated. Within

twelve days of her arrival the *Britannia* went whaling, and in fifteen days returned to Sydney with oil. Other vessels followed her example.

Thus, under the ministry of Pitt, and the guidance of the first Governor of the colony, was the foundation laid for the fortunes of the English in the Great South Land. The seed was sown in dishonour in one sense, but the plant has grown to honour. Crime was not confined to the convicts sent to New South Wales. The contaminating source was, after all, in the mother country; and if the finger of scorn be not raised except by those who are pure, it never can be raised at all. Phillip, the right hand, selected for the work as Wolfe had been selected to wrest Canada from the French, returned to England and received a pension "in consideration of his meritorious services." His name will vainly be sought in many biographies published in England; but must ever live in Australia, as that of an upright English sailor, born to govern: gentle and yet just, cautious and yet decided; shrinking from no responsibility in the hour of need, and spending himself cheerfully in the service of his country. By cessation of toil, or change of air, his life seems to have been prolonged, but he was ever weak.²⁴ He lived until 1814, dying then in his 77th year.

At Phillip's departure (Dec. 1792) the government devolved upon Major Francis Grose, commandant of the New South Wales Corps, who had arrived in the beginning of 1792, bearing a commission as Lt.-Governor. The latter appointment being incidental to the former, it is not surprising that the peculiar qualities which fit a man for the office of Governor were wanting in Grose.²⁵

On the 11th Dec. 1792, Phillip had sailed in the ship *Atlantic*, and the following month Grose found that he

²⁴ In Sept. 1808, his old friend King, ill himself, visited Phillip at Bath, and wrote to his son:—"I found Admiral Phillip much better than I could possibly expect from the reports I had heard, although he is quite a cripple, having lost the entire use of his right side; but his intellects are very good, and his spirits are what they always were." King himself died a few days after writing thus about his old comrade and patron.

²⁵ In answer to a complaint made by Grose in Oct. 1792 that the rations issued to his corps were "reduced and unwholesome," Phillip wrote:—"I cannot acquiesce with you" in thinking the rations unwholesome. "I see it every day at my own table."

could not govern, as Phillip had governed, in his own person. The settlements at Toongabbe, and near Parramatta, engrossed much of Phillip's time; but, we are told, "with infinite fatigue to his Excellency." Grose "thought it absolutely necessary" (Jan. 1793) that there should be a resident at Parramatta to enforce personally the execution of his orders, and be at all times ready to hear the complaints of the settlers. This trust was conferred upon John Macarthur, of the New South Wales Corps. But it was not at the outlying station only that the gown yielded to the sword. Grose imagined that, as he was a soldier, his mode of government ought to be military. In Phillip's time the civil magistrates adjudicated, reporting to the Governor. Grose, besides issuing an order (when he was sworn in) to the effect that "all orders given by the captain, who commands at Parramatta, respecting the convicts stationed there are to be obeyed;" followed it up in a few days with an order that "all inquiries by the civil magistrates are in future to be dispensed with, until the Lt.-Governor has given directions on the subject." This deposition of law was fruitful of evil. Respect for law being abandoned, there is in human government no security.

"Take but degree away, untune that string,
And hark! what discord follows.

Then everything includes itself in power,
Power into will, will into appetite."

In communities of Englishmen especially, respect for and obedience to law, as they are the most trustworthy supports, can the least be dispensed with. An able officer has remarked that, as the English soldier is the most manful in respect for discipline while it is maintained, so is he the most ungovernable of men when discipline is abandoned.

The government of Grose rapidly degenerated in the direction which Shakspeare marked out. A passion for drinking was not to be wondered at among the convict population, drawn as they were from the ranks of the riotous; but it spread amongst the settlers. The Government offered five shillings per bushel for maize, but the grower preferred disposing of it for spirits. "While spirits

were to be had," writes Collins (an eye-witness), "those who did any extra labour refused to be paid in money, or any other article than spirits, which were now (Dec. 1793), from their scarcity sold at six shillings per bottle." "On Christmas Day (1793) the Rev. Mr. Johnson preached to between thirty and forty persons only, though on a provision day some four or five hundred heads were seen waiting round the storehouse doors. The evening produced a watchhouse full of prisoners."

The soldiers did not escape degradation. Some of them plotted to abscond with a boat. Two were arrested, and two others (one a corporal) deserted immediately with their arms and ammunition, and commenced to rob the settlers. These men were captured and tried, not for desertion, but for absenting themselves without leave; a course imputed to the humanity of Grose.

An observant critic will see in the comment of Collins much matter for reflection:—

"This desertion and the disaffection of those who meant to take off a long boat was the more unaccountable as the commanding officer had uniformly treated them with every indulgence, putting it entirely out of their power to complain on that head. Spirits and other comforts had been procured for them; he had distinguished them from convicts in the ration of provisions; he had allowed them to build themselves comfortable huts, permitting them while so employed the use of the public boats. He had indulged them with women; and, in a word, had never refused any of them a request which did not militate against the rules of the service, or of the discipline which he had laid down for the New South Wales Corps. At the same time, however, to prevent these indulgencies from falling into contempt, they were counterbalanced by the certainty of being withdrawn when abused."⁵

That a corps so indulged should set an example of debauchery was, humanly speaking, a certainty; and the result was what might have been expected. Convict women were assigned to, and became open paramours of, the more reckless amongst officers and others; and the task of rearing a family imbued with moral feelings became dreary if not hopeless. Yet to the honour of our race it may be asserted that it was manfully undertaken and carried out with signal success in some cases. Notably John Macarthur and his wife were patterns of a better life amidst the immoralities of the time. The convicts who had been enlisted in the New South Wales Corps did not

fail to keep pace with the declining standard; and the consequences of Grose's incompetency were visited upon the community in the days of his successors.

When Mr. Dundas, in response to Phillip's despatches, authorized (14th July 1792) the granting of lands to superior officers, he attached conditions to which Grose had not resolution to adhere. The grants were to be made with a view, "not to temporary, but to an established settlement thereon," and to comprehend "such portions of land, and in such situations as would be suitable for a *bonâ fide* settler, should it ever come into the hands of such a person." There was always a wide distinction drawn at the Colonial Office between the advantages as to land and labour offered to free settlers and those offered to the public officers, civil or military; and as it was in the power of the latter to become ordinary settlers, no advantage was withheld from them in such a capacity. Mr. Dundas (June 1793), having then conferred with Phillip personally, wrote to Grose:—

"All the civil and military officers may *as such* be allowed two convicts each, to be maintained out of the public stores for two years longer, but after that they should themselves maintain such as they are desirous of keeping. But where grants of land are made to such officers as at the time continue to receive their pay, it is but reasonable that they should maintain such convicts as are granted for the cultivation of their land, exclusive of the two allowed to them as officers in the manner I have mentioned."

Sale of spirits to convicts was to be carefully guarded against, especially on arrival of vessels. These injunctions were disregarded by Grose. He wrote (April 1794):—

"The order respecting the servants of officers who have got gardens, will not be put in execution until such time as I am honoured with your further instructions. When the gentlemen were first indulged with grants, I gave them ten servants each, less than that number not being equal to the cultivation of the grounds allotted them. The public labour is very little interrupted by their accommodation."

The answer (of the Duke of Portland) to Grose's despatch was not written until June 1795, when Governor Hunter was informed that Mr. Dundas' letter, of June 1793, "did not admit of any discretionary construction on the part of the Governor." Meanwhile Grose's misconduct had in this and other matters given the reins to the disorderly *impulses* around him.

The grants made in the first instance were reasonable. He reported in May 1793 that 452 acres were being cultivated at that time by civil and military officers. He had then granted 100 acres to Macarthur, to Johnston, to Atkins, and to Harris; and allotments of 80, 60, 50, 30, &c., to others. In all there were twenty-two such grantees. Such grants were compatible with a due attention by the officers to their official position; but Grose speedily outraged all propriety by making larger concessions. Collins admits that Grose had been lavish "far beyond what had been thought necessary in England," in supplying them with convict labour. Each had ten servants for agriculture, and three for domestic purposes.

Collins did not see the danger, looming nearer and nearer, of constituting a class which was almost invited to declare itself independent of the Governor; and the absence from his "History" of any reprobation of the recalcitrance of Major Ross against Phillip and against the law, implies that the historian's sympathies were with Ross. Nevertheless so essential was the clearing of land for the production of food that Collins may be pardoned for boasting that "in the short period of fifteen months, the officers, civil and military, had cleared more than half the whole quantity of ground that had been cleared by Government and the settlers from the establishment of the colony to the date of the Governor's departure." The peril of starvation was not banished. In Feb. 1794 there remained but one month's provision of meat in store, and the timely arrival of the *William* from England with four months' supply of beef and pork, temporarily relieved the settlement. But there was war with France, and the *William* had waited for convoy. She brought news that Governor Phillip, in the *Atlantic*, had been vainly chased by a French privateer on nearing the English Channel.

If the risk of capture by enemies were added to those already warring against a supply of food from England, what might not be the fate of the guards and the guarded in Sydney? Grose could not be upbraided for any lawful effort to promote agriculture. In this he was aided by John Macarthur, whom it was his habit to call "Counsellor." Macarthur persuaded him to make additional

grants of land to those who raised crops on their land already in occupation.

One phase of the misgovernment of Grose was the reversal of Phillip's policy of preventing convicts from obtaining spirituous liquors. Under the plea of facilitating the farming operations of the officers Grose allowed them to pay for convict labour with spirits, and the evil effects were immediately manifested, and entailed a lasting curse upon the community. His friends boasted that his policy extracted more labour than could otherwise have been obtained. Others protested against it, and the chaplain, the Rev. R. Johnson, encountered Grose's animosity on account of his ineffectual endeavours to stem the tide of immorality.

Before the departure of Phillip, Johnson had remonstrated (March 1792) against the neglect of the spiritual concerns of the people. The foundation of a church had been laid at Parramatta, but "before it was finished it was converted into a gaol or lock-up, and now it is converted into a granary." In Sept. 1793 Johnson applied for reimbursement of the expense of erecting under his own superintendence a place of worship in Sydney at the cost of £59 18s. in money and £9 in value of provisions. It was to hold 500 persons. Grose told the Secretary of State that he could "not at all countenance the application" for reimbursement, and that Johnson was a "troublesome, discontented character."²⁶ Johnson requested that the accounts might be sent to the Secretary of State, with a letter explaining his reasons for building the church.

The Secretary of State received various proofs under Grose's own hand that instead of promoting morality and the permanent welfare of the community he was, whether ignorantly or otherwise, subordinating all interests to the ill-regulated desires of his corps. Phillip had hardly

²⁶ MSS. Record Office, New South Wales, Vol. v. Grose said: "He is one of the people called Methodists." It appears, however, that Johnson, though a Moravian, was a Cambridge man, and was described by the Rev. T. F. Palmer as a "most dutiful member of the Church of England." The "Historical Records of N.S.W.," Vol. 2 (p. 758), publish a letter from a convict who wrote in April 1890: "I believe few of the sick would recover if it was not for the kindness of the Rev. Mr. Johnson, whose assistance out of his own stores makes him the physician both of *soul and body*."

departed when an American ship, *Hope*, arrived with stores, and Grose purchased spirits from the master, who would not, Grose said, otherwise sell general supplies. In his report Grose affected to be ignorant whether spirits were to be issued as an allowance, or whether deductions were to be made from the soldiers' pay. He retained the money until he might be advised. In the same despatch²⁷ he complained of being "much plagued with the people who become settlers;" they had "no other view than raising a sufficient supply to pay their passages to England;" they persisted in "disposing of their stock," and Grose was "absolutely obliged to encourage and promote the purchase of them by the officers," because he dreaded the extermination of the stock which it "had been the work of years to collect."

Such a man was unfit to govern the singular community at Sydney, and the Secretary of State bestirred himself to find a Governor. As to the issue of spirits to the corps, Mr. Dundas repeated his specific instructions (to Phillip in 1792) that men as well as officers were to be allowed to pay for spirits, like other articles, at prime cost. As Grose allowed the officers to pay for convict labour with spirits at high rates, the profits of the traffic were considerable.

While thus conducting himself in New South Wales, Grose was by no means willing to co-operate loyally with the sailor Governor under him at Norfolk Island. King had urged upon Phillip repeatedly, and also upon the Secretary of State, the procurement of Maori teachers in the manufacture of flax. He renewed his request when in England, and at the Cape of Good Hope met Captain Vancouver in 1791, and asked him, if it should be in his power while in the Southern Seas, to obtain two Maoris by friendly means. In Jan. 1792 he asked the master of a trading vessel to persuade two Maoris to go to Norfolk Island, and he forwarded to the Secretary of State a copy of his letter.

Captain Vancouver, who had in 1791 discovered King George's Sound, was joined by the *Dædalus*, store-ship, at Nootka Sound, and sent her thence to Sydney under command of Lt. Hanson. That officer, instructed by

²⁷ Record Office. Vol. vii.

Vancouver, called at New Zealand to obtain the desired Maori instructors. Instead of obtaining their consent, which had never been difficult, he kidnapped two young chiefs who visited the *Dædalus*. Grose sent them on to Norfolk Island immediately, in the *Shah Hormuscar*, hoping they might be of use, and ordering that they should be "victualled and clothed." He wrote to the Secretary of State, "Captain Vancouver has sent here two natives of New Zealand for the purpose of showing us their manner of manufacturing the flax plant." King wrote that "they often in an affecting manner lament their separation from their friends, which they express by mournful songs."

They declared that they were not labourers, and were unskilled in manufacture. They would give no information, and were resolute against the indignity of being made to work. King strove to soothe their feelings, and entertained them at his own table. By degrees, having promised to return them to their homes, he overcame their disgust, and they communicated all they knew. The stone axes which the English had dug up at Norfolk Island they recognized as of cognate manufacture to those used in New Zealand. King kept his promise, and to ensure its due fulfilment went with them to New Zealand in Nov. 1793, in the *Britannia*, a vessel detained for the purpose. He was absent from Norfolk Island only ten days while restoring his friends to their families amid the general joy of the tribe. He gave them seed potatoes and other vegetables. One of them on returning adopted the name of Governor King (Kawana Kingi).²⁸ King wrote an interesting account of his success to Grose as well as to Mr. Dundas, hoping that it might conduce to friendly feelings amongst the Maoris. A narrative by King on the same subject is included in Collins' work (1798). However interesting to others, the transaction displeased Grose, who upbraided King, arrested his movements in agriculture soon afterwards, and unpardonably interfered with the administration of justice at Norfolk Island.

²⁸ Many years afterwards (at the request of King's widow), Samuel Marsden, in one of his missionary visits to New Zealand, discovered the chief and persuaded him to embrace Christianity, in which faith he died at an advanced age.

In Nov. 1793 10,152 bushels of maize, 1602 bushels of wheat, and other products had been raised from about 260 acres. In April 1794 the second crop of maize at the island had been so abundant that King offered to send 5000 bushels to Sydney. In August, in conformity with the terms²⁹ on which Phillip had settled them on the land, the settlers sold 11,000 bushels of maize to the government, taking bills from King. But there was no famine then in Sydney, where the maize crop had been good. Grose affected to think it was not within his power to keep the faith pledged by Phillip. He would not assume the responsibility of approving the bills, though he wrote at a later date to Secretary Dundas (Aug. 1794) that King had been "guided" by Phillip's orders, and must "certainly appear to have broken faith with the settlers" in case the bills should remain unpaid. He sent a notice for publication in the island. The bills would be paid if the Secretary of State should so order; if not, grain equal to that received would be returned to the settlers. To Grose King wrote (Nov. 1794): "I am in the most disagreeable situation that ever an officer was placed in. I have no other consolation than self-approval of my rectitude, and the consciousness of having acted to the best of my judgment for the good of His Majesty's service." The settlers were so indignant that King was obliged to imprison one man for "seditious expressions."

There were at the time other grounds for distrust between Grose and King, but they did not deter the latter from loyally obeying his superior. He wrote, however, to the Secretary of State. He sent copies of all the orders he had received from Phillip and Grose. He hoped "the goodness and humanity" of Dundas would "excuse any impropriety he might fall into in representing the distress" arising from "the corn bills not being ordered payment." The settlers were so dejected that in spite of King's dissuasion ten marines and two other settlers would not wait for news from England, but "sold, or rather gave away, their farms and stock," most of them enlisting in the New South Wales Corps. Grose did nothing to remedy the shock which his

²⁹ Despatch. King to Secretary Dundas, 6th Nov. 1794.

abandonment of Phillip's promises had given to public confidence, and the injury it had caused to the general prosperity. His temporary successor, Captain Paterson, assumed the Government on the 17th Dec. 1794, but, in daily expectation of the arrival of a new Governor, left matters as disorganised as he found them. Governor Hunter landed from H.M.S. *Reliance* in Sep. 1795, and promptly took upon himself the responsibility of paying the corn bills without waiting for orders from England.

But meantime misery had devastated the homesteads of the island, and an evil example of breach of faith had been set by His Majesty's representative. As soon as despatches were received from England it was found that there also Grose's conduct was condemned. Its effects upon the little community at Norfolk Island were not annulled by its tardy condemnation. Agriculture was never resumed with success. The policy of Phillip and the exertions of his faithful supporter were effectually stifled.

When King re-assumed the government of Norfolk Island in Nov. 1791, Governor Phillip gave him precise instructions as to the grants of land he might award to the sailors and marines of H.M.S. *Sirius*. The gallant Riou had earnestly commended the orderly behaviour of many of the convicts on board the *Guardian*, before and after she struck upon an iceberg. Phillip received instructions to pardon those who behaved well subsequently, on condition that they were not to return to England. They were to be encouraged to settle. Phillip asked King to give ten acres to each of them who might wish to settle, and such implements and live stock as the public stores permitted. "His Majesty's gracious intentions" were to be "publicly read" in the island.

Some settlers wished to marry convict women; and King wrote: "The clergyman being here, and being conscious of the good consequences that must necessarily result from that connection when compared with the indiscriminate manner in which they formerly lived, induced me to hazard my consent on condition of the women being taken off the stores at the end of twelve months." Phillip saw no objection where "the conduct of the woman was good."

No person could live either at Sydney or Norfolk Island without the Governor's permission. Phillip wrote (1792):

“D’Arcy Wentworth, who I am informed behaves well, had a promise of being permitted to return to this settlement, and if he has not forfeited the good character which has been given of him, you will permit him to return.” Yet D’Arcy Wentworth had immigrated to the colony as a cabin passenger, and had never been under any control except that which any visitor to the convict colony encountered. He was indeed engaged as Assistant-Surgeon a few weeks after his arrival. King, in Dec. 1791, reported that in that capacity he “had always behaved with the greatest propriety and attention,” and being “persuaded that he would acquit himself of the charge with fidelity” he appointed him a superintendent of convicts in the Island, in consideration of his “diligence and good behaviour.” Plurality of offices, however, was discouraged by Phillip, and the active Wentworth was remunerated only as superintendent of convicts, attending, without payment, to the health of persons in his district; for, small as was the island, it was divided into several districts, in each of which there was a superintendent of convicts. Eventually, with Governor Hunter’s sanction, Wentworth returned to Sydney (1795), where he was to take an active part in public affairs, and to see his son William become the most notable of public men.

Communication from Norfolk Island to Sydney was infrequent. Vessels called at the Island on their way from Sydney to China or the East, but many months elapsed without direct return from the Island to Australia. Phillip therefore encouraged his subaltern to make known his wants to the Secretary of State, and deplored more than once his inability to send supplies of which he was aware that King “must have stood in great need.”

There was scarcity of food. The “birds of Providence” made their annual appearance (21st March, 1792), and “to give every one an equal chance of availing himself of this providential resource,” King “changed the hours of labour,” to enable every man to sally forth at four o’clock to rush upon the birds arriving at sunset.

The resolute buoyancy of Henry Dundas was at this period by the side of Pitt. The French atrocities, compared with which even those of savages grew dim; the efforts of “Friends of the People” in London, many of whom thirsted

for similar atrocities in England; the ferment in the country, which was nowhere more noticeable than in Edinburgh, where a "British Convention" parcelled out in anticipation the whole kingdom into departments within which the Heberts and St. Justs of the islands might rival the exploits of their prototypes; plots against Parliament and king; tamperings with the soldiery and the fleet—were the topics pressing upon Pitt and Dundas when the latter received a long despatch from King conveying minute details as to the wants of Norfolk Island. If he read it at all he must have smiled amidst the dangers of the time³⁰ at the tale of Norfolk Island.

Pitt was unable to obtain convictions of the seditious in London; but Dundas must have had grim pleasure in sending the Scotch convicts, whom a difference in the Scotch law subjected to transportation, to a land where high and low might work with common consent to secure the bounties of Providence. Dundas was bitterly accused of straining the Scotch laws to procure convictions. King told him that at the island he and the magistrates awarded "such pains and penalties as are equitable, guided by Burn's 'Justice' and Blackstone's 'Commentaries,' the only law-books we have to guide us." There were no barristers and no attorneys as yet in the south land, and those who first practised were convicts themselves.

No lawyer was available to assist the government. The Judge-Advocate in Sydney was an officer of marines. In Norfolk Island there was no Criminal Court. If a "theft was committed, or any other capital crime," the rare means of conveyance to Sydney, and the necessity of sending witnesses thither, brought about a denial of justice. Settlers could ill leave their farms to go to Sydney. King submitted the matter to Dundas's consideration. An Act (45 of 34 Geo. III.) was passed in 1794; a Criminal Court was established by letters patent as a Court of Record; it was duly proclaimed at Norfolk Island, and a Civil Court was then petitioned for by King.

³⁰ A friend remonstrated with Pitt for his vigorous resistance to the schemes of the "Friends of the People." Let him retire rather than vainly resist. Pitt replied, "My head would be off in six months were I to resign."

A settler at the island cut short all need for trial of a thief in one case in 1792. It was at a time of short rations, when, to prevent the voracious swallowing of a week's allowance at a meal, King ordered the divided ration to be issued twice in the week. A convict took to the woods and obtained food by plundering gardens at night. Leonard Dyer shot him in the act. King sent the depositions to Phillip. Phillip, on the eve of departure for England, promised to represent to the English ministers the evils arising from the want of a Court of Criminal Justice at the island, and the act of Leonard Dyer was never challenged.

When Grose upbraided King for his manner of restoring the Maoris to New Zealand, he at the same time (Feb. 1794) complained of the manner in which King had maintained discipline in the detachment of the New South Wales Corps stationed at Norfolk Island. The audacity which he had been unable to cope with in Sydney he was unwilling to see controlled by King. A private in the corps, on the complaint of one Dring, a freed settler, had been forbidden by Lieut. Abbott to frequent the settler's house. The settler's wife was enticed abroad, and Dring found her with her tempter, whom he at once struck. The soldier complained. Dring was fined twenty shillings for an assault. Another soldier for a similar offence was pulled by the nose by a marine settler. The magistrates fined the settler ten shillings. The soldiery were indignant at the leniency of the sentences. King incurred odium by giving Dring time to pay the fine whenever his corn might be garnered, another settler giving security in the meantime. In reporting the case to Grose, King had said that Dring, in striking the soldier, had been "actuated by the same principle that would have actuated any man;" but the soldiers at Norfolk Island, expecting support from Grose, became insolent. Four of them attacked on his own farm the settler who had become security for Dring. The settler complained to King, who referred him to the commanding officer, by whose order the principal rioter was confined in the guard-house. Two other soldiers thereupon brutally assaulted Dring. They also in like manner were complained of and confined. The offenders

were tried by court-martial³¹ on the following morning. The first was sentenced to receive one hundred lashes, but was recommended to mercy. Of the other two, one was acquitted, and the other was sentenced to receive one hundred lashes, and to give Dring a gallon of rum. At the intercession of the settlers (including Dring) King remitted the corporal punishment, but the two soldiers still breathed revenge, and the one previously acquitted was again tried, and was sentenced to receive one hundred lashes. He received twelve lashes, the remainder being remitted by King, "as Her Majesty's birthday was approaching."

At about the same time a plot was discovered by which two soldiers and several convicts had arranged to escape from the island in a boat. The convicts were flogged, and the soldiers were in readiness to be sent to Sydney. King "directed every person in the island to be assembled," and harangued them on the advantage of maintaining harmony, promising equal protection and justice to all.

Following the example set by Phillip in 1789, in order to cheer the people, King had, as early as in May 1793, given permission to a soldier, several settlers, freemen, and convicts to hold theatrical performances. He thought it would promote cheerfulness and contentment in his lonely territory. About once a month plays were acted, an officer undertaking to see them conducted with propriety.

On the 18th Jan. 1794, Her Majesty's birthday, King with his family attended the performance. The soldiers, after the recent ill-feeling, were burning to display their independence. Sergeant Whittle was forward in resisting the authority of the constable who acted as manager.

King had retired to his house after the play was over, when a tumult was heard. He sent the sergeant of the guard to disperse the people, but the tumult continued. The keeper of the granary ran to implore King to prevent murder. King himself heard a shout, "Put every man to death," and saw men running with weapons in their hands (they were men of the New South Wales Corps with bayonets). He hurried to the fray, seized the man he had heard shouting, and delivered him to the sergeant. Asking

³¹ Despatch, March 1794. King to Secretary Dundas.

who or what he was, he was informed that it was Bannister, a soldier who had been unruly in the theatre. Hearing that the soldier had been struck by a convict, King sent the convict to gaol, and dispersed the crowd.

The soldiers on the island were nearly seventy in number, the other male inhabitants about ten times as numerous. Nevertheless, confident in their arms, twenty of the soldiers refused to obey their commanding officer, and it was only by firmness that he resisted their demand for the release of their comrade. They pledged themselves on the following morning by oath to allow no soldier to be punished for any offence against a convict.

The magistrates found the imprisoned convict guilty of striking the imprisoned soldier, but the evidence showed that the soldiers had mainly caused the affray. King did not order the sentence to be carried into execution. More serious work was in hand. Lt. Abbott informed him, on the morning after the play, of the mutiny at the barracks, and of the pledge by which the soldiers had bound themselves.

The magistrates, after inquiring into the disturbance at the theatre, reported that, "from the very contradictory evidence, it was not in their power to give a decided opinion on either side."

King thereupon consulted Abbott on the 21st January. To try a soldier by court-martial was useless, as the detachment was determined to prevent the infliction of any punishment. The Governor and Abbott agreed to disarm the detachment. King committed the resolution to writing, and entrusted Abbott with the duty of obtaining the opinion of the other officers. At one o'clock Abbott returned with their signatures of approval. By that time King had informed the five principal civil officers of the resolution, with which they also concurred.

Early on the 22nd a detachment of the mutineers, who still preserved a form of discipline, was sent to Phillip Island for wild-fowl feathers, and a part of the guard was sent on duty to Queensborough, a detached settlement. King assembled some of the settlers in his own house in case of need. At nine o'clock Abbott, with Ensign Piper, and Grimes the surveyor, took possession of the arms of

of the guard on duty, and Lieut. Beckwith, with some settlers, took the arms out of the barracks. The slight resistance offered gave way at the word of Abbott.

King explained in a proclamation the necessity of what had been done. To all the non-commissioned officers, and to soldiers in whom Abbott had confidence, their arms were returned instantly. Of the twenty active mutineers, some were secured at once, and the rest were taken into custody on returning at one o'clock with feathers from Phillip Island. Ten were selected by Abbott as the most dangerous, and were confined in a granary. The rest were released, and their arms were restored. King caused Abbott to assemble the soldiers at four o'clock, and told them that he by no means wished to cast a slur upon the detachment because of the errors of a few. They confessed they had been misled. The whole of the detachment (except the ten prisoners) "then took the oath of fidelity, which was administered to them by the clergyman," and peace prevailed. All the sentries were posted as usual within a few minutes of the seizure of the arms. King deemed it advisable to embody forty-four of the marine and sailor settlers as a militia.

Order had been re-established when the *Francis* schooner appeared in sight. By her King told Grose what had happened, and sent the ten mutineers, with as large a guard as the small craft (forty tons) could hold. By this time the drunkenness permitted if not encouraged by Grose, and the obsequious manner in which he had pandered to the unruly desires of his corps, had made any restraint odious to them. Those who were indulged by their own commander, and against whom he shrank from enforcing the law, could not tolerate control by an officer of the sea-service. Grose himself was enraged. He poured out his wrath on the 25th Feb.

"I am more astonished and mortified at your letter than I can well describe. What appears to be the most extraordinary is the great confidence with which you seem to set about such ill-judged and unwarrantable proceedings. Your excursion to Knuckle Point—your sending away the New Zealanders without any directions whatever, and without either knowing or inquiring what were my intentions respecting them—are attacks on my situation I little expected, and which would justify measures I shall not pursue. Your taking upon yourself to appoint

Captain Nepean,²² who by accident had called at Norfolk, to a command you had left, without permission, might have produced the most unpleasant effects. Lt. Abbott would have been perfectly justified in resisting your appointment of Captain Nepean. . . . Ready as I might be to put up with any want of attention to myself, I really do not see how this can be done, for I must, for my own sake, report the circumstances. I have not a doubt but the Secretary of State and the Commissioners of the Navy Board will consider your delaying the *Britannia* for this trifling purpose deserving their highest disapprobation.

"The mutiny you state to have happened I have directed to be investigated by a Court of Inquiry. . . . The necessity for disarming the detachment I cannot discover, although we all too plainly perceive that if the soldiers have been refractory, the insults they have received from the convicts were sufficient to provoke the most obedient to outrage. I have directed Lieut. Townson to take command of the detachment at Norfolk, and he will communicate to you whatever orders I have *given him* respecting the soldiers. The militia you have ordered to assemble are *immediately* to be disembodied, and their arms are to be sent in the schooner. . . . Lieut. Townson is directed to apply to you for the persons of T. R. Crowder (the constable who was manager at the theatre) and W. Doran, who are to be kept in irons in the guard-house until the departure of the schooner, when they are to be sent prisoners to Sydney.

"It appearing by a remark of yours that Cooper, who struck Bannister, was forgiven his punishment at the intercession of the detachment, and . . . the officers and soldiers who came from Norfolk Island declaring that they were, . . . on the contrary, dissatisfied on finding him escape, I have to request you will trouble yourself to give me some further explanation."

Lieut. Townson, who was to assume control over the Lt.-Governor, was empowered to select 20 acres of land for himself, and a larger quantity for his brother officers.

Grose's letter has been quoted at some length, because without seeing his own words it would be difficult to believe that an officer in his position could have been so unjust to his junior in rank, and so untrue to the service of the Crown. On the voyage to New Zealand he had previously had ample time to comment, and it might be dismissed from consideration were it not that the English government saw in it the only flaw in King's comportment.

It would seem that a wiser counsellor than Grose detected in this act a weakness which had escaped Grose's observa-

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tion, and that in consultation about the mutiny it was arranged to seize upon the opportunity. King at once disclaimed any want of respect to Grose, and explained the reasons for his conduct in the past, springing from "an earnest desire of forwarding the king's service, and promoting the peace and happiness of those under my charge." His defence was respectful, but firm. Grose had placed before his military Court of Inquiry in Sydney a private letter from King to himself. The finding of the Court was that the soldiers were reprehensible for disobeying their officers, but they were recommended to the commanding officer's clemency in consequence of the provocations they had received. The finding was an echo of the sentence—"We all too plainly perceive," &c.—in Grose's letter.

The Court³³ alluded to King's private letter as containing a phrase derogatory to Lieut. Abbott. King disclaimed having made any such imputation, and having kept no copy of his letter, applied to Grose for it. Grose shabbily declined to produce it while he remained in the colony; but permitted Captain Paterson, who succeeded him, to send a copy to King. There was in it no insinuation against Abbott. King had pointed out the expediency of having a captain of the corps at the island. "Without reflecting the least on Lieut. Abbott, as he deserves a very different opinion, yet I am certain if a captain had been here this event had never happened—at least its consequences." The unwillingness of Grose to produce the refu-

³³ The Court was composed of Captains Paterson, Johnston, and Foveaux; Lieuts. Townson, Rowley, Macarthur, and Prentice; Ensigns Lucas and McKellar; and Quartermaster Laycock. They found the conduct of the detachment "highly reprehensible,"—their refusal to obey Abbott "certainly mutinous,"—but deemed that King's suggestion of "want of a captain" at the island reflected on Abbott. They expressed surprise that two justices could "consider that a fine of ten shillings would satisfy the feelings of a soldier for being beat." They seem to have thought that Dring was not entitled to feelings. One of the court, it will be observed, was sent to Norfolk Island to carry out Grose's arrangements for making the soldiery superior to law.—Record Office MSS., New South Wales, vol. ix.

1896. The details in the text which in the first edition of this work were taken from MSS. in the Record Office have now been made accessible to the Australian public in the "Historical Records of New South Wales, Vol. II." In that work King's explanatory despatch to Dundas occupies thirty-six closely-printed pages.

tation of the imputation made before his Court of Inquiry showed consciousness of the wrong he had done.

It will be remembered that Grose had destroyed the Civil Court in Sydney on assuming the government. In the first flush of asserting the superiority of the soldiery to law at Norfolk Island, he now ordered that if a convict or freed-man should strike a soldier, the commanding officer alone, without reference to the Governor, was to take cognizance of the offence, which was to be punished with 100 lashes inflicted by the drummer. A court-martial was to supersede all civil authority; "officers, non-commissioned officers, and soldiers are of their own authority to confine any convicts who misbehave; (resistance) will be severely punished; (soldiers) misbehaving will be brought to a court-martial; . . . there is no necessity for taking a soldier before a justice of the peace."

King promulgated the order, but showed (in a grave but respectful letter to Grose, 19th March) that it superseded the instructions of Phillip and the mode of administering justice reported to, and not disapproved by Mr. Secretary Dundas. He directed the only magistrate left on the island to take no cognizance of complaints brought to him by convicts or freed-men who might be flogged under the new order; but he told Grose that he feared serious consequences would result from it if put into execution on any freeman, though he would exert himself to prevent them.

In June, flushed with importance, Grose ordered King to allow Townson to choose his grant of land from the cleared Government ground, and to assign to him ten convict servants. Three other officers were to have cleared ground also, and five convicts were to be assigned to each of them. Townson accordingly selected lands from which previous occupants were evicted to make room for him. Men employed in cultivating land for the public were withdrawn from their work and assigned to the officers.

It was after thus outraging King's official position, that Grose, in Aug. 1794, dishonoured the bills which King had drawn to pay for Indian corn purchased from the obnoxious settlers at the island. Though King obeyed dutifully, he did not content himself with obedience and explanation to Grose. He represented the facts at once to Dundas, the

resolute colleague of the equally resolute Prime Minister. He sent all documents bearing on the question, except the private letter which Grose refused to restore, and he sent them through Grose, hoping that the latter would not think his letters disrespectful. "I have no other motive for requesting you will bear this trouble, than that of stating my reasons for the line of conduct which I have pursued, and which has, unfortunately for me, met with your displeasure." He must have been confident in his own mind, for he assured the Secretary of State that if, in repressing mutiny, he had committed errors, they yet proceeded from an honest desire to forward the king's service, to protect the persons and property of every person under his charge, and "to make the soldier respected."

The Court of Inquiry in Sydney seemed to insinuate that the marine settler ought to have been flogged. King remarked that in the only books he possessed he could find no authority for sentencing a freeman to corporal punishment. Whether freed-men were entitled to benefit by the same "humane law" he knew not, but he was thoroughly convinced of the "policy and utility" of extending it, and had always extended it to them.

On reading King's justification Grose perceived that insolent assumptions on the part of the military, whom he had done so much to corrupt, would scarcely find favour in England. Accordingly he wrote to the Secretary of State that all that had happened had been "very fairly and exactly stated" by King. He added—

"As my letter to him was written at a time when the situation of the colony did not wear the most pleasing aspect, it may in some degree account for my having expressed myself in such severe terms to an officer of whom I have always had the highest opinion and for whom I should be exceedingly sorry if any unfavourable conclusions were drawn from anything I felt it my duty at that time to say."

Of this letter he sent a copy to King.

On the 10th June 1795³⁴ the Duke of Portland, who for a short time presided over the department, pronounced his

³⁴ Long before this date, however, King's repeated applications for a legally-constituted Criminal Court at Norfolk Island had been complied with by Dundas. An Act (XLV. Geo. III.) was passed 9th May 1794, and was commended by Dundas to the attention of Hunter in a despatch of 1st July 1794.

decision. He saw nothing to reprehend in King's conduct. He objected only to his quitting his government and taking home the New Zealanders "without previous communication" with Grose. The mutinous conduct of the soldiers was "such as to merit much severer treatment than it met with." Grose's orders, that a convict or freed-man striking a soldier should be judged and punished by a military officer,

"must have been hastily conceived on the pressure of the moment, and without due attention to the principle which in the due administration of justice should never be lost sight of." . . . "Whoever misconducts himself must be considered as losing all title to preference or distinction from being of a different class or description." . . . "If a convict or other civil person is complained of, the complaint should be to the Governor or the nearest magistrate; if a military person, to the commander-in-chief, or nearest officer, as the case may require."

It had ever been regarded in England as a constitutional principle that the civil magistrate should in time of peace have sole jurisdiction in punishing crime; and men of all parties had acknowledged the justice of the principle. It was not probable that a Secretary of State would lose sight of it when brought under his notice by the remonstrances of the Lt.-Governor of Norfolk Island.

Serious as were these events, they found no place in the narrative of Collins. He mentions cursorily the mutiny, the disarmament, and the Court of Inquiry in Sydney, but is silent as to the displeasure of Grose, the scandalous order superseding the law, and the appeal to England. For this silence there is no excuse. He was Judge-Advocate at the time, and was, moreover, acting as secretary to the government under Grose, and conducted the correspondence with King and with the Secretary of State.

King thanked Hunter for communicating the Duke of Portland's decision, and sent him a copy of a despatch to that nobleman in "acknowledgment of His Grace's justice and goodness." His health was suffering, and Hunter supported his application for leave of absence. To the Duke he said (May 1796), "Notwithstanding the conscious sense I have of the purity of my motives, still I cannot refrain from pouring forth my grateful and heartfelt sensations for the relief afforded by your Grace's attention to a mind and body much impaired by long and severe illnesses."

which compelled him to apply for leave of absence. In July, Hunter took the responsibility of allowing him to leave without waiting for permission from England. In process of time he was comforted by a despatch in which the Duke wrote to Hunter—"I am much concerned at Lt.-Governor King's alarming indisposition, which I hope will be but temporary, as I have the greatest reason to be satisfied with the propriety of that officer's conduct."

In October 1796, after more than eight years' service, in company with H.M.S. *Reliance* and the *Supply*, King sailed from Norfolk Island in the *Britannia*, on board of which was Collins (the historian and Judge-Advocate of New South Wales). He reached Liverpool 6th May 1797, was consulted by the government, and had the pleasure of seeing his friend Phillip highly esteemed. His summary of the condition of the island was in some respects unsatisfactory. The discouragement of agriculture by Grose's dishonour of Corn Bills in 1794 had borne bitter fruit. Not more than a fifth of the settlers' land was under crop, and much that had formerly been tilled was overgrown with weeds in 1796. But the increase of live stock had been great. There were nearly 5000 pigs in the island, to the breeding of which many disappointed farmers had devoted themselves. Maize was still grown, partly to feed live stock. There were two schools in the island, besides an orphan school. There was a water-mill, and there were two private wind-mills.

Grose, although he taxed his faculties by no exercise of judgment, was not so enamoured of his position as to desire to prolong his tenure of office. He hailed the "welcome intelligence" of Hunter's appointment. In May 1794 he complained of affliction from "old wounds," and sought permission to go to England for advice. In December he sailed thither, and Captain W. Paterson, as senior officer of the New South Wales Corps, became Lt.-Governor. It was then known that Captain Hunter was to be the new Governor, and even if Paterson had disapproved of the disorders which were rife, and in which his brother officers were sometimes actors, it could hardly be expected that he would undertake the invidious office of reformer of abuses. *The period* which elapsed between the departure of Phillip

and the arrival of Hunter may be treated as homogeneous in the production of mischief.

Paterson was an encourager of exploration, and had himself headed a party of discovery in 1793. The rapids which foiled Phillip's large boats were surmounted by Paterson in smaller ones, but others were encountered, and the chief results of the expedition were the finding of new species of plants, and the naming of the Grose river, after a vain attempt to pierce the mountain chain by ascending the deep gorge through which the Grose winds its way to the Hawkesbury. Paterson appears to have been kind-hearted, though weak. He wrote of a raid against the natives—"It gives me concern to have been forced to destroy any of these people, particularly as I have no doubt of their having been cruelly treated by some of the first settlers who were out here."

Drunkenness was still the curse of the colony; and not content with ordinary opportunities of traffic, a settler at Liberty Plains was found to have procured in 1793 a small still from England, with which (according to Collins) he found it more advantageous "to draw an ardent diabolical spirit from his wheat than to send it to the store and receive 10s. per bushel from the commissary." In 1795 this man and others removed to the richer lands at the Hawkesbury. The very richness of those lands proved a bane to the dissolute owners. In April 1795 Collins tells us that the farmers everywhere began putting in their wheat, "except at the river, where they had scarcely made any preparation, consuming their time and substance in drinking and rioting, and trusting to the extreme fertility of the soil, which they declared would produce an ample crop at any time without much labour."

Short as was Paterson's reign, he made many grants of land. Phillip, it must be remembered, had never received authority to make extensive grants to officers. To settlers he had in nearly five years granted 3389 acres; Grose (in many cases contrary to orders) granted in two years to various persons 10,674 acres; Paterson in nine months granted 4965 acres.

Mr. Johnson, the chaplain, received a colleague early in 1794, when by the provision ship *William Samuel*

Marsden³⁵ arrived, and preached on the following Sunday to the military in a barrack-room, and to the convicts in Mr. Johnson's new church. In Sept. 1796 he had opened a church at Parramatta, having formed it out of the materials of two old huts. Thenceforward he was one of the most active influences for good in the community; benevolent, but active and bold, as determined to do his duty by his neighbour and to the law as he was devoted to his God, his advice and personal energies were continually called upon by succeeding Governors. For a long time it was his custom to go by boat from Parramatta to Sydney on the Saturday, in order to hold Divine service at Sydney on the Sunday morning, and then to walk fifteen miles to Parramatta to hold service there in the afternoon. His physical power was great and was on one occasion singularly tested. Unruly convicts desired to get rid of him. One of them, knowing that Marsden's benevolence would prompt him to save any drowning man, fell purposely into deep water, affecting that he could not swim. When Marsden plunged in to the rescue, the fellow, who was an expert swimmer, endeavoured to drown him. Mr. Marsden was strong, and brought the man forcibly to the shore.

A man of Marsden's energy was perhaps needed after Phillip's departure. Johnson had striven, but in vain. He is found imploring Phillip in 1792 to cause a place of worship to be built, because "now we are wholly exposed to the weather." In the same year he appealed to the Society for the Propagation of the Gospel. Many convicts could not read, and he had no books for those who could read.

His building of a church in 1793 was not prevented, but was discouraged by Grose, and it was not until 1797 that Mr. Dundas ordered the disbursement to him of the "expenses he had incurred." This tardy justice was due to the intercession of Pitt's friend Wilberforce, who assured Dundas that Johnson, though described by Grose as

³⁵ Writing to Dundas (on Marsden's arrival), Grose said—"Your instructions relative to the Rev. Mr. Marsden shall be particularly attended to." He added that he had wished to make the clergyman comfortable, but he had received from Johnson "treatment very unbecoming his character as a clergyman to offer, and not very consistent with my situation to put up with."

“really a most troublesome character,” was “one of the worthiest men breathing, the most active, the most humble, and at the same time very little acquainted with the world.”

Grose, though lavish in assigning convicts to others for agricultural purposes, withheld them from Johnson, and otherwise marked his hostility to him. Grose fixed six o'clock in the morning as the time for Divine service, and Johnson quaintly complained that though for various reasons the order did not meet with his ideas, he “strictly attended to it.” The soldiers understood the relations between their commanding officer and the chaplain. “One morning” (Johnson wrote to the Secretary of State), “as I was going through the service, I was interrupted first by the improper conduct of two soldiers, and soon after by the beat of a drum, when instantly the corps took up their arms, got into their ranks, and marched away. I had been barely three-quarters of an hour in the whole service, and was then about the middle of my discourse.” The deserted preacher “consulted the canons of the Church,” and could find no excuse for the treatment he received. Grose, however, asserted that, “was it not in pity to a large family, I should represent the disorderly behaviour of the Rev. Mr. Johnson.” The aggrieved chaplain told Dundas that he only required to be “supported as a clergyman and treated as a gentleman,” and was willing to resign his “appointment and be ready to appear before any person, and at any time, to answer for” his conduct.³⁶

The difficulties of the chaplain's position would have been great even if the civil and military authorities had aided him loyally. Few men could hope for success if those authorities should be arrayed against him. Wilberforce could perhaps have found none more suited for the work than Samuel Marsden. Not originally trained for

³⁶ That he did not exaggerate his difficulties was shown by a despatch from Governor Hunter in 1798. “The clergy were allowed to be insulted in the streets without receiving any kind of redress, and rendered incapable of performing their sacred office on the Sabbath Day, from the number of drunken soldiers and convicts surrounding the outside of the place of public worship, and often engaged in card-playing and riot.”

the ministry,³⁷ he adopted it in zeal for his Master's cause, and the manner in which he served that Master won the enduring friendship of Wilberforce, who was wont to describe Samuel Marsden as a moral hero. His influence in the community was the more marked because he was not—as Johnson was described by Wilberforce—“very little acquainted with the ways of the world.”

³⁷ He was born in 1764 at Farsley, near Leeds; was educated at the Hull Grammar School; went to Cambridge; left Magdalen College in 1792; was ordained by Royal Mandate and appointed chaplain to New South Wales in 1793, and arrived there in 1794. A monument raised in memory of him was placed in Farsley church in 1866.

CHAPTER IV.

GOVERNOR HUNTER.

IN Sept. 1795 Governor John Hunter reached Sydney by H.M.S. *Reliance*, in which George Bass was surgeon and Flinders was midshipman. The interest he displayed in the colony and the recommendation of Lord Howe procured for Hunter the appointment of Governor, although the retiring Phillip suggested that King was the fittest man for the office. Hunter took back to the colony Bennilong, the native taken by Phillip to England. He received Royal instructions in England, with a provident despatch from Mr. Dundas, as to his multifarious duties as Governor.

It does not appear that he was able to stem the tide of drunkenness and debauchery which was sweeping over the land. There was indeed a curious mixture of reprehension and encouragement in the conduct of the government with regard to the love of spirits. The minute journal of Collins informs us of "the strange design" of some persons to apply to the Governor for a license to distil spirits. "A practice so iniquitous and ruinous, being not only a direct disobedience of His Majesty's commands, but destructive of the welfare of the colony in general, the Governor in the most positive manner forbade," and several stills were found and destroyed. At that very time the same chronicler informs us that the Governor could think of no better way to arrest a bushranger than by offering "as a reward five gallons of spirits."

Hunter seems to have been conscious of want of decision, and vainly to have tried to produce an impression that he

was firm. On one occasion, Oct. 1795, he ordered that none of the military and others who had huts near the stream of water which supplied Sydney should presume to open the protecting palings and make paths which conducted filth into the stream. The penalty of the breach of the order was the pulling down of the offender's house. Little or no attention was paid, and in Jan. 1796 Hunter "declared in public orders to every description of persons, that when an order was given by him it was given to be obeyed." He would have been believed had he made an example without talking about it. He allied himself as closely as he could to the military power by making Captain Johnston of the New South Wales Corps his aide-de-camp. He endeavoured to check drunkenness by issuing "to deserving persons" licenses to sell spirits, and so to limit the traffic. He failed, and "robberies now appeared to be committed more frequently than formerly." He then forbade the bartering by these licensed persons of spirits for grain. With the power that he possessed of withdrawing convict servants from settlers and from officers, he might perhaps have restored decency; but though he threatened to withdraw assistance from offenders, he threatened in vain, and when he acted his acts produced no general results. To promulgate his orders more effectively, he brought into use a small printing-press which Phillip had imported, but which had been idle until Hunter assumed the government.

The immoralities of the time, if they had failed to shock the community as a whole during the rule of Grose and Paterson, had nevertheless aroused the consciences of many. A contemporary account relates that on the first Sunday after Hunter's arrival the Rev. Mr. Johnson in his sermon at Sydney boldly denounced the shameless proceedings of the military government under Grose and Paterson, and congratulated the colony on the restoration of civil law, which Hunter was commanded to re-establish. Hunter revived the civil law on his arrival in Sydney. At Parramatta he retained for a time as military commandant John Macarthur (who became a captain in 1795).

When David Collins (Judge-Advocate) left the colony, Richard Atkins, previously an officer in the army, was

appointed in his place pending His Majesty's pleasure. A new Judge-Advocate, Mr. Richard Dore, arrived in the colony in May 1798. He officiated in the magistrates' as well as in the higher Civil and Criminal Courts. In the Supreme Court Library in Sydney is preserved a small vellum-bound book which records many of Dore's decisions in the petty sessions.

The entries are sometimes strange. A man is charged "with neglect of duty, and as it appeared that he was of an indifferent character, the gaoler was ordered to give him twenty-five lashes and discharge him." Two women appear; one, charged with "cruelly beating the other with a glass bottle and cutting her head, pleading a provocation in mitigation, the magistrates recommended the parties to withdraw, and accommodate the matter between themselves." 24th Oct. 1798.—A convict was brought, charged

"on a violent suspicion of feloniously and privately stealing from His Majesty's public stores in Sydney a cake of soap, and secreting about his person in order to take away the same. The soap was produced, and proved to be of the same quality as that belonging to the stores; but as the act and fact of stealing was not sufficiently established in law, the said — was sentenced to receive fifty lashes and to be discharged, in order to return to his duty as a servant of the government."

Another man is charged with "embezzling some stone, the property of government; but as there seemed something of rancour and malice in the accusation, the prisoner was ordered to work out an equal quantity of stone as that carried away." A woman was accused of stealing a flat-iron from a "house (into which she had come on Sunday last under pretence of lighting a pipe) during Divine service, and the property having been found upon the prisoner, and no defence being set up, she was ordered to have an iron collar round her neck for a fortnight, and to sweep the gaol for a month from this day." Another woman, pleading inability to pay (the jurisdiction of the magistrates was limited to £10) on account of "various misfortunes and illness which prevented her attending on Saturday last, it was ordered that the debt be paid in the next corn harvest." On the 15th Sept. 1798 Dore and his brother magistrate Balmain sternly ordered the discharge of a prisoner arrested "without a specific charge," and the gaoler was peremptorily commanded on no "account what-

ever in future to receive or detain any prisoner in custody without some particular charge, or by virtue of a magistrate's warrant."

Thus summarily did the civil power assert itself after the excesses sanctioned by Grose and his military supporters. In civil matters Dore gave useful but much-neglected advice. One of his first acts was to implore the inhabitants to reduce to clear terms in writing all their contracts and agreements, duly witnessed and signed. Hunter, unfortunately, aided by Atkins, was involved in conflict with Dore.

Grose had assigned many more convicts to officers than had been allowed by Phillip or by the Secretary of State. Hunter was instructed to reduce the number, but Collins informs us that "notwithstanding it far exceeded the number which had at home been thought necessary, the Governor did not conceive this to be the moment for reducing it, much as he wanted men."¹ Having thus abandoned his instructions lest he should offend the officers, Hunter displayed the same weakness as had been shown by Grose in checking the outrages of the worst of the soldiers.

In Feb. 1796 the master carpenter of the settlement while at work in a shed heard himself grossly abused by a soldier who had formerly been a convict, and who left his post as sentinel thus to gratify his spleen. The carpenter, observing that the sentinel had left his arms at his post, took them to the sergeant of the guard. The sentinel was confined. The company to which he belonged, which contained many emancipists, or freedmen, went to the carpenter's house on the following morning, demolished the buildings and furniture, and maltreated the owner. The carpenter identified four of his assailants. A warrant was issued for their apprehension. The soldiers admitted the impropriety of their conduct, and offered to indemnify the carpenter for the damage done. The carpenter inter-

¹ Hunter wrote (Oct. 1795) to the Duke of Portland that he had "thought fit to continue" the excess, but the Duke had previously intimated that Mr. Dundas' instructions on the subject "did not admit of a discretionary construction" on the Governor's part. His despatch, *however*, had not been received by Hunter when he contravened it.

ceded with the Governor, and the warrant was withdrawn.² A golden opportunity of relieving the government from the shame previously cast upon it was thus lost, by failure to make an example at a fitting time. Meaner men may make mistakes with impunity. A Governor can never regain the position he loses by a want of principle, or of resolution to enforce what he knows to be right.

One Captain John Nichol, of the ship *Walker*, insisted upon and obtained justice. In 1799 he conveyed Colonel Paterson and Captain Abbott from England to New South Wales, supplying them and others with two-thirds of a full seaman's allowance of provisions on the voyage, in accordance with his charter-party. At Sydney the other third was demanded, and, to use Nichol's own language, "as obstinately refused." Nichol was summoned, and compelled to supply the arrear provisions for eight persons. His charter-party was scouted as "only a copy, and that not attested." He obtained no redress from Governor Hunter. He deposed to these facts (28th Jan. 1803) before the Lord Mayor Price, at the Mansion House. Inquiry was made. The Transport Office wrote to Lord Hobart. Lord Hobart (12th March 1803) wrote to Governor King—

"Colonel Paterson ought to have known that it was contrary to the established rules of the service," . . . "and the Civil Court ought also to have known that the point in question should, instead of being brought under their cognizance, have been referred to His Majesty's Government for decision. You will therefore take immediate steps to recover from Colonel Paterson and the other persons, . . . and you will signify to Colonel Paterson my entire disapprobation of his having given the sanction of his name to such a proceeding."

Paterson obeyed, but remarked that he was guided by the decision obtained by Governor Hunter.

² Hunter recommended (1796) the removal of the corps which contained "characters who have been considered as disgraceful to every other regiment in His Majesty's service." He complained also to the commanding officer, Paterson, that the "conduct of this part of the corps has been, in my opinion, the most violent and outrageous that was ever heard of by any British regiment whatever." Some of them (he told the Secretary of State) were "often superior in every species of infamy to the most expert in wickedness among the convicts." The Duke of Portland told Hunter that the conduct of the military in attacking the carpenter was so flagrant that he could "not well imagine anything like a justifiable excuse for not bringing the four soldiers who were deposed against to a court-martial, and punishing them with the utmost severity."

In May 1796 Hunter appointed D'Arcy Wentworth assistant-surgeon to the settlement. Regulations were made as to carrying fire-arms. Convict servants were withdrawn from some settlers, other settlers were struck off the victualling books, a general muster of convicts was ordered, and many runaways and impostors (who, "being transported for life, had successfully represented themselves as transported for a less term") were sent to hard labour in the town and jail gangs. But no efforts of Hunter's succeeded in controlling the convicts. Two vessels were seized and carried off by them in 1798 and 1799.

The treatment of the natives at this time reached a pitch of brutality. Phillip's wisdom was gone, and Hunter's un wisdom and weakness asserted no control and gained no respect. He did, however, we are told, signify his intention of hanging the natives in chains as an example to others. He also³ referred to the Home government a case in which settlers murdered two native boys (peaceably living with other settlers), and were found "guilty of wantonly killing two natives."

It was characteristic of the natives, when they did not look on a man as an enemy (in which case deception was their approved mode of warfare), that, believing any one to be friendly, they would remain so towards him even when the conduct of his compatriots provoked them to retaliate. Thus, while natives were ruthlessly shot at the Hawkesbury, a freed convict named Wilson, who had abandoned his countrymen and lived almost entirely among the natives, was still received in the most friendly manner by the neighbouring tribe, and sometimes conveyed messages from them; "for" (says Collins) "they did not conceal the sense they entertained of the injuries which had been done them."

Hunter, who encouraged discoveries, availed himself of the services of Wilson on several occasions. There was a mythical story that this man, in 1799, with others, penetrated the Blue Mountains and discovered the Lachlan river.

The fact that Wilson reported the existence of a large river running inland has been urged as a proof that Wilson

³ *Supra*, p. 136.

must have crossed the mountains. But the proof fails. Wilson could converse with the natives, and native tribes communicated one with another, and thus, by the presence of a native of a distant tribe, Wilson might easily learn the broad fact that from the western slope of the mountains rivers flowed to the interior.

Wilson's statement that he had seen a mountain or cliff of salt deprives the whole of his tale of credit.⁴

An account of Wilson's journey (in the spurious history ascribed to Barrington) stated that Governor Hunter, to deter the Irish from their attempts to walk to China, ordered four strong Irishmen to be selected and sent to explore "the very worst and most dangerous parts of the country;" that three of them succumbed "at the foot of the first mountains;" that one went on with Wilson and the other guides; that the "face of a hill which appeared white proved to be a large cliff of salt, a sample of which they brought away;" that the Governor sent Hacking out to test the truth about the salt-hill, and that on his return Hacking "brought some samples of various veins of salt in different places of 10 to 12 feet deep."

The concocter of this tale was so ill able to make it coherent that a few pages later in the narrative we find that—

"Hacking, when sent to the salt-hill last month, was accompanied by Wilson and another man, who were directed to penetrate as far into the country as the provisions they were able to carry would permit. They returned after an absence of three weeks, and said they had been 140 miles W. by S. from Prospect Hill. In their journey they . . . found more salt-hills."

⁴ It is possible that the story of the convict's journey grew or was distorted out of an expedient resorted to by Hunter to check desertions. He heard that about sixty of the transported "Irish defenders" who "threatened resistance to all orders" were about to march to China. He "planted a party of armed constables" on whose vigilance he could depend, and "who secured a gang of about twenty." . . . "I spoke to them, but observing a considerable degree of obstinacy and ignorance about them, I conceived there could be no better argument to convince them of their misconduct than a severe corporal punishment, which was inflicted, and they have since been strictly looked after at their work. Some of these fellows had been provided with a figure of a compass drawn upon paper, which, with written instructions, was to have assisted them as their guide." He selected four of the strongest, gave them provisions, and despatched them with companions, so that they might prove their prowess in exploring. "The whole of the men returned with the soldiers, most completely sick of their journey."—Despatch, 1798.

It is well that this idle tale bears with it such intrinsic proof of its untruth. All that Hacking did was known to the government which trusted him; but no government reported the finding of the salt as a fact.⁵

It will be convenient to summarize the incidents of Australian discovery at this period, when (from H.M.S. *Reliance*) Bass and Flinders infused fresh life into it.

In Dec. 1789, Lt. Dawes, being sent to explore, returned after nine days. He had encountered ravines almost impassable, and failed to pierce the mountains. The same fate attended an expedition under an officer (Tench) in Aug. 1790. The Nepean River was seen in these excursions, and was named by Phillip. In 1793 Captain Paterson, by means of small boats, ascended the river, which he named (after the Acting-Governor) the Grose; he returned after ten days. In 1794 Henry Hacking, formerly quarter-master in the *Sirius*, with "a companion or two," boldly ventured "twenty miles further than any other European." He reached the mountains, and toiled over "eighteen or nineteen ridges of high rocks," and when he gave up the task "still had in view the same wild and inaccessible country." In Feb. 1795 Paterson, the Acting-Governor, sent Grimes, the surveyor, to explore Port Stephens, taking with him Wilson, the convict, who could converse with natives.

One Cummings, an officer in the New South Wales corps, on a small expedition to the south of Botany Bay, heard from natives that there were horned animals running in the interior, and hopes were excited of regaining the cattle lost from Sydney in 1788. Cummings vainly searched for them afterwards. When Governor Hunter arrived in 1795 he sent Henry Hacking, in whom he confided, to ascertain the truth. Hacking returned successful, and piloted Hunter, with Collins, Waterhouse, and Bass (18th Nov. 1795),

⁵ Hunter (1798) sent others with Wilson on expeditions, in which Wilson shot game to procure food. The journal of one of Wilson's companions ("Historical Records of N.S.W.," vol. 3, p. 823) records this fact. The journeys were short. In one (from 9th March to 2nd April), Hacking accompanied Wilson, and the lad who was with them wrote that on the 12th March, about 33 miles from Prospect Hill, Wilson and Hacking found veins of salt 8 and 12 feet thick. Hunter sent the journal to Sir J. Banks in 1801, but in no way vouched for its correctness.

across the Nepean river, where the cattle had gathered in the district called, consequently, the Cow-pastures. There the Governor's party feasted their eyes on a herd of cattle, and felt security against future famine. Hunter dreamed at once of exporting food to other shores. But his ideas of value sustained a shock when, after killing a small animal, it was found that he could take away but a small part, and, to his great regret, the remainder "was left to the crows and dogs of the woods."

Mr. Surgeon Bass in June 1796 started for the Blue Mountains, and by dint of hard labour ascended the highest point, whence he saw only "other ranges of mountains."

In the same month some fishermen made an accidental discovery. Driven into a small bay, which they did not know to be a river-mouth, they found coal lying on the surface of the ground where the town of Newcastle now stands at the Hunter River. Lieut. Shortland in the following year, searching for runaway convicts, discovered the river, and named it after the Governor.

Bass, foiled in his expedition to Blue Mountains, took to exploration by water. With Flinders he had previously, in a small boat, the *Tom Thumb*, 8 feet long, examined the George River in one voyage in 1795, and run great risk on the coast to the south of Botany Bay in another in 1796. In Dec. 1797 Governor Hunter entrusted Bass with a whale-boat and a crew of volunteers from men-of-war. Shoalhaven, Jervis Bay, and Twofold Bay were seen, and the heart of Bass beat high with the assurance that comforted Palinurus, as he turned westward after passing Cape Howe, and was convinced that he had discovered the straits which bear his name. Wilson's Promontory and Western Port, so named because it was the farthest westerly point he then attained, were visited.⁶

On the 1st March 1798, Governor Hunter reported to the Duke of Portland the boat voyage. H.M.S. *Reliance* being under repair, Mr. George Bass, her surgeon, "a young man of well-informed mind and active disposition," offered his services to the Governor. Hunter furnished the boat and the volunteers. Bass "sedulously examined

⁶ Collins, p. 384.

every inlet," and at the extreme westerly point attained, "found an open ocean westward, and by the mountainous sea which rolled from that quarter, and no land discoverable in that direction, we have much reason to conclude that there is an open strait through."

Want of provisions compelled Bass to turn back from the "very good harbour," Western Port, he had found. Bad weather had impeded the cruise, or Bass with his whale-boat would probably have discovered Port Phillip. At Western Port he was compelled to repair his battered boat. Returning, he found on an island seven white men, part of a gang of fourteen convicts who had escaped from Sydney in a boat. "These poor distressed wretches were chiefly Irish." Their companions had treacherously abandoned them. Bass could neither give them room in his boat nor spare much food. He put them on the mainland, gave them a musket, ammunition, a pocket compass, fishing lines, and hooks. Two who were ill he received into the boat. He advised the five to follow the coast in order to obtain food more easily. "He shared his provisions with them." When they parted with Mr. Bass "and his crew, who gave them what clothes they could spare, some tears were shed on both sides."

"After an absence of twelve weeks," Bass (24th Feb. 1798) delivered to Hunter "his observations on this adventurous expedition."

About the same time a vessel, the *Sydney Cove*, was wrecked on Preservation Island, in the Furneaux group, and Hunter sent Lieut. Flinders of the *Reliance* in the colonial schooner *Francis*, which was commissioned to save property from the wreck. Flinders, wistfully looking westward, persuaded the master "to make a stretch" westward so as to solve the doubts about the unknown latitudes (of Bass's Straits), but, "the schooner not being at his disposal," was fain to return where, on the 9th March 1798, the exploit of Bass was made known to him.

In after years he wrote thus of his friend:—"A voyage *expressly* undertaken for discovery in an open boat, and in which six hundred miles of coast was explored, has not perhaps its equal in the annals of maritime history. The public will award to its high-spirited and able conductor—

alas! now no more—an honourable place in the list of those whose order stands most conspicuous for the promotion of useful knowledge.” There seemed to “want no other proof of the existence of a passage between New South Wales and Van Diemen’s Land than that of sailing positively through it.” Governor Hunter deserves gratitude for entrusting to the gallant friends the task of positive proof.

On 7th Oct. 1798, with Bass and a crew of eight volunteers from King’s ships, with Flinders, then twenty-four years old, sailed in the *Norfolk* sloop, twenty-five tons, with twelve weeks’ provisions. Buffeted by adverse winds, the little band persevered. The Tamar was entered, and Port Dalrymple was named. A gale drove the *Norfolk* back to Furneaux’s group (21st Nov.) It was not till the 3rd Dec. that she could work to the westward again, and then the allotted time for the voyagers had nearly expired. Nothing daunted, on the 6th they discovered Circular Head. On the 9th a vast crowd of sooty petrels,⁷ the birds of Providence at Norfolk Island, passed over the voyagers in a stream from fifty to eighty yards in depth and three hundred yards or more in breadth. “On the lowest calculation” Flinders thought the number “not less than a hundred million.”

On that day, while passing between Van Diemen’s Land and Three Hummock Island, “a long swell was perceived to come from the S.W. . . . Although it was likely to prove troublesome and perhaps dangerous, Mr. Bass and myself hailed it with joy and mutual congratulation, as announcing the completion of our long-wished-for discovery of a passage into the Southern Indian Ocean.

Cape Grim was named on that day. The west coast was traced, and on the 21st Dec. the sloop was anchored at the mouth of the Derwent. On the 22nd she was taken twelve miles up the river. On the 3rd Jan. 1799, the brother heroes put to sea, and in eight days they were safe in Sydney. No unworthy jealousies marred their renown.

“To the straits” (Flinders wrote), “which had been the great object of research, and whose discovery was now completed, Governor Hunter gave

⁷ Dr. John White in an account of his voyage to N.S.W. (1788) described the bird as *Procellaria fuliginosa*.

at my recommendation the name of Bass's Straits. This was no more than a just tribute to my worthy friend and companion for the extreme dangers and fatigue he had undergone in the first entering it in a whale-boat, and to the correct judgment he had formed from various indications of the existence of a wide opening between Van Diemen's Land and New South Wales."

There is so little to praise in Hunter's career that it is grateful to chronicle his patronage of Flinders and Bass.

He was called upon to interfere in the economy of the settlers in a manner which drew upon him the lash of Sydney Smith in the "Edinburgh Review."

In March 1797 he notified that at the particular wish "of settlers in every part of the colony who have long suffered themselves to be most shamefully imposed upon by such people as they have had occasion to hire," he had thought proper, "in order to deliver them from a practice so injurious to their industry," to obtain information from the settlers as to the advisable rate of wages. He had accordingly fixed "a mean rate which he conceived to be fair and equitable between the farmer and the labourer." The rates per acre for "falling timber," for clearing, burning off, "breaking up new ground" (£1 4s.) chipping in wheat (7s.), planting Indian corn, "hilling" it, reaping (10s. per acre), sawing timber, were severally fixed. Ploughs were not in use,³ and the hoe was the subduer of the earth. Yearly wages were fixed at £10; a day's wages with board at 1s., without board at 2s. 6d. The prices of axes, hoes (1s. 9d.), sickles, and the rate for hiring a boat to carry grain, were established by order.

In spite of such interference, cultivation increased in a land where starvation had been familiar, and settlers were provided with forced labour. The government, not callous to the taunts thrown out in the House of Commons as to the enormous cost of feeding a colony at the antipodes, urged successive governors to promote agriculture and grazing.

Under these circumstances cultivation of the soil was ostensibly encouraged during Hunter's reign. He still allowed to the farming officers ten convicts for agriculture and three for domestic purposes, although he knew that such an allowance was forbidden. To some settlers who arrived by the *Surprise* (Oct. 1794) he allowed five convict

³ *Vide infra*, John Macarthur, Chap. 4.

servants; to superintendents, constables, and storekeepers, four; to marines who had settled, and others who had never been convicts, he gave two; to emancipated settlers and to sergeants of the New South Wales Corps, one. It is to be borne in mind that provisions for these convict servants were supplied from the government stores.

Yet out of 10,800 acres cleared only 7195 were cultivated in 1800. The debauchery of some settlers, the high prices extorted for wares, and especially for spirits, had desolated many farms. The state of the colony may be gathered from the words written by Governor King, who superseded Hunter, and had to contend with the evils permitted, if not created, by Grose, Paterson, and Hunter. In a long despatch (31st Dec. 1801) to the Secretary of State, he says of "settlers who have been convicts":—

"It is notorious that since Governor Phillip left this colony in 1792, the utmost licentiousness has prevailed among this class, although they have used the most laborious exertions in clearing land of timber. Unfortunately the produce went to a few monopolizing traders who had their agents in every corner of the settlement, not failing to ruin those they marked for their prey, by the baneful lure of spirits. So wretched has been this class, that previous to Governor Hunter's giving up the command, forty-seven of them had assigned their farms and growing crops to satisfy their rapacious creditors, and many were compelled to leave their families destitute of the necessaries of life. . . . It can scarce be credited that in a soil and climate equal to the production of any plant or vegetable, out of 405 settlers scarce one grew either potato or cabbage. Growing wheat and maize, which are the articles required by the public stores, was their only object, and when that has been attained it has often occurred that one night's drinking at the house of one of those agents has eased them of all their labour had acquired in the preceding year. . . . I do not mean to exculpate the settlers from their share of censure; the warnings of former Governors have been of little service, nor indeed could it be expected while the cause of evil abounded so much, and while the trading individuals charged and recovered the extortionate charges they made without any check. Eight pounds sterling per gallon for spirits were recovered at the Civil Court before Governor Hunter's departure, and the verdict was confirmed in an appeal." . . . Only one settler has reserved the produce of the ewes given him by Governor Phillip, the rest having been suffered to sell theirs a few hours after Governor Phillip left the colony."

When King arrived in 1800 to supersede Hunter, there were more than 20,000 gallons of spirits in the colony, and the price was £2 a gallon. The drunkenness and immorality in which the community was steeped was appalling.

⁹ The appeal was to Hunter himself.

When the soldiers of Grose's corps offended he supported them against the civil power, and he took no pains to encourage morality amongst the officers. Trafficking in spirits was unchecked amongst them, and was not considered blameworthy.

It has been mentioned that on Hunter's arrival the colonial chaplain commented upon the immorality which had disgraced the settlement under Grose and Paterson. The church raised by Mr. Johnson's exertions in 1793, and used in the week as a school for two hundred children, was burnt down in 1798, and it was thought to have been burnt designedly, to make useless a recent order enforcing attendance at Divine service. The Governor, indignant, declared that if no place for service could be found, the convicts should spend their next Sunday in building one; but a large store-room rendered this labour unnecessary. To aid the Governor, the Judge-Advocate Dore, in a document entitled "General Privy Search," "deemed it compatible with his official situation to issue a general warrant to empower the constables" to make diligent search in all public-houses "and all suspected haunts for people of every description who may be tipping therein during the hours appropriated for Divine service, or in any other respect breaking the Sabbath."

Some missionaries fleeing from troubles at Tahiti took refuge at Sydney in 1798, and exercised a wholesome influence.¹⁰ It was sorely needed, not only amongst the criminal class, but amongst their guardians. Officers of the New South Wales Corps, which provided the colony with its acting Governor, caused scandal by their immorality.

It would be easy to accumulate instances of the depravity which unrestrained power and remoteness from the checks of civilization and religion permitted or fostered in the colony. The men of that time were probably not naturally worse than any of their successors. They furnish proof, if proof were wanting, of the need by the human mind of the restraints of law and the elevating principles

¹⁰ The Rev. Thomas Hassall, a son of one of them, became a colonial chaplain, and for long years served his Master faithfully in that capacity, dying respected by all. He married a daughter of Samuel Marsden, who also was beloved by all who knew her.

of Christianity. Such corruptions are the shame of humanity, but it is the glory of religion that they vanish before it.

But though Hunter was incapable, it was during his government that John Macarthur laid the foundation of the material prosperity of New South Wales. Quick to observe and prompt to act, the firstlings of his heart were at once shaped by his hand. The tale may be succinctly told in his own words. The following evidence was furnished by him in 1820 to Mr. Commissioner Bigge:—¹¹

“In 1794 I purchased from an officer sixty Bengal ewes and lambs which had been imported from Calcutta, and very soon afterwards I procured from the captain of a transport from Ireland two Irish ewes and a young ram. The Indian sheep produced coarse hair, and the wool of the Irish sheep was then valued at no more than ninepence per pound. By crossing the two breeds I had the satisfaction to see the lambs of the Indian ewes bear a mingled fleece of hair and wool. This circumstance originated the idea of producing fine wool in New South Wales.”

In the year 1796 the *Supply* and the *Reliance*, sloops of war (under Captains Kent and Waterhouse), “were sent to the Cape of Good Hope, and as their commanders were friends of mine, I requested them to inquire if there were any wool-bearing sheep at the Cape.” It happened that at the Cape there were some Merino sheep derived from animals of the celebrated Escorial flock presented by the King of Spain to the Dutch Government, and sent by the latter to the Dutch colony at the Cape. The flock was under the control of Colonel Gordon, a Scotchman, who held high office under the government. When he died there were differences between his representatives and the Dutch government. The value of the sheep was not understood by the latter. When Macarthur’s friends reached the Cape some of the sheep were about to be sold by order of Colonel Gordon’s widow.

“At the period of the arrival” (of Kent and Waterhouse, Macarthur continued) “there was a flock of Merino sheep for sale, from which about twenty¹² were purchased. Of these I was favoured with five ewes and three rams. The remainder were distributed amongst different individuals who did not take the necessary precautions to preserve the breed pure, and they soon disappeared. Mine were carefully guarded against an impure

¹¹ Camden Park Papers.

¹² House of Commons Papers, 1837. “Appendix to Report of Select Committee on Transportation,” p. 334.

mixture, and increased in number and improved in the quality of their wool. In a year or two after I had an opportunity of augmenting my flocks by the purchase from Colonel Foveaux of 1200 sheep of the common Cape breed."

Thus there was no element of accident which favoured Macarthur, except the fact that when he desired his friends to obtain "wool-bearing sheep," the unappreciated Escorial flock was thrown on the market at the Cape. Captains Kent and Waterhouse carried many more sheep to others than they took to Macarthur. But ignorant settlers would breed for no other purpose than for the meat market. Priceless animals were wasted, and—in Macarthur's language—"disappeared."

He having received his precious purchase in 1797, was able to carry with him to England three years afterwards such proof of success as to stir manufacturers as well as the government to aid him in his enterprise, on account of which his friends fondly called him the "father of the colony."

The Secretary of State (Dundas) had, in 1794, thrown his weight into the scale to encourage farming and pastoral pursuits. He wrote to Governor Hunter (who, however, did not arrive in the colony until 1795) that he was displeased at hearing that "the settlers had sold all the stock distributed among them by Governor Phillip." . . . "In order to avoid the dissipation of the animals, they should have been taken from the individuals (by Grose) the moment they evinced such a disposition, and should have been instantly added to the public stock, the conditions under which they were given not being complied with" by the settlers.

Mr. Dundas had in 1793 written to Grose—"In consequence of Governor Phillip's last despatches, and of the personal communication I have had with him," grantees must reside on their land, otherwise the grants will be void. At the same time he limited the convicts to be assigned to officers, civil and military, as such, to two. This instruction neither Grose, Paterson, nor Hunter had resolution to enforce; nor an accompanying order that the clandestine sale of spirits should be "strictly prevented." If officers should desire to become settlers, Hunter was authorized (June 1794) by Dundas to grant one hundred acres to each, or even more to the "peculiarly well-deserving," reporting

“the matter for approval immediately.” Emancipated convicts desiring to become farmers were to be similarly encouraged.

The horrors of the passage for convicts continued during Hunter's reign, and he remonstrated against them, as Phillip had remonstrated before. Close confinement, poverty of food, and consequent disease swept away large numbers. An agent for transports accompanied the ships sometimes, but even in such a case (as that of Lieut. Bowen, R.N., in 1791, in the *Albemarle*) his functions were resolved into additional sternness when mutiny occurred. Hunter requested that a naval officer should accompany each ship, and hear appeals from the convicts as to their treatment.

In 1796 information of intended mutiny was given to Hogan, the captain of the *Marquis of Cornwallis*. He acquainted the soldiers and the crew, who desired to execute the ringleaders.

“It was not without much difficulty I was able to get their lives spared, by promising the seamen and the honest part of the soldiers that each man should take his part in flogging them at the gangway. . . . At 11 a.m. we commenced flogging the villains, and continued engaged on that disagreeable service till forty-two men and eight women received their punishment.” (On a subsequent day) “I heard dreadful cries in the prison, and found those who had not been punished were murdering those that gave any information, which were now about twenty, too many to keep on deck. To rescue these from the vengeance of the others, I was obliged to fire amongst them with blunderbusses and pistols; and on appeasing their rage, I hauled out some of the fellows they were destroying, almost speechless. Some of the convicts were killed on this occasion, but many of them dangerously wounded. On this day, punishments being over, and sufficient proof being established against the sergeant, corporal, and James Bullock, as will appear by the following informations, I ordered them to be chained together and put in the convicts' prison on convicts' allowance, with an intent to prosecute them before the Civil and Military Court at New South Wales.”

The critical position of a ship in which a sergeant was in league with mutineers without doubt conduced to the approval accorded to the captain after inquiry in Sydney.

Hunter found the government of female convicts more disheartening than that of the men. He wrote in 1796—

“I must express my hope that the three hundred (expected) are all men, and not part men and part women, for of the latter we have already enough. We have scarcely any way of employing them, and they are generally found worse characters than the men;”—(in 1800) “they are tax

worse than the men, and are generally found at the bottom of every infamous transaction that is committed in the colony."

In all accounts of the early days of the colony the arrival of convicts called "the Scotch Martyrs" finds conspicuous place. They are described as if they were all equally amiable, equally ardent for the good of mankind, and martyred through an ignorant panic which seized the British government, and blinded them to the fact that the Martyrs merely sought for parliamentary reform. Even the sober page of history has assumed that they were speculative philanthropists, who were brutally transported in the company of felons. In a more ephemeral work, entitled "Reminiscences of Glasgow," it is gravely stated that "Margarot was a light-hearted Englishman, with a sprightly wife who died in grief soon after his banishment;" and on a monument at Carlton Hill in Edinburgh is to be seen an inscription linking together the names of Muir, Palmer, Skirving, Margarot, and Gerald.

Those who have waded through the records of the time, and the MSS. which serve to explain them, must smile at the facility of belief extended to gross errors. It is true that Muir, Gerald, and their associates laboured ostensibly for reform in Parliament, but it is equally true that these associates mapped out Great Britain in departments, that they invited representatives in Convention after the fashion of the French Revolutionists, that they corresponded with the most fervid French anarchists, and that they eagerly awaited (to use their own language) an invasion of England "by the hero of Italy and the brave veterans of the great nation."

The question, however, as to whether Pitt and Dundas were wise in their treatment of the London Corresponding Society, the Edinburgh British Convention, and similar associations, is rather for English than Australian history. It was a declared struggle for life or death, for the maintenance or the uprooting of the constitution. Pitt succeeded, and his defence of his conduct may be read in his speech in the House of Commons on the 7th May 1793, while the strife was at the hottest. The allegations that the Scotch Martyrs were ill-treated after conviction are refuted by their own words. Muir, Palmer, Margarot, and Skirving arrived

in Sydney in 1794, while Grose was there, and they said, in a petition to Grose (1794):—

"For obvious reasons your petitioners did not wish to come out at the expense of government; they accordingly caused to be paid to the said Patrick Campbell (master of the *Surprise*), for their accommodation as cabin-passengers, a sum of money greater than that allowed by government for those in the same ship, either in its immediate employ or those who have come out as settlers."

The Record Office in London (New South Wales, vol. ix.) contains proof that kind treatment of the exiles was enjoined. A complaint from the *Surprise* transport at Spithead (21st April 1794) was sent by the surgeon, by a passenger, and an ensign of the New South Wales Corps, who objected to being associated with Margarot in the officers' cabin. Margarot's wife being free, and the captain having received an order from Mr. Dundas¹³ for her free passage in the ship, they did not remonstrate against her presence, but they objected to his. Campbell, the master, however, saw no objection, having (he wrote) "high authority to make these people as comfortable as possible."

Nevertheless Pitt has been repeatedly reviled for associating the Scotch Martyrs with burglars and felons. Gerald was sent out subsequently. Muir, Palmer, Skirving, and Margarot had some trouble in the *Surprise*, but it was due to Margarot's intrigues. To ingratiate himself with the master, he accused Palmer and Skirving of conspiring with the convicts to seize the vessel and take her to a French or American port. Another Scotch convict, exiled for forgery, told the captain that he heard some Irishmen speaking in Erse of the plot, and that his acquaintance with Gaelic enabled him to understand them. Margarot the abettor, if not the concoctor of the scheme to injure his companions, was profusely praised by Campbell. A guard was put over Palmer and Skirving, and others were confined in irons.¹⁴ Palmer and Skirving repelled "with horror" the accusation of complicity in the plot; they even averred that Margarot

¹³ Dundas, who was savagely attacked for alleged harshness to the Scotch convicts, directed that the "master of the *Surprise* should be allowed £30 for the passage of Mrs. Margarot with a view to her better accommodation on board that transport." Historical Records. N.S.W., Vol. II., p. 854.

¹⁴ Record Office. N.S.W., Vol. IX.

was its instigator, and in a published letter, which may be seen in the British Museum,¹⁵ they warned him not to "presume to expect to pollute the holy and immortal cause of liberty by the association of his name with those of its purest defenders. He knows well, and it is meet that the world at large should know, that upon the justest grounds he stands a man rejected and expelled from our society." They petitioned for an inquiry in Sydney.

Muir, it appears, was not on good terms with Palmer until the latter was unjustly accused, but then warmly took his part. Margarot seems to have eluded inquiry. Grose declined to investigate the matter, and released Palmer and Skirving, telling them that they would receive every indulgence that in their unfortunate situation could be consistently granted, and in Palmer's narrative we read—"All idea of our trial was soon given up. We had houses appointed to us contiguous to each other, and myself, Skirving, and Mr. Muir have no cause to complain of any want of civility or attention. Margarot wrote a pompous letter to Grose, demanding his release on the ground that his sentence was fulfilled on his arrival in Sydney. Grose told him that "he might rest assured I have not the smallest doubt, neither shall I have the least hesitation, of forcing as much good order from you as from any other prisoner in the place."

Although the "Reminiscences of Glasgow" state that Mrs. Margarot died of grief when her husband was banished, all these records about her still exist, and in July 1801 Margarot applied for the advantages of a free settler for her, alleging that she "came here in the ship *Surprise* in the year 1794;" but Governor King merely indorsed the application—"Mr. Margarot respecting his wife."

Collins records that all "the gentlemen who came from Scotland in the *Surprise*" were pleased with the brick huts set apart for them by Grose, and soon "declared that they had found sufficient reason for thinking their situations not quite so terrible as in England they had been taught to expect."

¹⁵ "A Narrative of the Sufferings of T. F. Palmer and W. Skirving during a Voyage to New South Wales, 1794," by the Rev. T. F. Palmer, late of Queen's College, Cambridge. 1797.

The fate of Muir, Gerald, Skirving, and Palmer may be told here. The author of "Reminiscences of Glasgow" asserted that the United States government despatched the *Otter* for the "relief of Thomas Muir in particular, and his fellow compatriots, if they could be found." Whatever may have been the agency, it is true that Muir, with other prisoners, escaped (18th Feb. 1796) in an American vessel, the *Otter*. After mishaps he reached France, and busied himself in intrigues with Wolfe Tone and others about the invasion of England. Tone says of him—"Of all the vain, obstinate blockheads I ever met, I never saw his equal." Gerald (whose defence of himself may still be read with admiration) reached Sydney (5th Nov. 1795) in ill health, and died in the following March. All persons spoke of him with sympathy. Skirving also died a few days afterwards, amidst the kindly feelings of all around him. Palmer,¹⁶ who had been transported for seven years, arranged for the purchase of a ship in which to return to England. A "young friend," Mr. Ellis, who had been permitted to accompany him in his exile, still clung to his fortunes, and joined him as part-owner of the ship. They sailed to New Zealand for timber to take to the Cape of Good Hope, and were compelled to seek provisions at Tongataboo, where native wars frustrated their plans. They obtained supplies at the Fiji Islands, and ran on a reef at Goraa, but with the help of the natives repaired their crazy vessel. They sailed for China, but their provisions failing and their ship leaking, they took refuge in Guam, where (a year after they left Sydney) the Spanish Governor made them prisoners of

¹⁶ In Boswell's "Life of Johnson" it will be seen that in June 1781 the Rev. Thomas Fysche Palmer, Fellow of Queen's College, Cambridge, dined with Johnson at Mr. Dilly's in Bedfordshire. He appears to have been unsettled in judgment. He subsequently became minister to a small Unitarian congregation at Dundee. The aspirations of dreamers about the perfectibility of men by the processes of the French revolutionists took possession of his unstable mind, and in a few years he was found conspiring with friends of Paine and of the wretched Margat. In the House of Commons in March 1794 Fox said, in a debate on the transportation of Muir and Palmer, that he "very much doubted, considering the dangers of the voyage to Botany Bay, whether it might not be rated equal with death; in his mind it was the same." Pitt said that Muir and Palmer were "men of liberal education, and should have guarded against the commission of crimes which levelled them with the lowest and most ignorant part of mankind."

war, declining to give supplies to the enemies of his country. They were personally treated with courtesy. Palmer, however, became ill, and died in June 1802 at Guam.

Though not Scotch, and though a false witness, Margarot was the only so-called "Scotch martyr" who returned to England. False alike to friend and foe, by turns an obsequious flatterer and low intriguer, ever busy and never honest, he wanted but more ability or a fitting occasion to have been the Barere of his party. When his MS. papers were seized in 1804 they were found to contain such entries as these:—"Gerald broke open a letter directed to me; he took out of it a ten-pound note, for which he never accounted." In a published letter which Margarot sent to England he said of Gerald—"He has fled from my habitation and the fraternal reception I gave him, to join others who may, perhaps, in return for those good things he has brought with him, encourage his failings, and feed his vanity with insidious praise. He will soon feel the destructive effects."

Is it a retributive justice upon Gerald's memory, that for having allowed himself to be associated with Margarot as a delegate from the London Corresponding Society to the British Convention in Edinburgh, their names are now linked together on the monument on Calton Hill? Though all the other Scotch martyrs shrank from Margarot in Sydney, they are herded with him in the inscription from which it might have been hoped that his name would have been excluded by all sensible people in 1844. It is consoling to reflect that Macaulay refused to join in making a demigod of a rascal, and would take no part in laying the foundation of the Calton Hill monument.

Margarot reviled his fellow prisoners as "dealers in land and in human flesh," as "inmates and intimates" with their gaolers; he called Mr. Ellis "Palmer's man," and left on record many accusations against Palmer which it is unnecessary to repeat, but which are manifestly false.

His communications to governors may be mentioned. He forwarded a grandiloquent petition (Oct. 1795) impugning the validity of his sentence on constitutional grounds, *already discussed* and rejected in the House of Commons.

Hunter could not entertain them,¹⁷ and Margarot made defamatory entries about him in his journal although, when King became Governor, Margarot addressed him thus:—

“Sydney, 13th May, 1800.

“Sir,—Hazardous as is this step, my duty to society urges me to take it and to confide in your discretion; otherwise delicacy towards His Excellency Governor Hunter, whose most sincere well-wisher I am, would prevent my paying my respects to his successor until, by his departure, and by the introduction of Mr. Commissary Palmer, I could do so more conformably to rules and forms. As I am much confined by sickness, unless you are possessed of any private orders of ministry relative to me, and require my attendance to impart them, there is little chance of my having the good fortune to meet with an opportunity of conversing with you. Yet if you feel inclined to give birth to any *accident* which may occasion you at *any time* to enter my habitation, you shall find that an hour will not be there spent unprofitably, and that I can throw light on several of the transactions of this colony which may not perhaps have reached you in the shape they will then assume. I, moreover, will then submit to your perusal several papers the contents of which it is important you should be early acquainted with.

“I subscribe myself with great respect, Sir,

“MAURICE MARGAROT.”

King paid no attention to this missive, and Margarot in his secret journals coarsely assailed the Governor and his family. Mr. Commissary Palmer fared no better. Constantly Margarot records the receipt of kindnesses from Palmer, but as constantly records false charges against him. Margarot wrote:—“1801. May 9. La courte ration commença. May 19. Palmer m’envoya sept livres de beurre et quatre et demi gallons de Rum; Smith m’envoya demander une B de Rum !!!”

The wife, who is stated by the Scotch writer to have died of grief, was sometimes a thorn in the flesh to the “martyr,” for we find him writing—“Jour maudit de blanchissage” and “Betsey humeur de diable.”

This hybrid politician, who would dethrone the law in England, appealed to it in Sydney. The records of the

¹⁷ Hunter, though he did not accede to the request of Margarot, appears to have been somewhat puzzled by a demand of freedom for Muir, Palmer, and Skirving on the ground that on landing in Sydney they were free to go to any part of the world except Great Britain. He wrote, “I am obliged to confess, my lord, that I cannot feel myself justified in forcibly detaining them in this country against their consent.” He asked the Secretary of State to instruct him.

“magistrates’ meetings” show that in 1798 “Margarot complained of persons who used his boat without his leave.” A man was brought forward, but he “declaring that Mr. Margarot’s servant¹⁸ had given him permission to make use of the boat, and the servant appearing and confessing that he had done so, the matter was dismissed.” Most of the other Scotch political prisoners, and notably the other four martyrs, comported themselves peaceably in Sydney. But Margarot was ever on the watch for mischief, and the arrival of Irish convicts furnished materials for disaffection which he was quick to use.

Careless inquirers could not appreciate the magnitude of the evil with which the presence of large numbers of transported United Irishmen threatened the young colony. Pitt, nothing daunted by the obloquy cast upon him for the transportation of Gerald, Margarot, and others, pursued the threads of conspiracy which the London Corresponding Society was endeavouring to weave, and both Houses in 1794 suspended at his request the Habeas Corpus Act, on the ground—stated in the preamble to the Bill—“that a traitorous and detestable conspiracy had been formed for subverting the existing laws and constitution, and for introducing the system of anarchy and confusion which has so lately prevailed in France.” In the following year the Treasonable Practices Bill and the Seditious Meetings Bill were passed by large majorities, and the scope formerly left by law to such organizations as the London Corresponding Society was considerably narrowed. The Society was equal to the emergency. If it failed in the light of day, it could work in the dark. It conspired with United Irishmen to encourage a French invasion. But the hand of Pitt followed it. In 1799 its practices were unveiled. It was, with kindred societies, suppressed by law, and fragments of it were transported to New South Wales.

The Irish rebellion of 1798 furnished recruits to the convicts who were called by their friends political prisoners,

¹⁸ Margarot had an assigned servant. Amongst MSS. belonging to the family of Governor King there is one in Margarot’s handwriting, saying, “Mr. Divine (superintendent of convicts) having ordered away my Government man, I have to entreat your Excellency to return him to me again. . . .”

and they were rapidly arriving in the colony at the close of Hunter's rule. Some of them at once intrigued against the government, and Maurice Margarot was an accomplice in their schemes. His diaries (some kept in English and some in French) teemed with notices of them. Every rumour, true or false, of a disaster to the British army was entered in them with glee. In 1801 he lamented the failure of an attempt to escape in an American vessel:—"McCarthy, &c., &c., cherchant a échapper ont été pris, ramenés, mis en prison, et aux fers!!!"¹⁹ In March 1801 he has heard rumours that a revolution in England has been successful. In April 1801 there has been a decisive battle in Ireland. In May "les Russes ont exterminés la marine Anglaise." In November he thinks his own day of triumph so near at hand that he writes:—"l'on nous envoya de la viande pourrie que je garde pour la faire manger par le scelerat qui vole a la fois le gouvernement et le prisonnier." In Jan. 1802 an Irish convict escapes in an American vessel. In May 1802 "Tous les Irlandais sont ramenés, mis en prison," &c. On 19th July "Envoyai un permit a signer au Gouverneur; il le déchirer sans mot dire." On 5th March 1804, "loi martielle publiée par proclamation;" on the 10th March, "deux Irlandais furent pendus à Sydney, et je suppose que cela finit la trajedie;" on the 28th, "La *Lady Nelson* et la *Resource* avec les infortunés firent voile pour le Coal River" (the Hunter). On the 29th of the same month, "le vaisseau Americain *l'Union* recut ordre de sortir du port pour n'avoir baissé pavillon à la *Lady Nelson*." In Jan. 1804 Margarot wrote, "d'aujourd'hui je compte deux mois pour l'arrivée de bonnes nouvelles." In April no disastrous news told of the downfall of England, and he writes:—"d'un côté la peur augmente et du mien l'espoir, car certainement le retard des vaisseaux promet beaucoup. Dieu la veille."

¹⁹ McCarthy's petition to King for pardon on this occasion is still in existence. He said, "When the American captain made the offer of taking me away, the idea of my family at that time so forcibly occurred to my mind that I thought it would be even criminal in me to refuse. If your Excellency will look over this imprudent step of mine, I will to the hour of my death entertain the most grateful sense of your Excellency's goodness, and shall ever pray for your Excellency's happiness." The Governor's minute is: "Florence McCarthy to be forgiven. He was, 4th Feb. 1801."

How, goaded by their position and temper, and aided by the plots of such intriguers, the Irish at last rose in rebellion, must be told hereafter. Meanwhile their conspiracies taxed to the utmost the powers of governors. Constitutionally a governor was supreme, and there was little that he could not do, subject to the final decision of the Secretary of State. Thus were repressed hundreds of schemes which in ordinary communities would have engaged the law-courts. No lawyer could arraign the government, no newspaper could attack it, no public meeting could be held without its permission. The governor was always an officer of the army or navy, and instruments to compel obedience were at his disposal. Thus order was maintained; but Phillip had foreseen that ultimate welfare could only be secured by building up a civil form of government as soon as possible, and encouraging the introduction of respectable settlers.

Grose had marred Phillip's plans by annihilating the magistrates' court, and had thus contributed to evil. It is plain, however, that the Act of 1787 (27 George III., cap. 2) created what was called a civil, but was equivalent to a military government. The Governor was martial, the Judge-Advocate was martial, and the Court of Judicature was to contain six officers of the sea or land forces. Sentences of death were within their cognizance. The Governor appointed the members of the court, and was to all intents and purposes the government. He had a giant's strength in a community of which almost every free man had been disciplined in the army or navy. While the settlement was confined to narrow compass he was more like a governor of a gaol or penitentiary than of an ordinary community; but his authority was practically supreme. He promulgated his orders by causing a manuscript notice to be read and posted in a public place. He had no legislative body to advise with. He was himself the legislature. Phillip appointed civil magistrates to administer the English law and his orders. They were the Governor's court, his *Aula Regis*; and the Governor sometimes administered justice there himself when his deputies were ill or engaged elsewhere. So untrammelled a position attracted Sir James Mackintosh, and induced him to write

to a friend: "You will smile at the mention of Botany Bay; but I am most serious, and I assure you that next to a parliamentary situation, to which either nature or early ambition has constantly directed my views, I should prefer, without much regarding pecuniary advantages, that of being the law-giver of Botany Bay."

One wide function of government did not exist in the eighteenth century in New South Wales. There were no taxes. There were no customs duties. The government fed the bulk of the population, which was composed of coerced convicts and their custodians. Bills on the English Treasury provided most of the animal food consumed. If a colony had thus to be supported, how could it contribute funds? Hunter required a larger gaol in 1799, and could not build it without reclaiming convicts assigned to officers and others. He called a meeting, at which civil and military officers, with the principal colonists, undertook to provide funds from an assessment on property, and duties on wines and spirits. The gaol was thus voluntarily built with the aid of iron provided from the king's stores. On the principle of self-preservation a public meeting of the few free inhabitants might succeed, when the object was to provide prison-room for offenders; but appeals in the streets could not secure all the funds necessary for government. Much less could they do so where the bulk of the population was or had been of the felon class. During Hunter's government no change was made, but his immediate successor, King, imposed customs duties and port charges, in order to create a public fund, an expedient which had occurred to Phillip, but to which he had not resorted.

It is the distinction of Englishmen that they have constitutionally a share in the administration of the law, and that they are consequently more contented under its discipline, more law-abiding, than nations which are ruled by a central or bureaucratic government. No foreign levy, no internal revolution, can be compared to the grandeur of the triumph when the seven bishops were acquitted, and the law was brought face to face with James II., by the verdict of a jury of their countrymen. But no jury existed in New South Wales, nor was it possible to create one in the primitive period. Most of the officers concerned in the

government were military at the first, but the Governor stood in some degree apart from and above them. When Phillip departed, Grose, mingling the office of governor with that of commandant of the New South Wales Corps, abrogated the civil law and fostered arrogance in the minds of the military. The absence of ordinary control left faults unchecked. Impunity in wrong-doing intensified the evil and made wrong-doers impatient of any curb which a future governor, especially one who was not also their commanding officer, might impose upon them. These difficulties must not be forgotten in judging the conduct of Hunter. He was involved in acrimonious disputes with John Macarthur in 1798; but in the same year was congratulated by the Rev. Mr. Johnson and by Marsden on his efforts to promote public morality.

He did not willingly submit to the resistance he encountered. He wrote to the Secretary of State:—"After the departure of Governor Phillip a general change took place. All his plans and regulations were completely laid aside, the civil magistrate was superseded entirely, and all the duties respecting the distribution of justice, and every other concern of that office was taken into the hands of the military." (He took credit for reinstating the civil magistrate, but it must be remembered that the Secretary of State had, in 1795, laid down distinct rules on the subject in response to King's appeal from Norfolk Island against the displacing of civil authority, and that Hunter had received instructions on the subject.) On the restoration of law, "those changes, I had soon reason to observe, were not well relished by those of the military. Since that time frequent indirect and some direct attempts have been made to annoy the civil officers officiating as magistrates." (1796).

Hunter vainly strove to repress the traffic in spirits. Even officers had been (1796) "engaged in a most destructive traffic with spirituous liquors," which were sold to settlers "at an immense profit, to the destruction of all order, to the almost total destruction of every spark of religion, to the encouragement of gambling, the occasion of frequent robberies, and, concerned I am to add, to several *very recent* and shocking murders." In July 1797 he

reported that ships had "brought spirits enough to deluge" (the colony). "My positive refusal to suffer the poisonous article to be landed has given much offence, although every officer has been permitted to receive what he wanted for his private accommodation." When he thought of

"the various advantages which many of the military officers have had, which I have not shown any desire or intention to wrest from them, we cannot help expressing astonishment that they should have even thought of entering into trade of any kind, except that of disposing of, to the Government, the produce of their agricultural labours." . . . "The introduction of this destructive trade which took place since the departure of Governor Phillip, has done immense mischief," and is, "in the manner of it carried on here, highly disgraceful to men who hold a commission signed by His Majesty. I have resolved to correct, as far as I can, many such abuses. I have not assistance sufficient."

What assistance could be given by instructions from England he received. Mr. Dundas told him, "It is certainly in your power, as well as it is your duty, to prohibit, by the most positive orders, all officers of government, civil and military, from selling any spirituous liquors to the convicts and settlers." An order was sent from England (1799) that no vessel should "be allowed to land any article, or break bulk, before the return of such vessel and her cargo is filled up. This measure will be of the greatest use in preventing the importation of spirits without your license first obtained for that purpose." Tidings that officers were engaged in traffic in spirits reached England. The Duke of Portland called on Hunter (1799) for a report, and told him that King had been appointed to succeed him. The Horse Guards desired Colonel Paterson, then in England, to repair at once to Sydney that steps might be taken to crush proceedings of so "infamous a nature."

But it had become plain that the demoralization of the colony could not be arrested by Hunter. The Secretary of State (Nov. 1799) expressed disapprobation of the manner "in which the government of the settlement" was "administered in so many respects," and was "commanded to signify the king's pleasure" that Hunter should "return by the first conveyance which offers itself after the arrival of Lt.-Governor King."

Hunter was hurt at his recall, and at the manner of it. He attributed it to "an anonymous letter" from the colony,

which accused him of "conniving at, if not participating in, that mean species of trade which has so often been with me subject of complaint, and which I have so long in vain been struggling to repress." His admission that he had struggled in vain was testimony to the necessity of his recall, but it was natural that he should be blind to the fact. Conscious of rectitude of intention, he may be pardoned for thinking that he had done all that was possible. His successor, on whom fell the invidious task of replacing him, far from impugning his character, wrote—"His public conduct has been guided by the most upright intentions, but he has been most shamefully deceived by those upon whom he had every reason to depend for assistance and advice." But Hunter could not be comforted.

Sir J. Banks, informing King of Hunter's arrival in England, said—"Hunter was received, as you might expect, civilly, but not warmly. He began to complain, but the answer was obvious. The king's pleasure to remove him did not imply any censure of his conduct. Another man might be thought fitter without any fault being found with his proceedings." The state in which that "other man" found the colony was described by him in a memorandum which is still in existence.

"From the visits received and the warmth of attention shown me, my arrival and remaining in the government seemed to be generally well liked and anxiously looked for. Still I could not help foreboding that many of those who now smiled on the rising sun would change their ideas when the proceedings which the good nature of my predecessor had sanctioned should be any ways checked, which was the principal object of my mission. Vice in every shape appeared to be tolerated; not by authority, for that was blinded, but by the artifice and cupidity of those whose interest was so much concerned in those excesses not being noticed. One ship-load of spirits was not disposed of; cellars, from those of the better sort to those of the blackest characters in the colony, were full of spirits; the *Supply* hulk was the receptacle of upwards of (*sic*) _____ gallons of spirits, the property of a commissioned officer. The information I gained sufficiently informed me that a total change in the measures hitherto pursued was absolutely necessary. But at the same time I was well assured that measures must be adopted with caution, and persevered in, as violent or sudden steps would by no means answer.

"I could not help reflecting that the colony I was shortly to direct and to perform the unpopular task of becoming a reformer in, was composed of persons in authority who, for some time past, had been, if not sanctioned, allowed to carry on the most oppressive monopolies, to the prejudice and ruin of the other description, who, although banished their native country for the worst of crimes, could, if their industry had not been

checked by the extortions of their superiors, in a few years have been comfortable. But I am sorry to say that with its first founder order and regularity left these shores. Spirits were introduced. Robberies and murders followed. The settlers, whom Governor Phillip conceived his attention had so placed that independence and comfort would have been familiar with them, were, for the lure of an hour's intoxication, deprived of their farms, stock, and future hopes; and many—left comfortably—were soon compelled to till for a dram-seller's interest the ground that was so lately their own. Could it be expected that from such classes anyone would support me in promoting plans of industry, when the success of them must prove the infamy of their own conduct? I could therefore see that my task would be laborious and discouraging.

“Confidential persons to assist me I brought none, as neither my circumstances or means allowed it. Certain I therefore am that, as a stop to many irregularities is necessary and unavoidable, I may count on having for decided enemies many of those whom I ought to look to for support. The only support I can assure myself of is the rectitude of my conduct, which has been ever my safeguard; and as I am determined not to enter into the smallest private farm, acquirement of stock, or any other private pursuit whatever, nothing will divert me from the objects I wish to obtain, in which the general prosperity of the colony and its inhabitants will be my ultimate pursuit. In this I hope to succeed, although every disagreeable reform is left to me to imagine and execute.”

CHAPTER V.

GOVERNOR KING.

PHILIP GIDLEY KING, having successfully appealed against the abolition of the civil law at Norfolk Island, and having thanked the Duke of Portland for his "justice and goodness," obtained leave of absence on the ground of ill-health. In 1798 he applied for the establishment of a Civil Court of Judicature at Norfolk Island, and a friendly note from Sir Evan Nepean informed him in July that he was to have the rank of post-captain. He soon learned that he was selected to cope with the evils rampant in New South Wales. To lighten to Hunter the blow of his removal, King was in the first instance constituted Governor of New South Wales in case of the absence or death of Hunter.

The territory extended from Cape York (S. lat. 10.37) to 43.39 south; was bounded to the west by the 135th degree of longitude, including thus a great part of the modern colony of South Australia, and comprised "all the islands adjacent in the Pacific Ocean within the latitudes aforesaid."

Before leaving England, King addressed himself to the task of extricating the community from the extortions of importers. He proposed (as Hunter had suggested in 1796) that a government store should be formed in the colony, and that supplies, to be sold at a rate which would recoup the cost to the government, should be sent from England. Private extortion was to be restrained by the power of the Governor to fix the prices at which goods *might* be sold from ships casually arriving. King fixed it

afterwards at 50 per cent. on the cost price, instead of the 400 or 500 per cent. formerly extorted.¹ Merchants were under a general disability to traffic in the East without permission from the East India Company, and the company's charter was occasionally availed of in controlling unlawful importations. Merchants in England, however, presented a memorial² to the Secretary of State complaining that, as their goods were excluded from "the chartered seas of the East India Company," American traders had traded with New South Wales to the detriment of the British. Thus "Americans will monopolize the advantage of the trade," "and this country will have all the expense of supporting" the colony.

So resolute was the sailor-governor in enforcing the new regulations about prices that Lord Hobart³ interposed his authority on behalf of free commerce. The English Government had consented to the proposition to establish a store in order to "reduce to a proper level the exorbitant profits made by speculators, in consequence of the scarcity, which, without such interference, they were able to continue to their own advantage and to the distress and, in many instances, the absolute ruin of the inhabitants." He would support the Governor by a continued supply of articles to be disposed of with such an object in view, but, except "under very peculiar circumstances," the authority of "the government must by no means be interposed, excepting in the prohibition against spirits," in control of private enterprise. What the private instructions to King originally were may be gathered from a despatch from himself to Lord Hobart (9th Nov. 1802):—

"I believe it is no secret either in the department your Lordship has succeeded to, or to His Royal Highness the Commander-in-chief, that several officers, civil and military, had made fortunes by the infamous traffic in spirits which was so long carried on in defiance of every honourable consideration that ought to attach to those who hold their Sovereign's commission. Repeated information of these enormities, and the heavy

¹ Despatch—King to Secretary of State, 31st Dec. 1801.

² Messrs. C. S. and George Enderby and Alexander and Benjamin Champion, Liverpool. General W. H. Gordon (the father of General Gordon who was sacrificed at Khartoum in 1885 by the Gladstone government) married Elizabeth Enderby of the family mentioned in this note.

³ Despatch—Lord Hobart to King, 24th Feb. 1803.

sums drawn, occasioned a representation by your Lordship's predecessor to His Royal Highness, who ordered Colonel Paterson, then in England, to rejoin the corps (1799). I was soon after despatched on the most unpopular errand, to supersede the Governor, put a stop to officers' trading and dealing in spirituous liquors, destroy the oppressive monopolies that had so long existed, and to make a total reform in the expensive and dishonourable plans which had prevailed so long. On arriving I found the same practices prevailing, and as soon as decency towards the late Governor admitted I took the measures stated in the enclosure."

Instructions were framed in England. King arrived in Sydney on the 15th April 1800. Hunter was loth to lay down his authority. On the 8th May King wrote earnestly to the Earl of Mornington in India to request his aid for "an object in which the interests of humanity and of His Majesty's service are so materially concerned. The quantities of this poison (rum) thrown into this colony would be truly distressing to your Lordship's feelings could you be informed of the evils attendant thereon." To Major Foveaux, acting Lt.-Governor at Norfolk Island, he sent (June 1800) the detailed instructions, which he was unable to obtain Hunter's consent to promulgate in Sydney until September. He added warnings from himself.

Meanwhile, he assisted Hunter in general affairs at Sydney. But the spirit traffic⁴ continuing, and fresh importations being dreaded, he was constrained to urge Hunter to permit him to reveal to the officers the nature of the new instructions devised to control the irregularities which had abounded amongst them and others. It was hard for Hunter to acquiesce, and perhaps unintentionally he increased his successor's difficulties.

Enclosing all his correspondence with Hunter to the Duke of Portland, King pointed out "the embarrassing situation in which I have been placed from the moment of my arrival until Governor Hunter's departure."

The new instructions (framed after consultation with Phillip and King) said:—

"And whereas it has been humbly represented to His Majesty that the greatest evils have arisen from the unrestrained importation of spirituous

⁴ Despatch—King (14th Nov. 1801) to the Duke of Portland. "So great was the fame of the propensity of the inhabitants of this colony to the immoderate use of spirits, and the certainty of getting any amount of payment in government bills, that I believe all the nations of the earth agreed to inundate this colony with spirits."

liquors, and that several officers have entered into the most unwarrantable traffic with settlers and convicts for the sale thereof, whereby they have been induced to barter away their breeding-stock as well as mortgage their growing crops for the said spirits, to their particular detriment and consequent misery of their families, as well as injury to His Majesty's service and the public interest at large in the colonies, you are therefore strictly commanded to order and direct that no spirits be landed from any vessel coming to Port Jackson without your consent for the specific quantity to be landed being previously obtained for that purpose by a written permit, and in case you should judge it necessary to allow of that indulgence to the officers and deserving settlers for their domestic purposes alone, you are to take care that this indulgence be so regulated by you as to preclude the possibility of its becoming an object of traffic. Which orders you are to communicate to all captains and masters of ships immediately after their arrival, and to prohibit by the most effectual means any officers from disgracing His Majesty's service by entering into any traffic whereby that respect due to His Majesty's commission may be called in question."

Every officer was to comply "under pain of His Majesty's highest displeasure."

Hunter had neither the courage to carry out the instructions himself at once, nor the good sense to depart so that King might put them in force. The evils they were to counteract continued; more shipments of spirits were looked for, and King after several months, while still ignorant of the date at which Hunter would leave, obtained Hunter's consent to communicate the instructions (18th Sept.) to Colonel Paterson and other civil and military officers. In asking Paterson to convene a meeting of them to hear the new order, King said that "a due regard to the character of an officer" prevented him from making the order public at once, but that in future any offender would "be brought to a general court-martial, and such other notice taken as the offence may deserve." Paterson was requested to inform King as soon as he had made known the order, which, though not made public for the reason stated, was "to be considered as a public order."

The traffickers were thunderstruck, but could neither oppose the order nor deny that it was made known to them in a considerate manner.

Regulations were framed to prevent ships from landing any goods without permission. The master was to receive a guard on board, to bind himself under a penalty of £200 to break no bulk and land no liquor without a written permit from the Governor. A particular wharf was pre-

scribed as the only place where, even under a permit, spirits might be landed. Half the fine was to go to the Orphan Fund and half to the informer. Connivers on shore were to be prosecuted under the English Smuggling Acts. No vessel was to leave the harbour without the naval officer's certificate, countersigned by the Governor. There were other provisions to guard against the escape of convicts in vessels, and a table of fees was fixed.

Colonel Paterson succeeded in keeping out of sight, in some degree, past delinquencies of officers of the New South Wales Corps; but two civil officers were compelled by pecuniary embarrassments to throw themselves on King's consideration.

Mr. Bahmain, the principal surgeon, had 1400 gallons of spirits purchased (before King's arrival) at from ten to nineteen shillings a gallon. Mr. D'Arcy Wentworth had 3000 gallons under similar circumstances. They both had a supply of tea also. They wished to obey the law and offered their goods "for government and prayed for other relief." King replied that he could make no purchase while Governor Hunter was in the colony. The holders asked twenty shillings a gallon, which King declined to authorize. When King arrived the price was £2 a gallon, and the stock on hand exceeded 20,000 gallons. Finally he agreed, as there was "no medium between their losing the whole of their property or subjecting themselves to very unpleasant consequences," that they might dispose of "such property *alone* as they purchased before" his arrival; handing to him accurate lists of the articles, selling only to persons sanctioned by him at the price (twenty shillings) already mentioned, furnishing monthly returns of sales and stock remaining on hand, and giving an "assurance in writing that they will not enter into any future speculations or purchases contrary to His Majesty's instructions." Both of them⁵ "pledged themselves on the faith of gentlemen" to these conditions.

Hunter found his occupation gone, and ten days after the communication of the order to Paterson, handed the government to his successor.

⁵ King to the Duke of Portland, 28th Sept. 1800.

The speculative and enterprising John Macarthur, indignant at interference with a traffic which Grose, Paterson, and Hunter had openly sanctioned, offered (30th Sept.) the whole of his stock to the government—50 cattle, 10 horses, and 600 sheep—for £4000, the land and improvements to be included in the price. He intended to return to England. King recommended the purchase to the Secretary of State. The Duke of Portland (19th June 1801) saw no advantage in the purchase of the horses, but approved of buying the sheep and cattle. The farm would be as advantageous to the settlement in private hands. Grose, in encouraging military officers to devote themselves largely to farming pursuits, and providing them with convict labour, deviated from Phillip's practice and from instructions from England. The Duke of Portland animadverted strongly upon the proof now afforded of the extent of Grose's disobedience.

"I highly disapprove of the commanding officer of the corps to which Captain Macarthur belongs allowing him or any other officer to continue in such contradictory situations and characters. . . . The evil, and a great one it is, consists in individuals who are not settlers (and whose characters and situations necessarily incapacitate them from becoming so) being enabled at the public cost to do that which should have been done for the public itself in the first instance."

When these strictures reached the colony Macarthur had left it, and was labouring to found an industry which was to become important both to the colony and to England. (He left to his amiable wife the difficult task of superintending his property.)

King's proceedings in arresting the spirit traffic were highly commended. "Any master of a vessel who disregards the orders should not be allowed to remain in your port an hour, nor should he be ever suffered to return to it."

Traders in the East Indies had pampered the vicious craving of the community, and before King left England in 1799 a despatch to India had deprecated the exportation of spirits thence to New South Wales. In March 1801 King wrote that the embargo in India had done much good, but that from America, the Brazils, and the Cape of Good Hope large quantities of bad spirits were poured into the colony. Transport ships chartered to the colony continually brought spirits. Not a convict ship arrived with less than 8000 gallons. He implored that the Transport Board would

inform all owners that not more than 500 gallons of spirits would be allowed to be landed from any vessel. An American vessel arrived in 1801 with 13,000 gallons of spirits, and King did not allow a drop to be landed. Between the 28th Sept. 1800 and 31st Dec. 1801 he had sent away more than 32,000 gallons of spirits and 22,000 gallons of wine, and that which was landed by permission was sold at prices fixed by himself, and ranging from four shillings to ten shillings a gallon. These prices coming after the recovery, in the Court of Sydney, of one hundred and sixty shillings a gallon in Governor Hunter's time, and confirmed by him on appeal, abated the lust of importers.

The captain of the American vessel asked King to give him a certificate that the importation was forbidden, and King wrote to the United States Minister in London (through the Secretary of State), hoping that his letter might prevent Americans from risking their property; "the penalty of landing which, without my permit in writing, is forfeiture of ship and cargo." Lord Hobart, who then controlled the department, replied:—

"I very much approve of the steps you have taken to lessen the evils arising from the enormous quantity of spirits imported into the colony, and you may depend upon my firm support in every legal and justifiable exertion you may continue to make in furtherance of this very essential object. The dismissal of the American vessel will operate more powerfully than any measure to prevent the resort of others so laden; and the most strict instructions will be given to all masters of vessels from this country and from Ireland in accordance with your suggestions, which I have not failed to communicate to the Commissioners of Transport."

King had written also (March 1801) to the Commissioners, and they replied (31st Dec. 1801):—

"It is much to be lamented that such vast quantities of spirits have been clandestinely imported into New South Wales contrary to the spirit and tenour of our charter parties; but we trust that your endeavours co-operating with our own, will in future greatly discourage if not entirely prevent a traffic so pernicious to the health and morals of the people under your government."

The *Chance*, with letters of marque, was in the South Seas, and King acquainted her commander (24th April 1801) that any prize he might take would receive refreshments necessary, but if containing more than 1000 gallons of spirits would "not be suffered to come into the cove or have her cargo condemned." He wrote also to all British *Consuls in America* (March 1802), with "the approbation of

the Secretary of State," informing them that he had already sent more than one American vessel away with great quantities of spirits, and desiring them to make it publicly known "that no greater quantity than 300 gallons would be allowed to be landed from any one vessel."

The quantity of intoxicating liquor sent away during King's government was of spirit, 69,484 gallons; of wine, 31,293 gallons.⁶ Though in the first instance he had taken his measures without publicity, two days after assuming the government he issued a public order (1st Oct. 1800) declaring that he was "instructed to put a stop to the unwarrantable and scandalous monopolies that have existed in this colony," and that "no person whatever is allowed to sell or retail any spirituous liquors," or "to land spirits or wines without the Governor's own permit in writing." Offenders would be punished, exclusive of the seizure of the spirits. "No greater price than twenty shillings per gallon for spirits to be admitted in any civil or criminal prosecution unless it shall appear that it cost that sum or more from the master of any ship, in which case no advance on the retail will be allowed."

On the 27th Oct. an order announced that licenses to sell spirits would be granted to persons "recommended by the magistrates to the Governor." The penalty for selling without a license was £10 for each offence, with two months hard labour on a hulk for refusal or neglect to pay, justices having power to send to the hulk instead of fining in the first instance.

⁶ Return (in King's handwriting) from September 1800 to August 1806:

	Spirits. Gallons.	Wine. Gallons.
British	2,886	320
American	27,403	22,697
British from India	39,195	8,276
	69,484	31,293

The *average* price at which he permitted the spirits, which were landed, to be sold is stated in the same return to have been—for spirits, seven shillings and sixpence; for wine, five shillings per gallon. The extortion from which the community was saved may be inferred from the prices previously recognized and enforced.

A General Order (20th Dec. 1800) shows the manner in which spirits were admitted into the colony. A vessel had arrived from England.

“The Governor having contracted for 2000 gallons of spirits to be divided among the officers, civil and military, who are not provided with any, and the soldiers and settlers at this place and at Norfolk Island; such spirits will be divided in the following proportions; for which—money, Government, or paymaster's bills are to be given :—

Non-commissioned officers and soldiers	...	...	259	gallons.
Settlers at Port Jackson	...	...	320	”
Ditto at Norfolk Island	...	...	250	”
To be divided among officers, civil and military	...	...	1171	”

payment for which is to be made in the following proportions, to the Commissary, previous to the Royal Admiral's departure.

Non-commissioned officers and soldiers 4s. per gallon; settlers 5s. 6d. per gallon; and officers 5s. per gallon. The Governor remits the assessment of one shilling per gallon to the regiment; and to the officers, for 40 gallons each per annum. All above that quantity to pay for the assessment.”

Though King communicated his instructions with some delicacy to the officers in the first instance, he was outspoken afterwards in General Orders. On the 20th Dec. 1801, “John Green, a convict, being detected in exchanging spirits for wheat with the government threshers . . . has forfeited the spirits and the wheat, which with his dwellinghouse are forfeited to the purposes of government, and the delinquent is sent to Norfolk Island.” On the same day (as)

“it appears that an officer has given the spirits he was permitted by the Governor to purchase for his domestic purposes to a licensed retailer of spirituous liquors, to deliver to individuals by his orders, the Governor once more calls the attention of the officers, civil and military, to the delicate manner in which he communicated the Royal Instructions to them on that behalf; and he now directs that if any officer shall so far abuse the indulgence granted him, of being allowed to purchase spirits for his domestic purposes, by giving it on any pretext to any retailer whatever, or licensed person, to retail or give out by his orders, such spirits will not only be seized, but also the offender will be tried by a general court martial. Licensed persons receiving permits for spirits are to draw it themselves; and if they receive spirits from any other person to dispose of on their own account, all such spirits will be seized, and the receiver forfeit his license, recognizances, and all strong drinks found on his premises, which will become the property of the person suing to conviction. And if any person, civil or military, settlers, freemen, or prisoners, shall presume to purchase wheat with spirits, all such wheat, spirits, and the premises on which they are found will be forfeited to the Crown, and the offender dealt with according to his situation.”

The order which King issued on his assumption of office, forbidding the landing of spirits without the Governor's written permit, was repeated (Dec. 1801) with the addition, that any master of a ship contravening it, "exclusive of forfeiting the penalty of his bond, is to be ordered out of the port immediately, and information thereof transmitted to the Secretary of State, that such masters may not be employed by government in future." By these measures, by causing importers to bond the spirits imported, by ordering that wheat and live stock should be received as legal payment for debts at the government store (established to provide articles for settlers at reasonable prices) and by regulating the prices at which private importers might dispose of their goods, the Governor reported (Dec. 1801) that a manifest change for the better had taken place in the community. He had encountered

"much animadversion, secret threats, and officious advice," "all which has been silently contemned, and by persevering in the line of duty pointed out it is hoped a continuation of that amendment which is so obvious will fully contradict the prediction, or rather hopes, of those who foretold the ruin of the colony from those regulations, and particularly from the prohibition of spirits."

Two magistrates were "more than suspected" of complicity in the "practices which it was their duty to prevent." In 1803, observing with "great pleasure and satisfaction" Lord Hobart's approval of his efforts to do away "the disgraceful extortion and improprieties" which had so long been rampant, and from which his endeavours had "greatly extricated the inhabitants," he added that he had not "escaped censure and most assassinating attacks from those whose enormities have been checked and put a stop to."

But a new difficulty occurred in 1803. Governor Hunter had permitted Mr. Robert Campbell, a member of a mercantile house in Calcutta, to establish himself in Sydney. In March 1801 King made a contract with Campbell to import 150 young cows from Bengal for the government, at a price of £28 per head, which was £7 less than had been given in 1793. The government was to select 150 from those which might arrive. After much delay the contract was executed in 1803 on the arrival of the *Castle of Good Hope*, with 307 cows, of which King selected 250.

Mr. Campbell had permission to import 4000 gallons of spirits for the domestic use of the officers and inhabitants. He imported 14,631 gallons, although the Marquis of Wellesley had recently issued a very stringent proclamation against unauthorized shipments of spirits from India. Campbell pleaded that as he was a loser by the cattle speculation he ought to be allowed to sell the spirits thus surreptitiously put on board. King enlarged his permission to 8000 gallons, but sent more than 6500 gallons away. He reported the fact to the Marquis of Wellesley with earnest entreaty for "kind interference in preventing such quantities of spirits being sent down here." He told the Secretary of State (May 1803) :

"Against great opposition and with much anxiety I had put a stop to the inundation of spirits. Every settler and individual has felt the benefit, and I did hope that by confining the quantity imported to a sufficiency for the inhabitants' domestic use, every comfort and none of the inconveniences would be felt. However, the quantity brought by this ship from India will, I feel, be an inducement to other adventurers, notwithstanding I have refused Mr. Campbell permission to land a part of the spirits brought by his ship, and informed him that not more than 2000 gallons will be allowed to be landed here from any one ship."

He enclosed a copy of his letter to the Governor-General of India, and added : "If spirits are once more suffered to be brought here, the same beggary and ruin will inevitably ensue to those unfortunate people who are now almost rescued from the destructive effects of former importations."

It is necessary to pursue closely the proceedings of Governor King with regard to traffic in spirits for several reasons, some of which concern popular errors respecting the deposition of Governor Bligh in 1808. King was sent to effect a reform, and though he effected it, his labours have been unnoticed by some writers, and he has been accused by others of having created or fostered the evils he repressed. The principal scandal was so completely removed that all reference to misbehaviour of officers, civil or military, was withdrawn from the instructions issued to his successor, Bligh.⁶ Merchants were as troublesome as

⁶ Dr. Lang's "Historical and Statistical Account of New South Wales" made no mention of any attempt by King to restrain improper traffic in *spirits*. It even declared that the "grinding monopoly established in

officers. The house of Campbell and Co. "pleaded untruths" to the Governor-General in India. The statements of their partner in Sydney proved that they had done so. "This conduct," King wrote (14th Aug. 1804), "ill accords with the duty a merchant enjoying the protection of a government owes to the local regulations for ensuring the prosperity of the society he lives in, and by whom he lives."

The Governor-General in India, on receiving King's complaints, ordered the re-landing of certain spirits from a vessel in which they had been placed for exportation to Sydney on false representations. In Aug. 1804 King thanked him for the attention thus paid to his remonstrances. In reporting all the facts to Lord Hobart (14th Aug. 1804), King said: "I have no view to injure Mr. Campbell, who I believe in every other circumstance has acted with a becoming propriety, and is deserving of every other encouragement *except forcing spirits on the colony.*"

The devices of importers were numerous. A small vessel, the *Fair American*, was consigned to Campbell and Co. under American colours, on the pretext of importing cattle, of which "two arrived, but a considerable object was

favour of officers of the New South Wales Corps still subsisted" under King; that King dispensed "with liberality and profusion to emancipated convicts, licenses to sell rum;" and that a "general dissolution of morals and a general relaxation of penal discipline were the result of a state of things so outrageously preposterous." It is difficult to imagine whence statements so utterly untrue could have been derived, or on what plea they were concocted. The "General Orders" published in Sydney gave ample proof of the truth, and on other points Lang often quoted them. Other writers have followed Lang's errors. His unfounded statement that Bligh was "enjoined" to break up "the monstrous system" by which officers, civil and military, trafficked in spirits, probably deceived some writers; the fact being that though the Royal instructions to Bligh were in their general terms similar to those communicated to the officers by King (as explained in the text), the special statement that "officers had entered into the most unwarrantable traffic" was omitted from the instructions to Bligh, as published by Lang himself. Even the general instructions might mislead the careless, or those who, not knowing of the previous more pointed instructions to King, imagined that any new duty was imposed on Bligh in the matter, and were ignorant that the reproach against the officers was withdrawn from the Royal instructions to Bligh because the evil complained of had been removed by Bligh's predecessor.

7203 gallons of spirits." King issued a proclamation (28th May 1804) to the effect that,

"in consequence of the illicit and improper means that have been adopted, and still continue, to import and introduce spirits into this colony (in defiance of His Majesty's instructions, my orders consequent thereon, the proclamation of the Most Noble the Governor-General of the British Territories in the East Indies, and the communications made to the American Consuls . . .) for the purpose of impoverishing the inhabitants, destroying their health, and subverting the regularity necessary to be observed for the prosperity of the colony . . . on all spirits brought from the eastward of the Cape of Good Hope without my permission . . . there shall be paid an additional duty of £5 for every 100 gallons."

Moreover, spirits brought without permission were not to be sold by the importer for more than "six shillings per gallon, including duty of two shillings," with other deductions *ad valorem* and for wharfage. The vessel, it was hoped, would go to sea after landing her dry goods rather than undergo such charges. But the master pleaded that she was "too rotten." The Governor ordered a survey, the plea was confirmed, and the consignees thus forced one cargo upon the colony, the spirits being sold under the ordinary conditions.

The cases of the *Myrtle* and the *Eagle* demand notice. On the 19th Oct. 1804, the *Myrtle*, having cleared from Bengal for the north-west coast of America, arrived in Sydney, for which place her whole cargo appeared to have been selected. She was consigned to Campbell, and had 7500 gallons of spirits on board. King forbade the landing of the spirits, and as the master was insolent to the guard, a General Order was issued to prevent the master or any one on board from landing without written permission. The naval officer was commanded by the General Order to order the *Myrtle* to leave "before to-morrow evening, and not to return here again on any pretence whatever." A copy of the order was sent to the Governor-General in India.

At this time settlements had been formed at Hobart Town and at the Tamar in Van Diemen's Land. King had instructed the Lt.-Governors at Norfolk Island, at Hobart Town, and at Port Dalrymple, to carry out vigorously at those places the restrictions existing at Sydney with regard to spirit traffic. But Collins at Hobart Town was overreached by the master of the *Myrtle*, and purchased some of the spirits carried to the Derwent.

King issued more stringent port-orders, and made a notable example of the way in which he could carry them out. The house of Campbell, besides increasing (from 5000 to 8000 gallons) the quantity which the Governor-General of India permitted them to send in a cattle-transport to Port Dalrymple, caused another vessel, the *Eagle*,⁷ without any permission, to carry 16,000 gallons from Ceylon to Sydney. King sent them, together with the 1500 gallons "in the *Sophia*, on which he had put the king's mark," back to India. An extraordinary combination was made to oppose this high-handed proceeding; and as more than one of those who conspired at this time to "force spirits upon the colony" became bosom-advisers of Governor Bligh in the events which ended in Bligh's deposition, it is proper to describe who and what one of them was.

George Crossley, after twice standing in the pillory for perjury, was transported to New South Wales for repetition of his crime. The rumour ran, and was believed even amongst his brother criminals, that it was he who, in forging a signature to a will with the hand of a dead man, placed a fly in the mouth of the body, so that he might, though he made a mark with a senseless hand, be able to swear that there was life in the body when the name was affixed. Strange indeed are the contradictions in the human mind when an additional ingredient of villainy could be supposed capable of lessening crime, or securing impunity. That the man was plausible was soon learned by colonists. On the voyage he persuaded the officers of the ship, by means of forged documents, that he and his wife had command of large funds in England. The officers accepted bills for goods. Crossley, on arriving in Sydney, obtained more goods from traders, and set up a shop with the permission of Governor Hunter. King wrote (7th Aug. 1803) to the Secretary of State:

"On my arrival I was surprised to find this well-known character keeping a respectable shop, full of goods, the fate of which all suspected. After being a year in the government I was importuned to give him a conditional emancipation—which I complied with—to enable his creditors to recover from him, or for him to sue for his own debts, which his disability as a convict prevented."

⁷ King to Lord Camden, 30th April 1805.

Crossley poured forth a strain of gratitude for the "goodness that shall only be forgotten when life itself shall cease, and my future uniformity of conduct shall be such on all occasions as to merit your future approbation." As the man had been subjected to no constraint before the conditional pardon, his creditors thought of no more important result than that of rendering him liable. But he taught them otherwise.

His fraudulent bills were sent back, protested, from London, and by every device of law and of roguery Crossley fought against his dupes. He had bought farms; he had lent money; he pressed the widow for payment. From Mr. Campbell, the merchant, he had obtained sundries to the extent of £1691. Campbell, before the goods arrived, became suspicious, and (1800) petitioned King to cause the goods to be indented, so as to prevent Crossley and his wife from embezzling. Campbell, having sent the bills to England, could not produce his proofs, and King declined to interfere under the circumstances. D'Arcy Wentworth, as agent for English traders, had taken bills from Crossley and his wife for £1886. They were dishonoured. Wentworth took legal measures successfully.⁸ Crossley sent in a lengthy memorial,⁹ and appealed to the Privy Council. King demanded security that he would prosecute the appeal "within twelve months after his term of transportation" might expire, and pay such costs and damages as might be awarded if the sentence should be confirmed.

Crossley retorted that "to exact such security was contrary to the law of the land." King had no lawyer to advise him, but declared (March 1804) that refusal to give security was sufficient reason for giving full effect to the award. "Yet as I deem it expedient to suspend that part of the award respecting payment to the respondents . . . "I . . . [order the Provost-Marshal to pay to the hands of the Commissary-General all money] "now or that may

⁸ Amongst other devices, Crossley in paying £400 to the Provost-Marshal tendered it in copper. On Smyth's refusal to accept so much copper in one sum, Crossley paid the debt in eighty instalments of £5 each, which were accepted as lawful.

⁹ On another petition from Crossley (Dec. 1802) containing dozens of pages, King wrote: "I have read this case, and am well satisfied of *its total want of truth in every material respect.*"

hereafter be in your hands arising from the sale of the said Crossley's effects."

It may seem incredible that the English government would not, if they could, find a lawyer to assist the Governor in performing his duty as the highest local Court of Appeal. The Judge-Advocate Atkins had once been an officer in the army. As he aided Crossley in advising Governor Bligh he may be coupled with him here. When Collins, the first Judge-Advocate, returned to England in 1796, Governor Hunter appointed Atkins temporarily. The Secretary of State appointed Mr. Richard Dore. He, after officiating from the beginning of 1798, died in 1800. Atkins applied for the office.¹⁰ King appointed him temporarily on the ground of his "having heretofore acted," but urged the necessity of good behaviour. Atkins, thanking him, said: "I will not deny that I have often been guilty of intemperance, but I pledge myself to His Excellency that no cause of censure on that head shall reach me in future; but permit me to say, that had the foibles of others been as nearly watched as mine, I should not be the only one to whom that crime might be imputed." But though Atkins was appointed temporarily, King never ceased to urge that professional knowledge was required for the office. He made no special complaint against Atkins, who paid "as much general attention to the duty as any man might do who has not made the law his study and profession," but he deemed it essential that the Judge-Advocate should be a lawyer. Year after year the same application was made by King without result. In 1804, when putting down rebellion and establishing settlements in Van Diemen's Land to keep away the French flag, he told Lord Hobart that he felt it—

"indispensable as well for the benefit of the inhabitants as for a guide to the Governor and to prevent frequency of appeals, that a professional man be appointed, either as Judge-Advocate or Chief-Justice, who can give the Governor (who cannot be supposed to be a lawyer) that conclusive legal information which is so requisite, and who is able to counteract the chicane

¹⁰He applied thus: "Mr. Dore being now resigned to his mother earth . . . my education has not been what is called a *legal one*, but a classical one . . . I am induced to hope (Governor Hunter having previously employed him) your Excellency will restore me to the official duties of that office."³

and litigious conduct of a few transported practisers, who have practised sufficient of the laws of England to know the chicanery and evil purposes a bad man can turn them to."¹¹

It is difficult to find an excuse for Lord Hobart for such neglect to do his duty as he displayed if it was possible for him to find such a person as was asked for.

King did not allow the convict-attorneys to plead for others. Crossley no doubt defended himself. Another of the class, Michael Robinson, conditionally emancipated, acted as clerk to the Judge-Advocate and magistrates; but there was no Roll of Attorneys and no Bar in the colony. The ex-convict clerk was in 1802 (General Order) convicted before King in the Appeal Court "of wilful and corrupt perjury, evidently intended to mislead the Governor's decision," and was sentenced by King to seven years' transportation "to Norfolk Island with hard labour."

The convict-attorneys did not love the Governor. His success in stifling the spirit-traffic, and sundry court-martials, made other enemies. In 1805 Crossley assisted Mr. Palmer, acting as agent for Mr. Robert Campbell, on the occasion of the sending away by the Governor of the 16,000 gallons of spirits sought to be improperly landed from the ship *Eagle*. Palmer endeavoured to resist the order. Crossley, at Palmer's house at the Hawkesbury, drew up a petition praying that the spirits might be landed. King wrote to the Governor-General in India (31st May 1805) that "existing circumstances had placed him under the unpopular necessity" of sending the spirits away, in spite of "every improper and illegal measure taken to invite the settlers to request" the landing.

"Two evils were left to choose; either to obey the king's instructions and send the spirits away at the risk of any opposition, or to yield to the demand under cover of a petition, plunge the inhabitants into every species of crime, and entail debts on the settlers that many years of hard labour would not have extricated them from. Duty and humanity required my choosing the former by hastening the departure of the *Eagle*, and I respectfully hope that any measures your Lordship in council may be pleased to direct will prevent the further influx of spirits which interested individuals are so active in sending to this territory from India. In expressing my

¹¹ There were other convict-attorneys. Governor Macquarie foolishly patronized Michael Robinson, because the man eulogized Macquarie in rhyme. In 1811 Macquarie gave him a free pardon, and made him Deputy-Provost Marshal in 1820.

concern for the trouble this subject has occasioned your Lordship in council, I beg to acknowledge the endeavours that have been made by your Lordship's government to prevent the evil His Majesty's service and the public prosperity in these settlements have so much cause to lament."

King implored Lord Hobart to take "more efficient steps" with Mr. Campbell, supposed to be then in England, and took steps in the colony himself. He conceived the petition to be more of a "command than a request."

"However speciously worded, it had for its object the vesting the spirits in the hands or at the command of Mr. Campbell's agents, who were (the deluded settlers were informed) to have retailed it at six shillings a gallon for fresh pork at sixpence a pound, which would infallibly have prevented any exertion in agriculture and been the means of beggaring the settlers. As I conceived this measure highly improper, I hastened the *Eagle's* departure without allowing one drop to be landed."

King "summoned the magistrates to consider whether the signatures to the petition had been obtained in a proper manner." They thought that under the Bill of Rights every person had a right to petition, and that any irregularity might have "proceeded from ignorance," and recommended the "discharge of the delinquents," which King "concurred with readily," first giving an "admonishing General Order."

On any "supposed or real occasion" an intending petitioner was to communicate with "the nearest magistrate," who was to refer to the Governor, that "immediate attention" might be given, which would "prevent the seditious and ill-disposed going about getting petitions signed by the credulous and unwary for the most destructive purposes."

. . . Legal and proper petitions he would decide upon the existing laws of England . . . "as nearly as local circumstances" . . . and the "tranquillity and welfare of the colony" would admit.

"Any petition sanctioned by three magistrates to be signed by more than one person after its subject had been first communicated to the Governor will be received and strictly considered; but any person presuming to go about with petitions otherwise than allowed by law, will incur the pains and penalties provided for on that behalf by the laws of England."

"This measure," the Governor wrote, "had the effect of calming the petitioning settlers, or rather two or three interested people who cared but little for the welfare of those about them, provided their avarice could be gratified at any sacrifice of health, property, and morals. In short, the

vessel sailed with her cargo to return to India without any murmur on the occasion."¹²

Another form of the evil it was difficult to arrest. Unlawful stills had long been resorted to.¹³ King told the Secretary of State (15th March 1806) that he had from time to time caused several to be destroyed, "and the workers and such proprietors as the facts could be proved|on were sent from the colony, agreeable to a colonial regulation on that head." "Some of the most determined United Irishmen" thus fell into his hands. "Some above the labouring class" were concerned in the crime.

"It has occurred to me that the excise laws, as far as respects the fines and penalties for using private stills, might be adopted here with a good effect, but on consulting with the Judge-Advocate on that subject, he thinks the introduction of those laws ought to be sanctioned by His Majesty's government. However much I differ from him, considering this colony and the generality of its inhabitants, and that such regulations would not be repugnant to the laws of England, yet I have forborne that measure until an instruction and opinion may be received thereon. I therefore respectfully request your Lordship's consideration how far the excise laws may be adopted within this territory to remedy those evils which I think cannot be entirely checked without such measures being enforced."

Governor Hunter in 1799 issued a General Order forbidding unlawful distilling, and declaring that from free people offending, "every indulgence they may have hitherto received from Government shall be immediately withdrawn, and they shall be ordered to quit the colony by the earliest opportunity." As was his custom, Hunter shrank from giving effect to his order.

In 1805 King peremptorily directed the Provost-Marshal to seek for and destroy stills. Two free-men had been sent out of the colony for infringing the order. The magistrates, with concurrence of Atkins, grew circumspect. In

¹²It has been necessary to narrate the matter of this petition at some length, in order that the reader may observe how preposterous has been the statement that with such an adviser as Crossley, Bligh provoked resistance by antagonism to spirit-traffic.

¹³Governor Hunter wrote (1796): "Many of the settlers and others have fallen upon a method of erecting stills, and distilling a most noxious and unwholesome spirit. . . . It will cost me some time and much trouble to get the better of this dangerous practice, and no doubt a little unpopularity amongst that description of people. I have, however, issued public orders. . . . This I think will be effectual, several stills having *already been seized and broken.*"

Aug. 1805 Atkins, Marsden, and Harris adjudicated in a case at Parramatta. Atkins then conveyed to the Governor his "doubt whether working a private still could be taken up in any other way than a disobedience of colonial regulation."

In republishing Hunter's General Order against the "engines of destruction" King called (Sept. 1805) for "the aid of the officers civil and military, and particularly the magistracy," to assist in suppressing the evil.

In June 1806 he asked Atkins and the magistrates to explain their laxity in carrying out the law. On the 1st July Atkins, Major Johnston, Rev. S. Marsden, Thomas Jamison, Lieut. Abbott, Lieut. Houstoun, and Dr. Harris replied that they had at all times thought it their duty to enforce to the utmost of their power the orders which

"the executive power has issued for the public weal, but at the same time they do not think themselves vested with sufficient authority to send every free person out of the colony for any disobedience of a colonial order, which they conceive would be infringing the power of the Governor; and they further are of opinion that it is a matter of great delicacy for them to pass any judgment on orders issued by the executive authority; that the power of the magistrates extends no further than finding the culprit generally guilty of a breach of Governor Hunter's order of 28th Feb. 1799, and your Excellency's subsequent order of Sept. 1805, leaving it to the Governor to inflict the prescribed penalties.

"Thomas Anderson was brought before the Bench charged with disobedience of the orders (aforesaid), which they think is clearly proved, and that he has incurred the penalties prescribed by said orders."

The seven enumerated magistrates signed the report.

The fate of Anderson may be easily surmised. The compromise devised by the magistrates in order to leave the responsibility on the Governor was not one from which the man who had disarmed the military force at Norfolk Island in face of several hundred convicts was likely to shrink.

Many punishments were inflicted in 1806. The sorrows of Joseph Holt, the Irish rebel, previously sent from Sydney to Norfolk Island (for complicity in the rebellion in Sydney in 1804) and the amiable character of his wife, commended him to Mr. Marsden and Mr. Arndell, a brother magistrate.¹⁴

¹⁴ The untrustworthiness of the "Memoirs of Holt" (ed. T. C. Croker, London, 1838) is shown by his narrative of this transaction. He says that Lt. Abbott was the magistrate who dealt with him, and makes other statements so incompatible with the facts that it would seem that having kept no accurate contemporary record, his memory was faulty when he compiled his memoirs.

A still was seized on his premises. It was condemned, with its produce. Holt was compelled to find security for future good conduct, himself for £200, and two sureties for £100 each. Several others were variously punished for the same offence, Holt having had many accomplices.

By a General Order (11th May) large money rewards to freemen, absolute or conditional pardons to convicts, according to the case, were offered for evidence convicting distillers.

In July 1806 King told the Secretary of State that these measures, with the exertions of the magistrates, had been successful. "This practice, if not got the better of by these means, would have involved the inhabitants in ruin and confusion. As I have detailed my suspicion in the above-cited General Orders, I shall forbear stating some of the known aggressors in those transactions, as their situation and office ought to have precluded them from encouraging such practices."

The manner in which the misstatements of one writer have been accepted by others has made it necessary to follow closely the real events, and by numerous citations of orders and despatches to establish the truth. It is necessary also to show that, though interested persons resisted the Governor's efforts, he found some consolations. The Duke of Portland's approval in 1801 was echoed by Lord Hobart in subsequent years.

In 1803 the improvement in the condition of the settlers in the Parramatta and Hawkesbury districts was so manifest that the Rev. S. Marsden and Mr. Arndell reported it in writing to the Governor. Marsden attributed it to

"the prohibition of so great a quantity of spirits as was formerly dispersed among them, and the great advantage the settlers derive from purchasing from the Government stores with the produce of their farms. Crime has diminished, the idle have become industrious, the drunkard sober, and the thief honest. . . . I have ever observed that the labouring people in the settlement have not so great an aversion to industry as they have a propensity to intoxication. . . . The cause of their present state I conceive to be the prohibition of spirits, and the relief afforded them by His Majesty's stores from the cruel hand of extortion under which they were once so heavily oppressed."

The subject of spirit traffic in the dependencies of New South Wales may be dismissed in a sentence. Neither *Collins* at Hobart Town, nor the officers in command at

Norfolk Island, gave loyal assistance, and stringent orders were necessary to compel conformity with the General Orders issued by King. Brief extracts from despatches from King to Piper, the commanding officer at Norfolk Island, will show the control which was exercised.

"I am much concerned to know that, notwithstanding Lt. -Gov. Foveaux's conduct in sending ships away that carried spirits from hence to Norfolk Island which did not produce letters from me and my directions to him, you permitted Boston, the supercargo of the *Union* (American), to dispose of the spirits he was not allowed to sell here. . . . It is therefore my positive order that, when any vessel touches at Norfolk Island from hence, no intercourse whatever, otherwise than relieving their distresses, be had with such ship or vessel unless the master produces letters from the Governor of this settlement."

This was in Jan. 1805. Four months afterwards, when more facts were known, Piper was again censured for having allowed Mr. Boston to exact nineteen shillings a gallon, though for what he had been permitted to sell in Sydney he had been satisfied with nine. King republished his general orders for prohibition or control of spirit-traffic and sent them to Piper.

If the power of the Governor was great, so was his responsibility; and King, like Phillip, was doomed to feel *quam arduum quam subjectum fortunæ, regendi cuncta onus*.

One of King's early acts proved that he would not shrink from asserting the control of the law in New South Wales. He superseded Hunter on the 28th Sept. 1800, and on the 2nd Oct. a general order referring to convicts directed employers to bring before the magistrates all cases of misconduct by their assigned servants. But the privilege of striking a servant was not willingly abandoned. On the 26th Nov. 1800 a general order announced that it had been represented to the Governor that

"it has been a custom for those to whom the labour of convicts has been assigned to chastise them by horsewhipping and beating them for real or supposed offences; that he felt called upon to put an immediate stop to these practices by referring to the General Order of 2nd Oct.; and as the Governor will not admit of any individual presuming to inflict that punishment which must be openly awarded by a magistrate, he strictly forbids all officers and every person, bond or free, from striking or ill-using any other person in this colony on pain of being proceeded against according to law, or such other notice taken of the offence as the case may require."

For a time the offence in question caused no public stir. But the war which King waged against the spirit traffic and extortion made enemies. The New South Wales Corps contained officers as irascible as King. They frequently quarrelled amongst themselves, and we find that there "was an impression¹⁵ on the officers' minds that they were at liberty to refuse being tried by court-martial in the colony." Consequently, before King's assumption of office, Major Johnston had been ordered to England to be tried upon an accusation made by Colonel Paterson. The Commander-in-Chief denounced the impression of the officers as utterly wrong. Major Johnston was sent back to Sydney under arrest, and King was advised by Lord Hobart to reconcile the quarrellers and release Johnston. By a general order he notified that "the most honourable reconciliation had taken place in his presence" at Government House.

There were other quarrels, but the most significant involved John Macarthur. Angry at the new order of things introduced by King, he offered the whole of his stock and farm to the Government. Soon afterwards Colonel Foveaux, who had been appointed Lt.-Gov. of Norfolk Island, offered his sheep, also, to the Government, and King (Aug. 1801) referred the question for the approval of the Secretary of State. Before the offer reached England John Macarthur's active mind had planned new schemes. He bought Foveaux's large flock of sheep, before King knew that he was in treaty for it. Lord Hobart (24th Feb. 1803) considered Foveaux's conduct in selling his flock while it was under offer to the Government "highly censurable."

One Lieut. Marshall, R.N., arrived in June 1801 as agent for transports in a convict ship. He was tried before the Criminal Court (the Judge Advocate and six military officers) in Sydney for assaulting Captain Abbott of the New South Wales Corps, and was sentenced to a fine of £50, and a year's imprisonment. He appealed to the Governor against what he called illegal and informal proceedings of the court. He was charged also with assaulting Captain

¹⁵ King to Duke of Portland, 28th Sept. 1800.

Macarthur, and a special verdict was found. King referred Marshall's allegations to the court, but they would not inquire into them. King re-convened the court, and they adhered to their previous determination. King remitted the fine and imprisonment, conditionally on Marshall's delivering himself up to the Secretary of State within fourteen days of arriving in England, to abide by such directions as might be there given. The decision of the Secretary of State was not received until late in 1803. It stated that King was misled in re-convening the court, which was justified in its conduct. Though the sentence was confirmed, yet "as the period of Lieut. Marshall's imprisonment has expired, and as he has complied with the terms of his recognizance, His Majesty has been pleased to consent that the fine imposed upon him shall be remitted."

The officers were in such ill-humour at Marshall's departure that many of them resolved to insult the Governor. Colonel Paterson showed no favour to their resolution. Macarthur, ever impetuous, quarrelled with Paterson, who "exacted satisfaction" in a duel in which Paterson was dangerously wounded (Sept. 1801). Macarthur and his second, Piper, and McKellar, the second of Paterson, were put under military arrest until the result of the wound might be known. When Paterson's life was out of danger Macarthur was ordered to embark for service at Norfolk Island. On the 21st Sept. it was ordered that the arrested officers should be released on bail, giving security to appear before the Criminal Court in case of Paterson's death from the wound. All four were to enter into recognizances to keep the peace. Paterson, Piper, and McKellar entered into recognizances, but Macarthur refused to give security, would not quit his arrest, and demanded a court-martial. Another General Order (23rd Sept.) declared:

"Notwithstanding this defiance of the civil law and the king's authority, the Governor foregoes the line his duty points out, by committing him to the public gaol until he gives the sureties required, on account and in consideration of his family. In consequence of this officer's refusal to come out of arrest, and give security for his future peaceable behaviour, the indulgence the Governor allowed him, at his own request, of going about Parramatta, is for the preservation of the king's peace to be withdrawn, and he is to be placed under a close arrest. His Majesty's service requires that Captain John Macarthur do prepare himself to embark for England in the arrest he has thought proper to continue himself under."

And the indignant Macarthur in due time went to England, and was therefore absent from the colony during the stirring time of the insurrection of 1804. He sailed by way of India. McKellar was sent with Macarthur's sword, and with despatches, by another conveyance. Paterson and King considered that McKellar's testimony would be required in England.

There was a court-martial on Piper on a charge of breaking his word of honour by coming out of arrest under the order of 21st Sept. and not keeping his word afterwards. The court, composed of his brother-officers, acquitted him. King asked for their reasons, which they declined to give. King told the Secretary of State that, being himself prosecutor, he would decide nothing in such a case, but submitted it for His Majesty's consideration, "confident of experiencing that justice which may be deemed admissible in support of the situation I have the honour to hold." The Judge-Advocate-General (Dec. 1802) replied that as the court had adhered to its decision, Piper was "entitled to the benefit of acquittal." His Majesty did not doubt that the "decision was the result of an impartial judgment," but as no ground was stated for it, could only gather that a letter of apology from Piper, and his being allowed to do duty in the regiment, had influenced the court. His Majesty thought it proper that this should be understood, as there was "very little doubt upon the whole that a part of Captain Piper's conduct was open to blame, nor did the line of defence which he adopted seem calculated to help his cause." His Majesty's decision was to be communicated to all the military, but was not directed to be "declared in Public Orders." Distance weakened the arm of the War Office, or it is improbable that it would have issued a decision calculated to palsy authority in the colony, and which, being kept from public view, lost any virtue contained in the implied censure of the verdict of the court.

Insubordination against the civil authority and partiality of the officers to their own corps were fomented by the course adopted. Macarthur wrote from England to congratulate Piper (9th Nov. 1803) on the fact that the "tyrant has not been able to fix his fangs upon you." In *the same* letter he animadverted upon McKellar as an

“apostate;” and, apparently ignorant of the kindly feeling entertained by Governor King for Barrallier, attributed the misfortunes of the latter to King’s enmity, and pledged himself, therefore, to be Barrallier’s friend. He hoped to be the bearer in 1804 of tidings of a new Governor, if indeed he should not accompany him to Sydney. He told Piper that he was “up to the ears in papers for carrying on the war against our common enemy.” He failed. The despatches of King convinced Lord Camden that the Governor was the right man for his post, and though writers unacquainted with the truth have assailed King as a weak man, the facts still speak in his justification. Macarthur himself was less fortunate at the Horse Guards than his friend Piper, although King was blamed for sending him to England. The War Office did not wait for the arrival of McKellar, or for further information, but considered King ill-judged in sending Macarthur to England, and ordered that Macarthur should be remanded to Sydney (released from arrest), the Commander-in-Chief conceiving that “in consequence of the difficulty which occurs in the assembling of a court-martial,” for the trial, “Governor King will not be desirous to bring the charges against Captain Macarthur before a military tribunal.” The Commander-in-Chief thus practically admitted, as King had urged, that it was futile to try Macarthur in Sydney. The Secretary of State blamed King for sending him to England. The case was of sufficient importance to necessitate a new General Order in England. The Commander-in-Chief (1st Feb. 1804) made it known—“in consequence of recent occurrences”—that the practice of sending from “foreign stations officers with articles of accusation pending against them, without the same having been duly investigated, is detrimental to the king’s service, and except in cases of the most urgent necessity should be avoided.” It might relieve the local commanders from embarrassment, but “seldom failed to transfer them with increased difficulties to head-quarters.”

“His Royal Highness judges it expedient to take this opportunity of controverting an erroneous opinion, that an officer who has been put under an arrest has a right, as it is termed, *to demand a court-martial on himself*, and may persist in considering himself still under the restraint of such an arrest although *publicly released* therefrom by the superior officer who

imposed it; whereas the fact is that a superior officer is invested with a discretionary power of liberating as well as of arresting, and of requiring that the officer so liberated do return to the exercise of his duty as before; neither can an officer insist upon a trial unless a charge is preferred against him. It by no means follows that an officer conceiving himself to have been wrongfully put in arrest, or otherwise aggrieved is without remedy. A complaint is afterwards open to him, if preferred in a proper manner, for which provision is made by a special article of war."

The officers of the army had perhaps hoped that an arrest imposed by a naval governor would not have been upheld at the Horse Guards. As the order supported the Governor's authority, and as Macarthur was devoted to his project of rendering England independent of the European continent in procuring fine wool, he shook off his martial fetters, obtained permission to leave the army, and submitted his plans to the Privy Council. With regard to the sending home of Macarthur, Lord Hobart (24th Feb. 1803) iterated the blame thrown by the Commander-in-Chief upon the Governor for want of judgment.

"I very much lament that you should have formed the resolution of sending Captain Macarthur to this country for trial for an offence committed within your government, where alone all the necessary witnesses for the prosecution and defence could be found. It is too evident that the dissensions which have unhappily prevailed in the colony, to so great an extent as to materially impede and prejudice the public service, have been in a great measure occasioned by the irregular behaviour of some of the officers of the New South Wales Corps; but as every officer is, in his military character, amenable for his conduct to the control of his superior, and in like manner responsible in his civil capacity to the authority of the civil power, I must expect a due exertion of that authority on the part of those to whom it is entrusted for the maintenance of discipline and subordination in every description of persons in the settlement."

He enclosed a copy of the Military Order made in consequence of the transaction, and added—"You are now furnished with a rule which will preclude you from feeling any difficulty how to act."

Neither the Commander-in-Chief nor Lord Hobart waited for the arrival of Lieut. McKellar, the witness sent to England with Macarthur's sword, and to "answer questions" which might be put to him there.¹⁶

¹⁶ Instructions from King to McKellar, 1st March 1802. Communication with England was so precarious, that while Macarthur travelled thither by way of Norfolk Island, Amboyna, and the Indian Ocean, McKellar sailed in an American vessel to New Bedford, whence he was "to lose no time in getting a safe conveyance to England." Governor Bligh writing in 1808 said of King's despatches, "the duplicate of them was transmitted by a Captain McKellar in a small vessel, but who has been lost."

King replied (1st March 1804) that he "observed" Lord Hobart's sentiments and those of the Commander-in-Chief "with that respect which a life so far spent, and I hope may add usefully and honourably devoted to His Majesty's service, tells me it is my duty to receive with all becoming humility; still I cannot but regret the almost certain misfortune that has prevented my having an officer (Lieut. McKellar) in England to contradict such assertions . . . and to have stated such circumstances as exceeded the bounds of a correspondence. I shall not trespass further on your lordship on this head than to represent that every means which could be exerted to bring Captain Macarthur to a sense of his civil and military duty was tried and failed before I determined on sending him to England—except trying him by a court-martial composed of five officers belonging to his corps, who had espoused his quarrel against the Governor and his commanding officer. From such a tribunal what the result would have been was too evident. . . . I indulge the idea of experiencing that support which my conscience tells me my rectitude and conduct may encourage me in the hope of receiving."

A singular accident frustrated the safe conveyance of the first copy of King's despatches; but furnished no excuse for a decision in their absence. Lieut. Grant, found incompetent to act as naval surveyor in the *Lady Nelson*, resigned and went to England on leave. He took charge of King's despatches concerning Paterson and Macarthur, and the sending home of the latter under arrest. He sailed from Sydney in a prize which had been captured by a whaler on the coast of Peru, and condemned and sold in Sydney. In her he carried letters to the naval Commander-in-Chief at the Cape of Good Hope, who was requested by King to give Grant a passage thence in a king's ship to England. King advised the government by another vessel that Grant carried the despatches. Copies were also sent by McKellar, who took Macarthur's sword. When Grant arrived in England he had lost the despatches. King spoke of them to Lord Hobart (9th May 1803) as "shamefully, I may say villainously lost."¹⁷

¹⁷ Dr. Lang asserts that the despatches were purloined before Grant left Sydney, but produces no authority for his statement; and as he adds that the box was found void of its proper contents in "the Duke of Portland's office in Downing-street," although Lord Hobart held at the time the seals of the Colonial and War Offices, there is room to doubt the accuracy of other parts of the statement. Grant may have lost the despatches. He sailed from Sydney in the *Anna Josepha* (9th Nov. 1801); rounded Cape Horn; was at the Falkland Islands on 21st Jan. 1802; on the way to the Cape of Good Hope he with others was without sufficient food, and he was taken on board the American vessel *Ocean* at sea; he reached the Cape on the 1st April, and the *Anna Josepha* arrived on the 3rd. *U. S.*

Col. Paterson's position was anomalous. He had given offence by his presumed leaning to the civil authority.

The French exploring ships were in Sydney in 1802, and the officers of the New South Wales Corps were hurt by the necessity which fell upon one of them (after inquiry) to apologize in writing for disrespectful remarks about the French. It had been insinuated that the officers had sold spirits. Baudin demanded inquiry. If any officers had erred he would make an example of them. If not, "Je réclamerai votre justice pour que celui qui les a calomniés auprès de Col. Paterson et de vous soit tenu à des réparations."

Captain Baudin communicated the apology to his officers; they drew up a reply transmitted by Baudin to King. "Ils ont vu avec plaisir que Monsieur Kemp n'a jamais eu l'intention de porter atteinte à leur honneur. Ils en reçoivent l'assurance, parce qu'il entre dans leur principes de ne jamais douter de la vérité d'un officier." They would have been glad if he had, "connoissant mieux la délicatesse des officiers," not repeated the words, "d'un homme obscur qui ne fussent jamais parvenir ni à Mr. le Gouverneur ni à nous s'ils n'eurent passés par une bouche qui devoit leur donner de la vraisemblance."

To be foiled and to be overcome by politeness was discomforting to the New South Wales Corps, and the fact that King had given Baudin the opportunity of refuting the unjust reports rendered him obnoxious to those who had to apologize.

Col. Paterson, unwilling to take responsibility, had assembled the officers to consider the charge against Kemp, and vainly urged King to convene a meeting of all civil and military officers. A court-martial, designed to injure Dr. Harris of the New South Wales Corps, sprang from the occurrence. He had assisted King in repressing spirit-traffic, and was appointed to the post of Naval Officer, in which service could be rendered in preventing unlawful

left the despatches uncared for when he took refuge in the *Ocean* they might be tampered with, although he may not have been an accomplice (*vide* Grant's "Narrative," &c., London, 1803). Grant sailed to England from the Cape on 12th April in H.M.S. *Imperieuse*, and had a successful voyage.

landing of spirits. He shared the obloquy attached to doing his duty strictly. The court-martial was to decide whether Dr. Harris or Adjutant Minchin had acted with candour or told the truth.¹⁸

Harris was honourably acquitted, without being called upon to defend himself. King approved the sentence. Minchin was acquitted also, and King submitted the verdict for His Majesty's consideration. Settlers petitioned that Harris might be reinstated as a magistrate, and his recent prosecutor, Col. Paterson, supported them. Both the verdicts were confirmed in England.

Ensign Bayley fomented disaffection at the time of the duel between Paterson and Macarthur. In Jan. 1802 he was tried by court-martial "for disobeying an order of his Colonel to attend a meeting of civil and military officers at the Governor's;" and in Feb. 1802 "for disobedience of a General Order of 26th Dec. 1800, by repeatedly beating and horsewhipping his convict servant." For the first offence he was adjudged to be reprimanded by the Governor; for the second, to be suspended from rank and pay for three months.¹⁹

When Captain Kemp was compelled to apologize to the French officers, Paterson took a step which was meant to embarrass the Governor. It was known that the Irish prisoners were ever on the alert to riot or rebel, and it was thought that the Governor, in fear of losing some assistance afforded by the officers, would yield to their demands rather than lose their services.

The Governor, by ordering away spirits brought by a ship in July 1802, had given offence. The unruly at the barracks revelled in satire upon him. Seditious papers were circulated. Ensign Bayley was particularly active in their dissemination. The soreness was increased by a large reward (£200) or a free pardon offered (1st Oct.) upon conviction of alleged smugglers from the ship which had brought the spirits.

¹⁸ Despatch, 9th Nov. 1802—King to Lord Hobart.

¹⁹ The first sentence was deemed "lenient," but confirmed by His Majesty; the second was considered no more than adequate, but in consideration of the long period of suspense and uncertainty, and "perceiving that Ensign Bayley is now fully sensible of his misconduct," His Majesty remitted the sentence.

Paterson threw his lot in with the disaffected. He discovered that by the instructions of the Commander-in-Chief, officers were "not permitted on any account whatever to engage in the cultivation of farms, or *any other* occupation to detach them from their military duty." Ensign Barrallier could therefore serve no longer as Military and Civil Engineer and Artillery Officer. Dr. Harris could not act as Naval Officer. It was hoped that King's necessities would humble him. But by a General Order (9th Oct. 1802) he paid high compliments to Barrallier and Harris, and dispensed with their valuable services "in deference to Colonel Paterson's idea of the instruction" quoted.

Paymaster Cox, as a magistrate, received certain advantages. King, unasked, dispensed with the services of Cox, he being "precisely in the same situation" as Barrallier and Harris :

"And as the Governor finds it necessary to anticipate any interpretation of His Royal Highness the Commander-in-Chief's instructions to Lt.-Colonel Paterson, he dispenses with the attendance of the corporal and four privates of the New South Wales Corps acting as a guard to the Governor when travelling, and requests that Lt.-Colonel Paterson will order his thanks to be given to them for their attachment and alacrity. The Governor as Commander-in-Chief of this territory directs that no officer or soldier in the territory be employed on any other than their military duty, except the Governor's orderly sergeant and an orderly private at Parramatta."

Three days after the publication of this Order another appeared, granting provisional conditional pardons to "five prisoners of good character, who are to be mounted, and serve as a body-guard for the Governor."

The cup of disappointment was not yet full. It was firmly believed that no officer would be found to assist the deserted Governor; but the belief was turned to dismay. Lieut. Bellasis, in a duel in India, killed his antagonist. The *Fly* cruiser was despatched for the sole purpose of conveying him to Sydney, whither he was transported for fourteen years.²⁰ His wife and children accompanied him, and a memorial signed by the principal residents "at Bombay, and the heads of corps serving in that Presidency, and other stations," was sent to influence King in his

²⁰ Despatch of King, 1st March 1802.

favour. It was testified that he had been a gallant officer, and had fought at the taking of Seringapatam. King gave him a pardon "conditional on his not leaving the colony," and availed himself of his services in teaching "the use of our few cannon." He had previously forwarded (1st March 1802) a petition for the king's clemency, respectfully supporting it himself.²¹

Duelling was not in those days socially reprehended; and, if it had been, the New South Wales Corps could hardly have ostracised a stranger for it, when their own colonel had recently fought with one of his captains.

Bellasis was kindly received in Sydney. Two days after appointing his body-guard, the Governor notified that he had appointed Mr. G. B. Bellasis "to be a lieutenant of artillery, and to rank as such in this colony, being charged with the inspection and direction of the batteries and cannon in this settlement; and also as commandant of the Governor's body-guard of cavalry." The Governor was independent of the New South Wales Corps, and finding this to be the case, the defeated Paterson permitted Ensign Barrallier to be King's aide-de-camp.

These proceedings may appear trivial, but the records of them are the floating relics which show the conditions of the time, and the weapons with which King waged war against the dangerous notions encouraged amongst the military by Grose and Paterson, and unchecked by Hunter. It is to the honour of King and of the military that in time of danger no disagreement on other subjects prevented them from addressing themselves with whole-hearted energy to the duty of the day, as was shown in the prompt suppression of the insurrection in 1804. In Dec. 1804 we find Major Johnston, who had gallantly aided in putting down the rebellion in the previous March, writing thus to Piper at Norfolk Island: "His Excellency has not as yet refused me anything I have requested of him for the comfort of the soldiers."

²¹ After some delay Lord Hobart, on full consideration of the case, and of the conduct of Mr. Bellasis, despatched (Nov. 1803) a free pardon. The Governor had anticipated it. Bellasis' "office required him to take a principal part in the ceremonies" attendant on the King's birthday in June 1803, when the Royal standard was displayed for the first time in the colony, and King gave him a free pardon on the occasion.

But the quarrelsome propensities of the corps did not die out in 1802. Lieut. Hobby and Ensign Bayley were severally tried by court-martial in Feb. 1803.

Although at that time the seditious behaviour of Irish convicts at the Hawkesbury required two officers and fifteen men to be detached to strengthen the guard there, the hearts of the corps were implacable. Captain Kemp was before the court. Dr. Harris officiated as Military Deputy Judge-Advocate and was prosecuting for the Crown. The court put Harris under arrest when the prisoner was commencing his defence. At the request of Major Johnston, King ordered a court-martial upon Harris, but he declined to appoint another Judge-Advocate to finish the trial of Kemp (although pressed to do so) until he had, by public General Order, summoned, under his commission, to his aid and assistance, Col. Paterson; Captn. Kent, of H.M.S. *Buffalo*; Atkins, Deputy Judge-Advocate of the colony; Palmer, the Commissary-General; the Rev. S. Marsden; and Jamison, the Acting Principal Surgeon, to advise with him. Finding the majority opposed to his views, and not willing to detain His Majesty's ships, or call in officers from out-stations, King yielded to the majority, and appointed Atkins Deputy Judge-Advocate for the remainder of the court-martial upon Kemp. The charge against Harris broke down.

The courts-martial being concluded, King, on the ground of his being prosecutor, referred to England the decision upon some of the sentences, one of which related to Ensign Bayley, charged with striking a convict. The court had refused to inquire into the facts. Pending His Majesty's pleasure on this avoidance, King ordered Bayley to return to his duty. Meantime he devised a method to protect the convicts. Finding himself trifled with by courts-martial, he removed their jurisdiction by a General Order. He suspended (8th March 1803) so much of the local Orders as caused military persons, beating their assigned servants, to be tried by court-martial.

“ But persons of every description within this territory and its dependencies can have redress for assaults and every other misdemeanour by action or indictment before the Civil or Criminal Courts to which they will in future resort. And it is to be clearly understood that any persons

whatever proved to have beaten the convicts assigned to them, instead of having recourse to the magistrates, will be deprived of that accommodation in future."

The power of granting assigned servants rested wholly with the Governor, and it placed at his mercy any Bobadils of the corps who thought to show their valour by striking their servants, and nevertheless wished to retain their services. Writing to Lord Hobart (9th May 1803) King said:

"I am also much concerned to state that, notwithstanding Ensign Bayley has been once tried by a general court-martial for having . . . beaten and ill-treated the convict whose labour was assigned to him, instead of taking the prescribed steps for his punishment by the magistrates, he has since thought proper to repeat those acts . . . On the third offence I was compelled to try him. The court refused to take cognizance of it, and although the facts would have been clearly established, even from his own confession, yet, as no investigation was made, the nature of the sentence requires me to transmit the proceedings of that court-martial also to the Judge-Advocate-General for His Majesty's decision."

In a military letter of the same date the irate Governor alluded to the dissemination of "anonymous seditious papers," when from illness his "existence was doubtful." It was owing to the disappointment and "concealed revenge of those who felt themselves aggrieved by the different orders and restrictions" imposed by him to "bring about regularity."

"Conscious as I was of my integrity, and having a thorough contempt for the assassin's blow, I should have passed over any number of similar attacks that such concealed villainy could have suggested with the scorn and contempt they merit, had they not been circulated by those who ought to have maintained a very different conduct; but as I saw officers publishing those infamous papers, the duty I owe to His Majesty's service, the public, and myself, required that I should bring those officers to a public account for having so industriously disseminated those papers. . . . I had no other mode of noticing these officers' conduct than by trying them by a general court-martial, which made it necessary for me to prosecute. Issuing the warrants, my presence as prosecutor could not be admitted. That authority I delegated to the surgeon of the corps (Harris), who has generally officiated as Deputy-Judge Advocate. Judge, my Lord, how far I ought to expect impartiality when those officers were tried by others of their own corps, and although I did not nominate three officers, in conformity to His Royal Highness the Commander-in-Chief's intimation of excluding such officers as might be suspected of partiality, yet certainly a Governor has very little chance of justice where he is so situated,—having only one corps, and but a sufficiency of officers to sit on a court-martial, and being unable to manage the prosecution in person."

In a separate despatch (of the same date) he reminded Lord Hobart that that nobleman had already favourably

received his proposal that there should be an admixture of civil with military and naval officers in the composition of the Criminal Court. He urged that there were in the colony many respectable gentlemen, civilians and merchants, "who have never been under the sentence of the law, and in that case I humbly presume that justice may be more impartially dispensed by a mixture of members than being confined to one professional class of people, which generally consists of military officers alone, many of whom are very young men."

The Governor was not without consolation. At this time Marsden and Arndell testified to the improvement in the community in consequence of King's remedial measures; the former declaring that crime had diminished, the drunkard had become honest, and the thief reclaimed. When slanders were circulated many settlers presented addresses to counteract the virulence with which (King wrote) "the hitherto unknown, but not unsuspected agents of darkness, monopoly, extortion, and oppression, were assassinating me by anonymous attempts too contemptible to notice but for the attendant circumstances which your Lordship is possessed of."

Dr. Harris, surgeon of the corps, was ever loyal. When Bayley showed to him and Surgeon Jamison one of the libels (called at the time "pipes"), Harris, rough and outspoken, said, "The author is a lying scoundrel, and it does not contain a word of truth." The three rode to Major Johnston's house. Johnston, always manly, "exhibited (to use his own language) the pipe" to Colonel Paterson, Rev. S. Marsden, and Atkins. Exposure robbed it of power for mischief.

On the whole Johnston appears to have exercised a sobering influence over the worst spirits in the regiment. An anonymous libel being circulated in 1805, the inhabitants, including officers, immediately subscribed £116 to prosecute "the incendiary author" to conviction. On the 6th July, 1806, Johnston announced that a paper of "most seditious and mutinous tendency" had been placed in his hands by a man, who said he found it near the barracks. It made false imputations against "soldiers of the New South Wales Corps under my command." He offered

£100, and the Governor offered a like sum, for conviction of the writer.

On the 9th May, 1803, King told Lord Hobart that he was "perfectly satisfied with the daily, weekly, monthly, and yearly testimonies of gratitude received from every description of colonists." With regard to the officers of the New South Wales Corps who were opposed to him, he did not choose "to seek that personal reparation from those who have used every means to provoke it, and which nothing but the high sense I have of the important trust committed to me has prevented." He humbly solicited that a civil, military, and naval commission might inquire into the whole of his conduct. His public and private acts he was ready to submit. "But in case any consideration should render this request inadmissible, I humbly implore your Lordship's procuring me His Majesty's leave of absence to enable me to submit my conduct to your Lordship's consideration."

Had such a request reached Mr. Dundas, he would either have supported the Governor boldly, or granted his request, or superseded him. Lord Hobart took no such intelligible course. Even ridiculous decisions of the courts-martial were left undisturbed by the Judge-Advocate-General, Sir Charles Morgan, though their absurdity was thus pointed out by himself: "In this case (Ensign Bayley accused of striking a convict), by some unaccountable error, the court-martial, after declaring, perhaps properly, that the charge was not within their cognizance, immediately, and, if I may so express it, in the same breath, *therefore most honourably acquit him.*"

Nevertheless, the acquittals were conclusive. His Majesty must not, however, be supposed to concur with the courts-martial, nor even with the Governor; "but, for the sake of harmony, His Majesty chooses rather to pass over any seeming irregularity in the proceedings, and to recommend to all parties concerned that they will consign to oblivion, if it be possible, all that has passed, and His Majesty trusts that you will yourself herein set a laudable example."

Sir C. Morgan had been asked to decide whether an emancipated convict was by a pardon so far purged and

restored to credit as to become a competent witness. He could hardly deny that evidence of such a kind was admissible, although the officers had excluded it; but added that "if called upon to sit in a court-martial, he would incline to administer the oath to such a witness, receiving his testimony with caution, and if opposed by contrary evidence, perhaps with a considerable degree of diffidence." (It is especially to be remembered that Sir C. Morgan, in his letter to King, saw nothing to condemn in the act of the court-martial in arresting the Judge-Advocate of the court during the trial. It will be seen that, in 1808, for a much less bold procedure, Governor Bligh summoned the whole of the officers of a court-martial before him for "certain crimes.") Lord Hobart was still less inclined to console the Governor struggling against wrong-doers. He expressed (30th Nov. 1803) his "very great satisfaction" at the general progress of the colony.

"At the same time I must not conceal from you that the gratification I experience from this satisfactory view of the situation of the colony is in a great degree alloyed by the unfortunate differences which have so long subsisted between you and the military officers of the colony, and which I am sorry to observe have latterly extended to the Commander of H.M.S. *Glatton*."

King's application for permission to return to Europe would be complied with as soon as a "person competent to exercise the duties" of Governor "free from the operation of the spirit of party" could be found.

The allusion to H.M.S. *Glatton* was cruelly unjust. Her commander had joined in 1803 in aspersing King to the Home Government, but Lord Hobart should himself have undergone persecution rather than use so vile an instrument in rebuking King. H.M.S. *Glatton*, with 270 male and 130 female convicts, arrived in Sydney in March 1803, when the courts-martial were behaving as already described. On board, Captain Colnett (senior officer to the Governor in the navy) had two lieutenants and the commanding officer of marines under arrest on his arrival. There were some quarrels on board at Sydney, where many of the convicts were allowed to remain to assist in unloading and reloading the ship. A soldier, the son of Sergeant Whittle of the New South Wales Corps, was struck by an officer of

the *Glatton*. Whittle threatened to cut off the ears of the officer who had struck his son. The officer complained to Colnett, who complained to King. The military and naval authorities could not agree as to an inquiry. A soldier could not be tried on board for words said on parade, and the insulted officer was not satisfied to let the sergeant be dealt with by his commanding officer. These things were reported to England as an insult to the dignity of the commander of the *Glatton*, but his indignation and reports were due to a very different matter, which deserves mention, as an instance of the duties in performing which a Governor made enemies on land and sea.

Before Captain Colnett left England he interested himself to obtain remission of sentence for a female convict placed on board the *Glatton*. He was informed that it was too late to do anything in England, but that the Governor would be written to, "to remit part or all of the sentence of this female convict on whose behalf you have interested yourself, when she has remained at New South Wales twelve months. . . . If you like you may show him this letter." In effect the Governor received a letter from a subordinate at Whitehall, hoping that he would do what he could, "consistently with your duty, without being biased or swayed by any personal motive." After the *Glatton*²² had been some weeks in Sydney, Colnett wrote to King. He had been

"sensible ever since my arrival of your politeness and inclination to comply with any request of mine." . . . "I am sure you will pardon me by petitioning you to grant her (M.S.) emancipation and permission to return in the *Glatton*. I am not so ignorant of the favour I solicit as not to remember it with the warmest friendship; if necessary to be kept a secret, you may rely I will not divulge it till we quit the Cove."

King told him verbally that he could not grant a free pardon to a convict who had never landed; and that Governor Hunter had been rebuked for granting a conditional pardon on the arrival of a convict. Colnett urged that he had promised "that she should return in the

²² Captain Colnett had requested that "100 men and a number of women convicts" might remain on board the *Glatton* while in Sydney. They remained "until three days before her departure."—Despatch, King to Lord Hobart, 16th May 1803.

Glatton." "All difficulties would be obviated . . . you granting her

"conditional emancipation to return to England on my finding bond; if it is not approved, I will return her *again to the colony at my own expense*. I think this is a duty I owe for the secret services she rendered me relating to the convicts, &c., during the passage. Should she return I will take care that she does not go back to her friends till your release is backed and approved."

King replied (17th April) that he could lawfully

"alter a sentence, but as I candidly explained to you two days ago, granting a free pardon to a person who had not been resident here twelve months is what I dare not do, without subjecting myself to ruin and my family to distress, by acting contrary to positive instructions. . . . If you will write me officially that she has brought forward any conspiracies, &c., on the voyage I will give her a conditional emancipation on landing, or give her a conditional emancipation on the 4th June (the King's birthday) if she behaves well."

Colnett would not risk making an official declaration of such a nature, and went away in a rage, threatening to represent to the Admiralty²³ the ill-treatment he had

²³ He kept his word. He preferred complaints against the port regulations; the police; the pilot establishment; the public buildings; the Governor's "predominant passion for governing" and unfriendly demeanour (though he admitted that King gave him "frequent invitations to his house"); the mud in the streets, and want of a horse; the want of fresh meat; the difficulty of watering his ship; the bad wharves; the ill-placed powder magazine; the fact that none but the Governor and his "confidential secretary could possibly smuggle with impunity;" that King "made a catspaw of me and deceived the garrison" (in landing spirits from the *Castle of Good Hope* at Colnett's request); that King's conduct was "very irregular and disrespectful to (Colnett) his superior officer;" that there was a probability that a man-of-war might be "run away with (by convicts) if not a better look-out be kept;" that King showed "a strange partiality to the French (under Baudin) by suffering them to purchase spirits at a very low price from Americans when the officers and inhabitants could not procure any;" that King's suspicion that the French desired to form a settlement in Australia was erroneous, because in Colnett's opinion "if they form any it will be in New Zealand;" that King refused the only favour Colnett ever asked, viz., to grant a "conditional emancipation to a young woman of decent parents and connection that came out in the ship, and had been transported for stealing forty shillings, her first crime;" that King broke his promise that she should have a free pardon to go back in the *Glatton* (a promise which the correspondence of Colnett and King shows was never made); that all Colnett could "urge or advance answered no purpose" on her behalf, in spite of the "recommendation from the Secretary of State's office," but all he could ever obtain was her emancipation on the 4th June, in which Colnett "placed no faith;" that King, by "commanding and abusing the vilest part of mankind had forgot all *decent conduct* for those beneath him and respect for his equals," &c.

received with regard to the complaints of his officer. Official relations were continued with apparent concord. His officers sat on boards with those of the colony in naval affairs. At King's request he allowed two of them to remain in the colony to assist in forming a new settlement. He carried Flinders' charts to the Admiralty for King, who said it was "the first safe opportunity" he had had. But on the day of his leaving, Colnett's wrath was great at the loss of his *Briseis*, for he wrote to King that by the Admiralty he "always had the honour of being treated like a captain of one of His Majesty's ships, and not as a master of a petty coaster."²⁴ It was on the report of such a man²⁵ that Lord Hobart founded his unjust rebuke.

King kept unfaltering on his way. In Dec. 1804 he called Lord Hobart's attention to the appearance, in a list of pardons, of a free pardon to a female convict sentenced for life. It was

"given in conformity to my promise to the commander of H.M.S. *Glatton*, after her being here one year, and nothing but a respect for my word induced me to extend that indulgence to the object benefited by it. Had I, my Lord, abused the authority delegated to His Majesty's Governor of this territory by granting Captain Colnett a free pardon for this woman before she landed, for the purpose of returning to England with him, and had acquiesced in other requisitions equally, if not more, extravagant and opposite to the dictates of my bounden duty, your Lordship and the Lords Commissioners of the Admiralty would not have been troubled with any communication from Captain Colnett respecting his unprovoked and provoking conduct."

Chance has thrown in the author's way a bound copy of Colnett's MS. statements, which, without knowledge of his official correspondence in the colony, would form a heavy indictment against the Governor. By the light of that correspondence the charges only prove King's difficulties and his resolution.

²⁴ MS. original; in possession of P. G. King, Esq., Banksia, Double Bay, Sydney. Governor Macquarie gave the woman a free pardon in 1810.

²⁵ There was another cause of umbrage between King and Colnett. The former, in order to secure "full advantage to the inhabitants and His Majesty's subjects in general," was unwilling to grant lands on the islands where fishing was pursued. Colnett applied for and was refused a grant of 100 acres at King's Island. This refusal, King stated, "was one cause of his unofficer-like treatment to me."—Despatch to Lord Hobart, 20th Dec. 1804.

Captain Colnett, when leaving, wished to obtain receipts in full for the convicts transported by the *Glatton*. There were three, two men and one woman, unaccounted for. King gave a certificate acknowledging the numbers landed, with the addition that he had "received information" that the missing three were "stowed away in the *Glatton* without the knowledge of the captain or officers of the ship."—Despatch, 16th May, 1803.

Repeatedly the Governor pressed upon Lord Hobart the urgent need of remodelling the Courts of Judicature. Lord Hobart vaguely lauded the Governor's views, but did nothing to give them effect. In August 1803 King devoted what he labelled as a "Separate, Judge's Letter" to the subject.

The Civil Court was composed of the Judge-Advocate and two persons chosen by lot from the officers, civil and military, and respectable free men. In practice it had consisted of the Judge-Advocate, a military officer, and a civilian or the naval officer. King said it was obvious that, "however a sense of equity may be implanted in every man's breast, . . . there is very little probability of a soldier, sailor, or surgeon having ever made the law so much their study as to be equal to judge entirely for themselves in giving a verdict without the advice of the Judge-Advocate. This would be attended with no great evil if the Judge-Advocate (Atkins) had a competent knowledge of the law, and it had made a part of his education, which would give greater confidence to the parties, the members, and the Governor, in cases of appeal." The Governor

"either as a soldier or sailor (I speak for myself), cannot be supposed to have made the law his study, and must consequently need that information and advice which could only be given by a person who has made that profession some part of his study, and has no occasion to tumble over volume after volume (and perhaps in doubt at last) for what ought to require but little examination."

From Atkins and his colleagues "there has scarce been a cause without an appeal, which takes up too much of the Governor's time." He trusted he had "in no instance departed from the dictates of equity between man and man, although I certainly might have derived much benefit from the advice of a professional man as Judge-Advocate." He adverted to the characters of Crossley, the convict attorney, and of another convict attorney, whom Governor Hunter had conditionally pardoned on his arrival, and made clerk to the Judge-Advocate. The man committed so palpable a perjury in the Appeal Court, that King, as Judge,

"ordered him to be transported to Norfolk Island, but on the solicitation of the Judge-Advocate and others I deferred it. He still remains an indispensable assistant to that officer; but your Lordship will readily perceive the impropriety of the only law officer in the colony having so bad a character as an assistant. Perhaps such assistance would not be necessary for a professional man."

The constitution of the Criminal Court needed revision.

“To propose a promiscuous, or indeed a restricted, selection of jurymen from among the present inhabitants, exclusive of officers, does not appear at all advisable, although I have no doubt that in twenty or thirty²⁹ years that extension of English jurisprudence must be necessarily carried that far. . . . At present a Criminal Court consists of the Judge-Advocate and six officers of His Majesty’s sea or land forces, who act both as judge and jury, most certainly the wisest mode for administering justice in the very infant state of the colony. But as it has increased in numbers and jarring interests have (as in every other part of the world) shown the necessity of those trials being composed of different orders, I humbly presume it would be advisable, instead of the Judge-Advocate and six officers of His Majesty’s sea or land forces, to introduce into the patent the Judge-Advocate and six members to be composed from among the officers of His Majesty’s sea and land forces, officers of the civil department, or respectable merchants, or other inhabitants who came to the colony free. . . . As our Criminal Courts, that are to decide on the life of His Majesty’s subjects, are at present composed entirely of one description of persons, it certainly will be more satisfactory to the inhabitants and colony at large to see every advance towards complete Trial by Jury. The arrangement I have the honour to propose would be gratefully received, and I humbly conceive that the knowledge and abilities of a professional man will be thought as necessary for the president of the Criminal Court, which has to decide on the life of the subject, as for the same person who, in the Civil Court, has to decide on his property.”

To prove the necessity of having a professional president, and some admixture in the composition of the court, he cited a recent case, in which an assistant-surgeon applied for a court-martial upon the principal surgeon for assault. King declined to grant it, alleging that the matter might be tried in the ordinary court as an offence against statute. The complainant brought his case into a Criminal Court composed of officers of the New South Wales Corps. The prosecutor’s witness proved that the prosecutor was the aggressor. The defendant proved that he acted in self-defence. The court acquitted the defendant, and without any reason assigned sentenced him to find security to keep the peace for three years, or be committed to gaol.

“So extraordinary a sentence being attached to a committal, where the accused ought to have been the prosecutor, would have been sufficient grounds for me to have extended the powers delegated to me by exonerating Mr. Jamison, which I did not choose to do.” . . . “But it has operated with me as a very sufficient reason for thus respectfully suggesting the necessity of a professional man being placed here as Judge-

²⁹ Singularly enough the Act 4 Geo. IV. cap. 96 providing that, on the application of plaintiff and defendant, cases should be tried by jury, was passed twenty years after this written anticipation.—Proviso to § 6.

Advocate, and the members of the Criminal Court being composed of other descriptions than the military officers. . . . I most humbly submit the whole matter to your Lordship's consideration as being much connected with the prosperity of His Majesty's subjects in this territory, which they as well as myself are well convinced your Lordship has much at heart."

The appeal to Lord Hobart was unsuccessful; and Lord Camden, who (17th May 1804) announced that he had been entrusted "with the seals of the Colonial Department," like Lord Hobart, did nothing to improve the Courts in New South Wales. Unlike Lord Hobart, however, he did not find an undeserved rebuke upon the statements of such men as Captain Colnett, whose grievance was that King had done his duty. Lord Castlereagh, his successor, was as complimentary as Lord Camden, but neither of them was alive to the importance of improving the Colonial Courts.

After dwelling upon the dissensions of the soldiery and the Governor, it is desirable to turn to a subject with regard to which a common loyalty, and perhaps a common danger, united them as one man. Collins, in his history, notices that the Irish prisoners caused peculiar troubles. Their tempers caused them to combine, not only as prisoners under constraint, but as conspirators banded against government by Saxons. Many of the disturbers known in Ireland as Defenders²⁷ were sent to New South Wales in 1794. Between two and three hundred Irish prisoners were poured into the colony after the rising in Ireland in 1798, and nearly five hundred were in the settlement in 1800.

One of the first despatches written by King (Sept. 1800) told that Hunter had encountered a troublesome spirit amongst them. One Harold, an illiterate Roman Catholic priest, a convict, was suspected of fomenting it. Pardons were offered by Hunter "to those who had been deluded," but "none took advantage" of the offer. Hunter, after obtaining evidence before a committee of civil and military officers, with the assistance of King as Lt.-Governor, determined to embody an Armed Association to assist the military in case of need. In order to govern by dividing, the suspected ringleaders were sent to Norfolk Island. King secured the barracks in Sydney against surprise, and wrote:—"I have the fullest confidence in the loyalty and

²⁷ The paradoxical weapons of "defence" in Ireland were night-robberies, arson, and murder.

zeal of His Majesty's officers, soldiers, and the greater part of the inhabitants;" but he begged that "the officers now going home with Governor Hunter may be ordered to rejoin as soon as possible," as it might be necessary still more to divide the seditious by forming a new settlement at Port Stephens, or elsewhere, and the scant number of officers would need to be enlarged. Hunter shrank from some of the vigorous measures advocated by King. While Governor, he urged upon the latter that the "best mode of preventing insurrection is by vigilance." He augured ill from the imprisonment of the suspected. It might "rouse the ignorant to violence." He consented to the enrolment of the Volunteer Association, but even after he had embarked upon the *Buffalo* he expressed his doubts²⁸ "of the infernal plots with which those people have been charged."

Captain Macarthur, disgusted as he was with the new order established by King, loyally supported him even while proffering his property to the government so that he might shake the dust of the colony from his feet. He was still in trust at Parramatta, and wrote to King (28th Sept. 1800) at 2 a.m. that he had his company under arms, had arrested some prisoners, "and I have yet some hopes that an attempt will be made before morning to rescue them; if there should, I am confident that I shall be able to give you a very good account of them in the morning." Later in the day he wrote:—"I am sorry that the Irishmen could not be prevailed upon to show themselves either last night or this morning, but notwithstanding this disappointment, I have hopes that there will be sufficient evidence obtained to convict a number of them." In this rebellion the Rev. Mr. "Marsden was to be cut off at the first;" but he energetically aided King in his measures. Father Harold,²⁹ imprisoned by order of a committee appointed by Hunter

²⁸ MS. letter of Hunter to King, 4th Oct. 1800.

²⁹ In a MS. petition from Harold, to be allowed "to have recourse to the ministry of a priest," in 1805, there are the words "imagin," "Priviledge," "paralel." He tenders his service without emolument: "That your benevolent views may be extended to the Catholicks of this island, who join all the other inhabitants in sentiments of highest esteem and tenderest affection for your Excellency." King failed to appreciate an affection which broke out so often in rebellion, and he endorsed the petition thus:—"Petition of *James Harold*. *No answer*. Seditious"—and it was found in recent years with other papers similarly indorsed.

(although the imprisonment displeased Hunter), volunteered to collect pikes for the government, but broke down in his attempt. The Judge-Advocate, Richard Dore, reporting that, no overt act of rebellion being capable of proof, the prisoners could not be capitally tried; they were punished summarily. Marsden's MS. note to the Governor from Parramatta stated:—"The prisoners have received their punishment, as much as they could bear. . . . They shall be sent down as soon as the doctor thinks it safe for them to be removed." King issued in Oct. a proclamation calling on all loyal subjects to aid in repressing the conspiracy for the destruction of the king's government, and regretting that it was necessary to inflict severe corporal "punishment upon the principals and accomplices in the horrid crime." Two months later other plots were laid, and King (Dec. 1800) sent a detachment from Sydney to assist Macarthur. He longed to bring the insurgents to open arbitrament.

"If it comes within your directions or observation, my desire is that the supposed insurgents may be permitted to come to some point. If you are possessed of the orders I gave you on a former occasion they will suffice on this. If not, I have such dependence on your prudence that I am assured you will act and do for the best."

Macarthur's reply indicated one of the difficulties of a command in the New South Wales Corps.

"It may not be improper to observe that this being the day on which my company receive their month's pay, many of them will most probably be drunk to-morrow unless I take some particular measures to prevent it, and to do so would most probably create an alarm that might soon reach the ears of those turbulent wretches who create so much trouble."

Macarthur subsequently (25th Dec. 1800) reports his "great pleasure in saying that the company doing duty here were perfectly sober, with only three exceptions."

Regulations were at once made to guard against surprise.

On the 31st Dec. King thought it a duty to the loyal to "assure the turbulent and ill-disposed that none of their despicable plans, or daring anonymous writings (similar to that forwarded to him previous to the execution of the pirates³⁰), will ever bias or slacken his exertions in detecting

³⁰ Fifteen convicts seized a vessel. They clumsily ran her on shore. They seized another at the Hunter River. King captured the vessel with nine runaways on board. Seven were transported for life, and two were executed as pirates.

and bringing to condign punishment every vicious and idle character." He pointed out the advantages of good conduct, which ought to "create confidence, and prevent future ridiculous plans, which are contrived by artful villains to deprive the industrious of their comforts." He would adopt measures "to insure that tranquillity which must not, and shall not, be interrupted with impunity."

Early in 1801 Margarot's private journal teemed with seditious entries. Rumours of a decisive defeat of the English in Ireland, and of revolution in England, were industriously spread to show the hopelessness of supporting the Governor in New South Wales. On the 14th Feb. it was noted of King—"Tout le jour il se comporta en enragé." On the 4th was deplored the failure of an attempt by an American captain to carry off some Irishmen who, seeking "a échapper ont été pris, ramenés, mis en prison, et aux fers!!!"

On the 9th March Margarot wrote—"Le Gouverneur s'enferma pour écrire." What the Governor then wrote is perhaps to be seen in an extant despatch of the 10th March. It dealt with many subjects. The drawing of bills; the growth of the vine; the complaint of the Indian Government that, during Hunter's time, many convicts had escaped to India; the importation of spirits, and measures to repress it; a census; floods at the Hawkesbury; the crops; the supply of food, and of clothing; the purchase of a house as a home for orphans; recovery of old debts due to the Crown; the obtaining of coals from the Hunter river; the capture of runaway convicts who, after seizing a Government vessel, which they ran ashore, were captured in a private vessel which they stole; the want of another clergyman; the death of Judge-Advocate Dore, and the need of a successor to him; Major Foveaux's excellent efforts to maintain order at Norfolk Island, where the Irish convicts had been seditious—formed the staple of the despatch. Some allusions to the Irish would have enraged the conspirator.

The *Ann* arrived from Ireland with one hundred and thirty-seven male and twenty female convicts in Feb. 1801. The whole of the convicts were of the "most desperate character." Before reaching the Brazils they

endeavoured to capture the vessel. They seized the master, who was only rescued after some firing. On quelling the convicts the master and officers "found it necessary to hang one of the principal ringleaders." They were tried in Sydney by the Vice-Admiralty Court, and honourably acquitted for the shooting and hanging. Lord Hobart also ruled (30th Jan. 1802) that they were "clearly justified" in what they had done in suppressing the mutiny.

Irish sedition at Norfolk Island had been serious, and was repressed by Foveaux in Jan. 1801. Being warned of it he seized thirty concealed pikes.

"Not feeling justified in taking the law entirely into my own hands," Foveaux wrote, ". . . after considering that a similar plot has lately been in meditation at Port Jackson . . . in short, that the salvation of the colony would in a great measure depend upon the steps taken, . . . I convened the officers both civil and military . . . they were unanimously of opinion that an immediate example of capital punishment should be made of Peter M'Lean and John Wollaghan, which was accordingly done on the same evening. I have had very strong information against four soldiers, whom I have consequently discharged, and have no doubt but some of them would be hanged was the Judge-Advocate acquainted with the late Acts of Parliament relating to such persons. I have promised to intercede with your Excellency in favour of H. G. (the informer) to get him his free pardon. . . . I have no doubt from the secret manner in which matters were conducted that had it not been for him we should all have been sacrificed at their pleasure."

One soldier received 500 lashes and was drummed out of the regiment for striking a sergeant in connection with the matter. Twenty-two convicts were severely punished.

On the 10th March, King commended Foveaux's meritorious conduct to the Secretary of State, and Lord Hobart expressed his "perfect approbation of the promptitude and vigour displayed in suppressing the dangerous insurrection."

But Foveaux encountered unexpected opposition. Colonel Paterson called him to account (through King) for dealing with soldiers "without any form of trial." King advised Foveaux to transmit the written opinions of the officers he had consulted. He sent also a free pardon for one convict, and a conditional pardon for another (subsequently changed at Foveaux's request for a free one). Foveaux told King privately that he did not think any one but Colonel Paterson would have asked what authority he had for what *he had done*.

Officially he sent the opinions of the officers, and a deposition of the informer. He said :—

“ In this remote part of the world, where we are not even acquainted with the laws of our country, it is, I conceive, the duty of an honest man to secure life and property, to enforce order and obedience, and to protect the innocent from the base and wicked designs of dangerous and disaffected villains. Such has been my endeavour during my command here.”

The officers who advised the execution of the culprits were T. Hobbins, Judge-Advocate; T. Davies and W. Pattullo, lieutenants; J. Brabyn and N. Bayley, ensigns; and J. Mileham, a surgeon. Hobbins added this rider to their general statement :—

“ Be it remembered that the Judge-Advocate, or any other person on this island . . . is not in possession of or ever has been supplied with any of the late Acts of Parliament relating to high treason, sedition, unlawful assemblies, the administering of illegal oaths, &c., and therefore the speedy trial of the offenders is impracticable.”

Foveaux sent through King a long defence of his conduct. King commended and Lord Hobart highly approved of it. In his despatch, written while Margarot was watching his movements, King reported that “ a second attempt still more diabolical than the first” had been discovered in New South Wales. The circumstances were clear

“ to every one’s conviction, yet no two evidences could be brought against a third person, such is the art with which they carry on their plans. Though everything was ready for general insurrection and massacre, yet as no overt act had taken place I did not conceive myself justifiable in adopting more rigorous measures, which I conceive our situation might have excused, than some severe corporal punishment on the most guilty, and forming them into a gang in constructing batteries and repairing roads under the immediate eye and inspection of the military.”

He added that the desperadoes brought by the *Ann*, including a notorious and rebellious priest, had raised the numbers of rebels to 600, “ thirsting to put their diabolical plans into execution.” “ I do not wish in the most distant manner

“ to impress your Grace that I am alarmed, or that I have any idea of their plans succeeding. The steady behaviour of the officers and men of His Majesty’s New South Wales Corps, the discipline and good behaviour of the Associations and the greater part of the English inhabitants, are so many sureties to me of peace and tranquillity to the island. Still, the state of suspicion we must be necessarily in possession of, and the exertions in cultivation which would otherwise take place.”

He suggested that it might be well to send

“no more violent republican characters for some time, and particularly the priests, of whom we have now three. . . . With our present numbers I see no ground for alarm, and I shall do my utmost to preserve that peace and good order so necessary for the prosperity and even well-being of this colony.”

Margarot would have derived no satisfaction from knowing how confidently King looked upon the situation. He consoled himself in May by recording that a vessel had brought “nouvelle que les Russes ont exterminés la marine Anglaise.” This joy was again dashed by remarks in June that King proclaimed with “grande jouissance Union avec Irlande,” and that in July, “Semper idem King revint de Parramatta.”³¹

More conspiracies were formed in 1802. King subsequently represented to Lord Hobart (9th May, 1803) the strain put upon the local government by the continual infusion of Irish convicts.

“The list of fourteen men condemned lately to die was caused by one of those unhappy events that happen more or less on the importation of each cargo of Irish convicts. The excesses those people committed during the short time they were at large is an earnest of what their conduct would be if not closely watched. Your Lordship will observe that only two were executed, and the rest pardoned. These wild schemes are generally renewed by this description as often as a ship from Ireland arrives, and when checked nothing more is heard about it till the next arrival. It is the people who arrive by the last ships who make similar attempts, and not those who have been here any time.”

The Governor's plans for enrolling volunteers were approved in England: “Continue (Jan. 1802) by every means within your power to encourage the Armed Associations, in which it is the indispensable duty and obviously the best security of every respectable inhabitant to enrol himself.”³²

³¹ Margarot, who was agent in Scotland for an English Revolutionary Society, wrote in his Sydney Journal:—“At Pennycuik there are 174 men for a reform and four against it, viz., the parson, the precentor, the exciseman, and the schoolmaster.”

³² King kept the mechanism of the Associations available, but did not distract the settlers by calling them from their avocations in a body. In Feb. 1803 a Public Order declared that his “unbounded confidence in the loyalty and activity” of the New South Wales Corps prevented his enrolling the Associations otherwise than by “appointing their officers.” In Dec. 1803, however, on the resumption of war in Europe, “counting on the zeal and loyalty of all His Majesty's subjects . . . as well as on

Mr. Marsden was doomed to a cruel death, in a contemplated outbreak in 1802; but that vigilant gentleman caused one Corporal Cregmore to conceal himself under a bed in the house of a conspirator, and there the plotters were overheard. A report was sent to the Governor to the effect that there had been "manifestly an intention to overturn His Majesty's Government in this territory, to sacrifice the lives of many of His Majesty's subjects and generally to disturb the peace and tranquillity of the country; and we are further of opinion that some vigorous and effective measures should be speedily adopted for the purpose of preventing similar attempts.—W. PATERSON, RICHARD ATKINS, SAMUEL MARSDEN, J. HARRIS, JAMES THOMSON, WILLIAM COX. 28th March, 1802."

In April 1802 there was a general search for arms. Only one musket was to be left to each settler. Officers' houses were not searched, but lists of all arms in them and in the barracks were required. Fragments of the Seditious Meetings Act, 36 Geo. III., had reached the hands of the Governor. He "reminded the inhabitants of its provisions." No meetings of more than twelve persons could be held. "By 36 Geo. III. cap. 8, if twelve or more persons (two in this colony) who may have assembled contrary to this Act shall continue together one hour (in this colony half-an-hour) after having been required by a magistrate to disperse (or in this colony any person of the description of a free man), they shall suffer death." Unlawful oaths and engagements, tampering with any person in His Majesty's service, were dealt with. Seditious speakers were to be exemplarily punished. A hearer of seditious words, not informing, was to be punished as an accomplice. A house in which a seditious "meeting may take place will be erased to the ground."

the forward disposition of every Briton and Irishman to defend their families and properties against any invader's mistaken attention to this colony, and to guard against the first effects of any unexpected attack," he, as Governor, required "all free men, inhabitants of the towns of Sydney, Parramatta, and Greenhills neighbourhood . . . to give in their names to His Honour the Lt.-Governor during the ensuing week, in order that I may be enabled to make a selection of the number required" for the Loyal Association. This order preceded by only three months the rebellion of 1804.

Two "deluded people" were by the same proclamation—they having been "detected in seditious conversation tending to the destruction of government order and humanity"—ordered to receive 500 lashes each, in equal proportions, at Sydney, Parramatta, and Toongabbe, and to be confined in the gaol gang during the remainder of their term of transportation.

In May 1802 there were further attempts. A court reported—

"that as no overt act has been committed Ed. Dougherty cannot suffer death, but we consider it necessary that the most exemplary punishment should be inflicted on him. Therefore, agreeable to your proclamation bearing date 2nd April 1802, it is expressed that whosoever in this colony shall not discover any unlawful combination or illegal act done or to be done shall receive 1000 lashes. We consider the crime of Edward Dougherty coming within the said order, do therefore sentence him to receive 1000 lashes, and, in order to deter others from similar offences, that he be further transported for five years and kept in heavy irons in the jail gang."

Three days after this sentence Margarot wrote—"on mit trois les Irlandais aux fers—douloureux."

One witness deposed that the Irish conspirators had arranged to place their English allies "in front, and in such a situation they would be compelled to fight or be put to death by those behind them." King told Foveaux at Norfolk Island that he was sorry to send him some of the Irish who had been plotting. He would not have sent them but that "we are in daily expectation of 300 of the same description."

Meantime he gave conditional pardons to many of the Irish to encourage them in thrift and prudence. He told the Secretary of State (May 1802) that as he heard "more Irish convicts are coming here it may be necessary to re-embody the Association, if they are troublesome, which unfortunately is attended with the expense of their provisions." He had sent some of the Irish to Norfolk Island.

"I hope the others will find it their interest to be quiet; otherwise it will be absolutely necessary for me to proceed in a very summary manner to prevent worse consequences. . . . Although it is not my duty to press on your Grace the description of people to be sent here, yet I would humbly propose that as few as possible of those convicted of seditious and republican practices should be sent. Otherwise, in a very short time, this colony will be composed of few other characters, which must necessarily draw on anarchy and confusion, as nothing but the hand of authority keeps those we now have within the bounds of order."

At the same time he asked for copies of the Statutes at Large, "particularly the late Acts respecting Sedition and seditious meetings, of which we are much in want." One of the Scotch exiles, not honoured with notice on the Edinburgh monument, was a thorough revolutionist, though not of the mean type of Margarot. When King sailed from England in 1799 he took with him a person to teach and superintend a linen factory in the colony. The man was drowned at sea. Among the convicts was the Scotch enthusiast Mealmaker. He had been of sufficient importance to preside at some of the meetings of the Edinburgh Convention. Unlike Margarot, he was industrious, and King made him superintendent of the linen factory. But it was not likely that he would escape from the malign influence of Margarot, and Mealmaker was alleged to have been drawn into plots, which caused him to be shipped to Norfolk Island. He averred his innocence, and it is pleasing to know that he was soon released. Margarot wrote (April 1802) that "King, au poltron et fou, desarma tous les habitans (pour renforcer ses ennemis les officiers)," but added afterwards that King appeared "très rassuré en apparence," and ordered Margarot "me rendre a Parramatta." To try his patience, in July Margarot applied for leave to land 20 gallons of rum for his own use. The Governor took the paper and—"il le déchira sans mot dire."

Until 1802 it had not been definitely fixed that King should be appointed actual Governor. As Lt.-Governor he had superseded Hunter in 1800, and it was not until Jan. 1802 that Lord Hobart informed him that he had been made Governor.

There was a peculiar Irish difficulty in the colony. Irish prisoners had been sent there without information as to the nature of their sentences. King applied for it, and Lord Hobart sent him the following reply from Lord Hardwicke at Dublin: "Their sentences were mostly by courts-martial prior to the time when the proceedings of such courts were sanctioned by law, and in other instances the convictions were summary before magistrates, who exercised their powers under the Injunction Acts, and whose proceedings were in the disturbed state of the country not recorded." Some sent by one vessel "were

composed of rebels and deserters convicted by courts-martial previous to the law of 1799, and who were sent during the rebellion to the military department of New Geneva barracks, and embarked by the officer commanding there without any trace of such proceedings having been anywhere recorded." Those who most appreciate the manner in which designing intriguers in 1798 and 1848 deluded their Irish victims by forged tales, must admit the hardship of the servitude of a man who believed that his sentence had expired, and who yet was held in chains. The only local remedy was to enfranchise the well-behaved, and this was freely applied.

Plots of various kinds were rankling in 1803. The guard at Castle Hill required strengthening in consequence of "the daring behaviour of the convicts there." This was at the time when Dr. Harris (acting as Judge-Advocate at a court-martial) was put under arrest by the officers who sat with him; and when, on the conclusion of the Peace of Amiens, the New South Wales Corps, in common with others, was under orders to be reduced. Emboldened by reflecting on the small force at the disposal of the Governor, who was already taking steps to form settlements elsewhere, and thus diminish the guard at Sydney, the disaffected prosecuted their schemes.

A French gentleman, Chevalier de Clambe, had settled in New South Wales, where he received a grant of land. He was Knight of the Order of St. Louis, had been captain of a regiment at Pondicherry, and had afterwards served under Indian princes, before he took up his abode in the colony. His countrymen, under command of Captain Baudin, had shared his hospitality. Some of the Irish marked him for destruction. On 15th Feb. 1803, while he was absent, his house was attacked.³³ On the 17th the energetic Marsden informed the Governor of the capture of

³³ The Chevalier thus reported the outrage. "This evening before I came from Parramatta, many men did come at my house and did rob all my plate, cloth, linen, firearms and ammunition, coutelas, &c. &c.; and strue and threat with pistol on the breast my housekeeper. Some men in employment at Castle Hills' settlement are very much implicated in it, but I fear for it to secure them; so if you would be so kind to come yourself to-morrow mourning, I will not move noting, so that you shall see the *all by your one eyes.*"

two of the robbers after violent resistance. More were apprehended on the 19th. In August 1803 further conspiracies were detected, and it was ascertained that the Chevalier was doomed to death by the Irish at their intended outbreak.³⁴

The Governor endeavoured to win confidence. Acting on permission from the Secretary of State, he proclaimed (19th April 1803) that he had conditionally emancipated the Rev. Mr. Dixon, in order that he might exercise clerical functions amongst his co-religionists.

Mr. Dixon took the oaths of allegiance, abjuration, and declaration "prescribed by law," and was to be responsible to the magistrates in discouraging "seditious conversations that can anywise injure His Majesty's Government, or affect the tranquillity of the colony." The Governor notified that, in case of deviation from his regulations, it remained with him to suspend the religious assemblies and punish offenders. Mr. Dixon received a salary, and on the 1st March 1804 the Governor reported that a salutary effect had been produced. The "Regulations to be Observed by the Rev. Mr. Dixon" and his congregations were published (with his signature subscribed before magistrates). "The priest was to be responsible for the peaceable return of his congregation to their homes;" "and to the end that strict decorum may be observed, a certain number of the police will be stationed at and about the places appointed, during the service."

In Nov. 1803 tidings of the renewal of war between England and France reached the colony, and King (Dec.) re-embodied the Loyal Associations, calling on "all free men" to give their names in, so that he might be able "to make a selection of the numbers required." Volunteers to attend the batteries were separately enrolled,³⁵ and with Colonel Paterson's consent, Adjutant Minchin of the New South Wales Corps (who had served in the artillery), was appointed to train the new volunteers.

Captain Woodriff arrived at the end of the year in H.M.S. *Calcutta*, after leaving Collins at Port Phillip, and

³⁴ He did not suffer the death intended. In June 1804, at an evening party at Government House, he dropped down and died.

³⁵ King to Lord Hobart, 1st March 1804.

was about to sail to England from Sydney when the rising so long prepared by the Irish prisoners burst forth.

There was no special suspicion, though the web of conspiracy had been widely spread. Holt, a leader in Ireland in 1798, was looked up to as the general who would ensure success. Two French prisoners of war, volunteering in England to teach how wine was made, had arrived in Sydney in 1800. They received salaries, guaranteed for three years; but one was found inefficient, and preferring a passage to England to a grant of land, had left in Dec. 1803. The other, François Duriault, was a conspirator in 1804. Lieut. Cummings, "sent from the New South Wales Corps" in 1800, but allowed to sell his commission, was an object of hope with the disaffected. He had been arrested on suspicion in 1802, but was released. Many hundreds were pledged, and the co-operation of hundreds more was expected with the first flush of success.

Secret as were the preparations, the ordinary vigilance of the authorities detected them. On the 3rd March Captain Abbott sent a preliminary warning to Sydney, to the effect that something was stirring. His informant was a man of "tolerably good character," and was indeed employed by himself as an overseer. On the 4th the magistrate, Mr. Arndell, wrote from the Hawkesbury:—"We are under strange alarms here by several mysterious informations about an intended insurrection." On the same day, Sunday, Captain Abbott and Mr. Marsden procured more precise information, and sent it to the Governor. A man who declined to join the conspiracy had seen a paper, fixing the 4th March for the rising, and the password "St. Peter." One Cunningham was an active leader. King received this information at midnight on the 4th March.

Margarot's French Journal says:—"A minuit l'on tira des canons—battit la generale—et King s'en fut a Parramatta avec un detachment de 100 soldats contre les Irlandais insurgens"—but Margarot was slightly in error. King started for Parramatta in hot haste, leaving Major Johnston to follow at half-past one a.m. with two officers, two sergeants, and fifty-two rank and file of the New South Wales corps. Emissaries were sent to collect the arms in the hands of the settlers, lest they should be seized by the

rebels. By mid-day on the 5th most of the weapons scattered between Sydney and Parramatta had been taken to Sydney. At Parramatta King proclaimed the districts of Parramatta, Castle Hill, Toongabbe, Prospect, Seven and Baulkham Hills,³⁶ Hawkesbury, and Nepean, to be in a state of rebellion, and established "martial law throughout those districts." All who might not assist in apprehending and giving up to a magistrate any one unprovided with a pass were "under pain of being tried by martial law." Every person in rebellious opposition not giving himself up within twenty-four hours "will be tried by court-martial, and suffer the sentence." "And if they or any of them give up the ringleaders to justice, it may be an effectual means of procuring them that amnesty which it is so much my wish to grant." Major Johnston's official report to his commanding officer was:—

" . . . By his Excy. Governor King's orders I proceeded immediately to Parramatta, where we arrived at the dawn of day. I halted at the barracks about twenty minutes to refresh my party (two officers, two sergeants, and fifty-two rank and file), and then marched to Government House; and agreeable to his Excellency's orders, divided my detachment, giving Lieut. Davies command of half, and taking Quartermaster Laycock and the other half with one trooper (Handlesack) and myself. Having the Governor's instructions to march in pursuit of the rebels—the Toongabbe Road—I proceeded that way, and directed Lieut. Davies to take the road towards Castle Hill. On my arrival at Toongabbe I was informed the rebels, in number about 400, were on the summit of the hill. I immediately detached a corporal with four privates and about six inhabitants armed with muskets to take them in flank, whilst I proceeded with the rest up the hill, when I found the rebels had marched on for the Hawkesbury, and after a pursuit of about ten miles I got a sight of them. I immediately rode forward, attended by the trooper and Mr. Dixon, the Roman Catholic priest, calling to them to halt; that I wished to speak to them. They desired that I would come into the middle of them, as their captains were there, which I refused, observing to them that I was within pistol shot, and that it was in their power to kill me, and that their captains must have very little spirit if they would not come forward to speak to me; upon which two persons (Cunningham and Johnston) advanced towards me as their leaders, to whom I represented the impropriety of their conduct, and advised them to surrender, and that I would mention them in as favourable terms as possible to the Governor. Cunningham replied that they would have death or liberty. Quartermaster Laycock with the detachment just then appearing in sight, I clapped

³⁶ In the printed proclamations first issued (some of which are extant) "the Hawkesbury and Nepean" are added in MS. by the hand of Governor King. There was evidently no time to waste in correcting the press.

my pistol to Johnston's head, whilst the trooper did the same to Cunningham, and drove them with their swords in their hands to the Quartermaster and the detachment, whom I ordered to advance and charge the main body of the rebels then formed in line; the detachment immediately commenced a well-directed fire, which was but weakly returned, for the rebel line being soon broken, they ran in all directions. We pursued them a considerable way, and have no doubt but that many of them fell. We have found twelve killed and six wounded, and have taken twenty-six prisoners. Any encomium I could pass on Quartermaster Laycock and the detachment I had the honour to command would fall short of what their merit entitles them to, and I trust their steady perseverance (after a fatiguing march of upwards of 45 miles) to restore order and tranquillity will make their services acceptable. Mr. Provost-marshal Smith, the inhabitants and constables who voluntarily accompanied the detachment, are equally entitled to my thanks; nor can I be neglectful of the very soldier-like conduct of the trooper who accompanied me."²⁷

Muskets, bayonets on poles, reaping-hooks, a pistol, and a pitchfork, were taken. The inhabitants who accompanied Major Johnston were as various as the captured weapons. A sheriff's officer, and a tailor, and many overseers, compose the list, with six settlers. To King, Johnston reported his success in discomfiting the rebels (whom he numbered as two hundred and fifty) on the field of action, and stated that his men "are excessively fatigued from the long march they have had; and as I understand another party of run-aways is expected from Castle Hill, I should think a reinforcement necessary to meet us to-morrow morning, as the present detachment will feel the fatigue more to-morrow than they even do at present."

King received this despatch at five p.m. on the 5th. On the 6th Major Johnston announced his intention to return to Parramatta on the 7th if all should be quiet,

"leaving eleven of the party who are unable to march. I have this moment returned after marching above 3 miles with the detachment, to fall in (as I was informed) with sixty of the rebels, but upon coming to the ground I found it was a false alarm. Upon my return to headquarters I found five more desperate fellows brought in, each having loaded muskets, with a quantity of ammunition; and I beg to assure your

²⁷ In a private letter of 12th April, Johnston mentioned that he himself had marched 28 miles before mounting his horse; that no one had anything "to drink but water (of which I believe about six gallons was my share) . . . it will show that our poor fellows do not want spirit, and I only wish we could have an opportunity of their showing it on the *Spanish Main*."

Excellency that I never saw more zeal and activity than what has been displayed by the officers and men of this detachment for destroying and securing the runaways. . . . Cunningham, one of the rebel chiefs, who was supposed to be dead on the field, was brought in here alive, and I immediately (with the opinion of the officers) ordered him to be hung up^{27 28}

Thus was a formidable insurrection stamped out by the promptitude of the Governor, and the energy of Johnston and his men, who marched in about nine hours a journey which he computed at forty-five miles. On the morning of the 5th March Johnston had left Sydney. On the 8th a court-martial was held at Parramatta. Captain Edward Abbott the president, Captain Kemp, Lieutenants Davies, Brabyn, Menzies, McCallam, and Quartermaster Laycock formed the court. Richard Atkins was the Deputy Judge-Advocate. Ten men were arraigned, most of whom pleaded that they "were forced to join the rebels." All were found guilty and sentenced to death. King approved the proceedings and sentence, and dissolved the court, and three of the prisoners were hung on the day of their trial at Parramatta. One of them was a freed man who declared that he had been forced to join the rebels. Three were hung at Castle Hill, and on the 10th two were hung at Sydney. Two were pardoned by King. Other culprits were sentenced to the lash, some "at the discretion of the magistrates, and according to the opinion of the surgeons, of the number of lashes they can bear without endangering their lives."

An Order of the 5th March appointed a captain of the Parramatta Loyal Association, and added:—"Every person seen out of their houses or habitations after sunset will be apprehended as rebels, and punished accordingly; and let

²⁸ Various erroneous accounts of this outbreak, of the number of troops, of the death of Cunningham, &c., having obtained credence and been quoted without hesitation, it is right to quote despatches of Major Johnston, as authorities which are unquestionable and decisive. In the official list furnished by King, Cunningham is included as "executed at Hawkesbury." He was hung on the staircase of the public store there, "which he boasted in his march that he would plunder."—*Sydney Gazette*, 11th March 1804.

Cunningham had been overseer of stonemasons at Castle Hill. Another man, executed at Parramatta, had been overseer of carpenters. One poor wretch was the only survivor of a party of Irish who endeavoured to walk to China. The *Sydney Gazette* on the 11th March dilated on the extreme lenity shown by the Government to "the majority of the deluded offenders."

whatever tumult or other circumstance happen, any person seen out after sunset will be fired at by the patrolling military and constables."

H.M.S. *Calcutta*, after leaving Colonel Collins at Port Phillip, had arrived in Sydney under Captain Woodriff. His aid was given in accord with dispositions made by King at midnight on the 4th March. Colonel Paterson wrote at two p.m. on the 5th to King:—

"We are all very anxious respecting the result of your Excellency's journey to Parramatta. I had hardly returned to the Parade when I found Captain Woodriff with about 150 men (seamen and marines). . . . Both Captain W. and myself thought it prudent to keep them, as well as the corps, under arms until daylight this morning, and should I not hear from your Excellency before dark I shall request Captain Woodriff to keep his men in readiness in case of alarm, and the whole of the corps will be ready to fall in at a moment's notice."

(The Colonel had called at the Governor's house and reported that Mrs. King and her daughter were well. He sent Mrs. Paterson's compliments to the Governor.)

On the 7th March King issued a notice calling in "the insurgents still wandering about," and threatening condign punishment to those who might not, before the evening of the 9th, "give themselves up to the settlements and masters they respectively belong to." On the 9th a General Order conveyed the Governor's thanks to all loyal subjects of His Majesty for what had been done.

To Colonel Paterson, to the Sydney Association, to Captain Abbott and his detachment, to the Association and the inhabitants of Parramatta, to Captain Woodriff and his officers, ship's company, and marines, and to Major Johnston, King, "with heartfelt pleasure," requested that Colonel Paterson would communicate his sentiments. Johnston and his detachment were thanked for their despatch

"in marching to Parramatta, and immediately after pressing their eager services to march in pursuit of the insurgents, their active perseverance and zeal, notwithstanding the fatigue they had undergone, in running after a body of 266 armed rebels upwards of seven miles from the place where certain information was received of them; the gallantry of Major Johnston's conduct with only one trooper, in detaining that body till his small force of twenty-five soldiers with Quartermaster Laycock and several of the volunteer inhabitants of Parramatta could overtake him, securing the two principal ringleaders, and the consequent rout of the rebel body after the opposition it made to the King's forces," &c.

The grim aspect of the time was brought home to men's minds by the conclusion of the Order. The New South Wales Corps was to attend under arms, "at the execution of the felons under sentence of death," at ten o'clock on the 10th March. General relief must have been felt when, on the 10th, martial law was revoked, and civil law was restored. Loyal addresses at once flowed in upon the Governor. Offers to take up arms had been promptly made by twenty-eight persons, most of whom "could take a confidential servant with them."³⁹

The rebellion was crushed by the first success of the troops. In various places runaways surrendered or were captured. Information was invited publicly in the *Gazette* to corroborate the dying confessions of two of the criminals executed. The threads of the conspiracy were followed up. In consequence of precise statements implicating him, the papers of Joseph Holt, who was the terror of the county of Wicklow in 1798, were seized on the 18th March. It is unnecessary to dwell at length on these proceedings.⁴⁰ The magistrates were of opinion that there was not sufficient evidence to convict Holt before a Criminal Court, but that his general conduct, with its influence on the Irish, as shown by the dying confessions of persons executed, made it advisable to remove him to a distance. He was sent to Norfolk Island, and thence to Hobart Town, but was allowed to rejoin his family within two years. He eventually became a successful farmer. In 1812 he sold

³⁹ The following petition was sent to the Governor from "the ironed prisoners in the gaol gang at Parramatta." "Your petitioners, emboldened by your unprecedented clemency and eminently distinguished philanthropy, which we, the deluded people distinguished by the name of Croppies, have happily distinguished at a time that our conduct was such as to render our lives forfeited both to law and justice, wherefore we thank Heaven that your Excellency's clemency prepended our evil infatigated offences of which we seriously repent . . . humanely vouchsafe to extricate your petitioners out of irons wether we who may be deemed objects of your humanity's compliance to our humble prayer, do solemnly promise before God and unto your Excellency that our future conduct shall be upright with loyalty and propriety."

⁴⁰ They are told at length in "Curiosities of Colonisation," a copy of which (London, 1874) is in the British Museum. A letter from Holt's wife to Governor King, therein contained, is well worth perusal. She prayed in moving terms for his release, and King thus indorsed her application:—"Mrs. Holt, respecting her husband. A request that public safety prevents being granted."

property to the amount of £2000 and returned to Ireland, but was dissatisfied with the treatment he encountered there, and was said to have bitterly repented having left New South Wales. He left *Memoirs*, which were edited and published in London in 1838 by Mr. T. C. Croker. They are curious, but not trustworthy, and have misled several writers.⁴¹

When Holt's papers were ordered to be seized he concealed or destroyed many of them, and some were torn into shreds when found. They contained proof that Margarot was in constant communication with one Brady, and the magistrate (who ordered the search at daylight) reported that "Holt appeared to be aware that Brady's letters were particularly sought after." A careful perusal of the whole case leads to the inference that though Holt's vanity made him proud of the importance ascribed to his name, he may have been guiltless as to the insurrection.

At this time there was no interference with Margarot, who, like his fellow-martyrs, lived at his ease. Later in the year, however, King received a confession from one Maum, an Irish prisoner then in durance at the Hunter river. He said that the French officers of the *Naturaliste* had sounded him, that he had supplied them in Latin with all information about the settlements, that they contemplated in case of a rupture the capture of Sydney by Napoleon's order, the enlistment of all the prisoners in the French service, and the giving of rank to such men as Maum himself. They "said there must be some knowing ones here, and particularly mentioned Governor King, who prevented"⁴² the

⁴¹ Two usually accurate writers have been deceived by Holt's account of the Irish rising in 1804. He stated that Laycock (not the trooper) rode up with Major Johnston to the rebel leaders, that Laycock with one blow killed Cunningham on the spot, and that Cunningham's dead body was brought in afterwards and hung up as an example. The official report in the text shows how widely Holt's statement wanders from the truth. He said he had his report from one of the insurgents.

⁴² The treatment of Sir H. B. Hayes was the cause of this statement; *vide* a General Order of the Governor's (17th May 1803) in these words:— "Henry Brown Hayes, a convict, having some time past applied to His Excellency the Governor for permission to hold a Freemasons' Lodge, preside thereat, and initiate new members, which permission His Excellency judged proper to forbid officially . . . notwithstanding which it appears from the magistrates' proceedings of yesterday that he, Henry Brown Hayes, in contempt of that injunction, was found with

Freemasons' meeting on board one of the French ships." They had lists of the officers and men of the New South Wales Corps, whom they thought too few for defence. Maum added that he was confident that Margarot, being remarkably intimate with Holt, knew the entire plan of the rising on the 4th March. Immediately King seized Margarot's papers. They were found to be full of lies and slander against his old comrades and against the government. The most significant danger was implied in the allegation that while the French officers in 1802 were receiving aid and comfort in Sydney they were tampering with the allegiance of the colony; and King's feelings were soon to be embittered by the reflection that Flinders was lingering in confinement at the Mauritius, whither King had entreated him not to go. Margarot was called upon to substantiate charges made in his papers against Commissary

several others assembled as Freemasons . . . His Excellency has judged it expedient to order the said Henry Brown Hayes to hard labour at the new settlement to be formed at Van Diemen's Land, and it is clearly to be understood by all and every of His Majesty's subjects resident or stationed in this colony that any similar meetings, without the express approbation of the Governor, will be punished to the utmost rigour of the law, and as the local circumstances of this colony and its inhabitants may require."

King had good grounds for suspicion as to secret meetings. When permission was asked he had forbidden Hayes to hold a Freemasons' Lodge. Surreptitiously, to evade the refusal, Colonel Paterson was asked to permit a meeting of a few friends at the house of a sergeant of the New South Wales Corps. The boatswain on board H.M.S. *Glatton* was one of the persons thus assembled, but he managed to escape to his ship. His name was Driscoll. King seized the others, but only punished Hayes. Exiled United Irishmen caballing with Margarot of the London Corresponding Society, and holding secret meetings on board French men-of-war, could not expect to escape the watchfulness complained of by the French.

On the 14th July 1805 it is notified that Henry Brown Hayes has escaped from justice, and all persons are required to apprehend him; "and any person secreting him will be prosecuted and punished with the utmost rigour of the law." In 1812 Hayes sailed for Ireland in the ship in which Joseph Holt sailed. After being wrecked at the Falkland Islands, they both reached their native land. Holt's "Memoirs" show that he was not on good terms with Hayes. Bligh meant to give Hayes a free pardon, and Macquarie carried Bligh's intention into effect.

Hayes was not interfered with by the law unless suspected of seditious practices. Between 1803, when his attendance at forbidden meetings was checked, and 1805, when he was proclaimed a runaway, he notified in the *Sydney Gazette* that a reward of ten pounds would be given to anyone prosecuting to conviction any offender cutting "ornamental trees of honeysuckle and she-oak" on his property at Vacluse.

Palmer, but was unable to do so, and was sent to Van Diemen's Land, where Sir H. B. Hayes was his companion.

At Hobart, Margarot attempted to deceive Governor Collins. "I am Governor King's prosecutor, and that he knows well: he sends me about in this manner that I may be drowned or lose my life, but I am a bit of good stuff." Collins treated Margarot with contempt, and sent the particulars to King. Some imputations against King were referred by him to the Judge-Advocate and the magistrates, who deemed it

"derogatory to the high office your Excellency holds to enter into any justification whatever on allegations coming from a man of Maurice Margarot's infamous conduct and principles; at the same time we think he has forfeited every pretension to the smallest indulgence. We beg leave to refer your Excellency to our opinions formerly given on Maurice Margarot's conduct. Maurice Margarot's behaviour of this day when before the Bench being so highly insolent and contemptuous, they beg leave to recommend to his Excellency that he should be put to hard labour."

The last recommendation was not enforced. King wrote to Collins that, as Margarot's "body cannot bear the punishment he has so often merited," he had sent him to Newcastle "to ruminate on his infamous conduct." King's letter (3rd Feb. 1806) to the commandant at Newcastle enjoined him to keep a watchful eye and prevent Margarot from having any correspondence with the soldiers. "Should he continue peaceable, you will of course let him remain so;" if his conduct should deserve punishment "you will cause it to be inflicted as far as twenty-five lashes, and work him at public labour the same as the other convicts."

Margarot eventually became free by servitude; returned to England; was (*proh! pudor!*) summoned as a witness before a committee of the House of Commons; falsely imputed his "persecution" in the colony to his refusal to sign a combination bond about buying and selling; was a begging-letter writer in 1813;⁴³ and, according to the 23rd

⁴³ From Hamilton Rowan he asked "the temporary assistance of £400. As a chrysalis warmed by the heat of a genial sun receives therefrom animation, so that assistance will afford new life, and without producing a butterfly, will nevertheless give me wings." Though Rowan had long abandoned the violent opinions (which he had shared with members of the British Convention whom he had seen in Edinburgh in 1793) he sent Margarot £100. Margarot replied: "That sum will enable me, if not to soar, at least to make my way in a more humble manner, somewhat like an ostrich."

vol. of "State Trials," "this worthless man died in 1815 while a subscription was raising for his relief." Those who have cited his evidence may charitably be presumed to have been ignorant of his character.

The French vigneron, François Duriault, was sent away in H.M.S. *Calcutta*. King kept his counsel so well that the editor of the *Sydney Gazette* (though it was subject to government control) was allowed to say that "Duriault, or Girault," against whom the Government had obtained "presumptive evidence," had escaped in the *Calcutta*. But on the 8th March King had applied to Captain Woodriff to give Duriault a passage on the ground that his conduct rendered it "absolutely necessary that he should leave the colony," and on the 12th, in a despatch to Lord Hobart, which Captain Woodriff carried, the same fact was reported to the Secretary of State. Duriault had certain relations with Holt. The latter averred that they were innocent, but the magistrates thought otherwise. To facilitate his communication with the Irish at the different gangs Duriault had acted as pedlar for some time before the insurrection.

On the 12th the Governor reported the suppression of the rebellion. He trusted that the temporary suspension of the civil law and the substitution of martial law would be approved. He was convinced that it had been the

"sole means of putting so decisive a stop to such a sudden and daring attempt. I deeply lament the necessity enforced on me by the existing circumstances of directing the execution of those who were selected from upwards of two hundred taken with arms in their hands. . . . This painful duty will, I trust, be considered an example of the utmost necessity, nor do I doubt of its having the most lasting good effects."

Two parties of rebels, of fifty men each, had lost their way, and could not find the rebel force. Had they found it King thought all the Irish of the Hawkesbury would have risen and caused much trouble, but he had "no doubt of its terminating as it has done." Johnston's activity and the general exertions had probably convinced the "deluded people of the absurdity of their having recourse to similar desperate expedients." At the same time, if great promptitude had not been used the rebels would probably have been strengthened by all the Irish in the colony, amounting to two thousand, or half the male population. However, nothing but the appearance of a foreign enemy would stix

up fresh attempts, so long pursued in Ireland, and which had now failed in the colony. He was about to form a post at the Hunter river, and send some of the most daring insurgents thither; others he would keep in separate gangs, working "with no other intermission than the time allowed for their meals and the Sabbath." The five troopers had been of infinite use, and were highly praised by Johnston. King asked permission to raise their number to thirty. He would increase it to ten in the meantime, appointing "English convicts of whose fidelity there can be no doubt," and ensuring its continuance by giving them conditional pardons.

The presence of H.M.S. *Calcutta* had been opportune. It enabled King to obtain from Captain Woodriff the services of Lieut. Menzies (Royal Marines) in establishing a post at the Hunter, whither thirty-four of the most unruly Irish were sent in March 1804, divided in three small vessels to guard against surprise on the voyage. Newcastle was fixed upon as the name of the new settlement by King, and the containing county was called Northumberland.

Again the Governor urged that two artillery officers and three non-commissioned officers should be sent to the colony. He could find well-behaved convicts to work under them. Then, with the active, loyal, and zealous New South Wales Corps, the Associations, and the free settlers, it might be trusted that a foreign enemy could be repelled and internal disorder prevented. Soon afterwards the Governor wrote that he had been compelled to stop the salary of the "Romish priest Dixon for very improper conduct, and to prevent the seditious meetings which took place in consequence of the indulgence and protection he received." The desperate characters at Newcastle were not slow to concoct a plan to assassinate Lieut. Menzies and the guard, but Menzies discovered it, and the ringleaders received "severe corporal punishment." "Two of the worst" were sent back by King's order to Sydney, "double-ironed and handcuffed," in June 1804. The Armed Association at Sydney was increased to fifty; that at Parramatta to forty men. "A citadel" in Sydney was commenced without delay.

A deserter from the *Calcutta* being found "to have been

active in the insurrection," was apprehended and put on board a private ship, the master being directed "to put him on board the first of His Majesty's ships he may fall in with, as a deserter to be disposed of as their Lordships may see fit." A year after the insurrection King reported that all proper means had been taken to discover any attempt at sedition, and that all was quiet. There were some "perturbators" in the colony, as elsewhere, but he moved them occasionally from one place to another. "There is no present cause for apprehension, and indeed the trial I have had of the military and well-affected, places me at perfect ease on that point, and when the citadel is finished there will be little or no cause to harbour suspicion of those within, or to be alarmed at the approach of external foes." In 1805, in a ship which carried more Irish convicts, five persons were allowed to go on their own promise—banishing themselves to New South Wales in order to avoid trial. A letter about them was sent to the Governor, who regretted that they "had been sent without convictions" to a community abounding in rebels requiring leaders of ability.

It has been necessary to dwell at some length upon the magnitude of the dangers arising from the Irish insurrection in 1804, inasmuch as they have hitherto been unrecorded or under-rated. Their importance was increased by rumours of the designs of the French, who, under the guidance of Napoleon, were supposed to covet territory in Australia. After Cook's voyage in 1770 the Frenchman Marion du Fresne with two ships proceeded to Tasmania, but his principal achievement seems to have been firing upon the savages. Following the same tactics in New Zealand he was killed there. La Perouse's stay at Botany Bay in 1788 was his last reported act,⁴⁴ and in 1792 the French Admiral D'Entrecasteaux with two ships was searching for him. D'Entrecasteaux spent much time on the coast of Tasmania, and named several places. In 1800 the French Republic fitted out two ships, the *Geographe* and the *Naturaliste*, obtaining passports (from the English Govern-

⁴⁴ About forty years afterwards it was discovered that his ships, the *Boussole* and the *Astrolabe*, were wrecked at the island of Manicolo, and all the navigators perished in the wreck or were afterwards killed.

ment) recommending Captain Baudin to the favourable hospitalities of British establishments. As early as in 1810 an article in the *Edinburgh Review* pointed out that science was merely a pretext, and that the real motive was to spy the state of English possessions, obtain "foothold for the French, and rear the standard of Bonaparte, then First Consul, on the first convenient spot." Governor King's suspicions were aroused. It was the burden of several of his despatches that foreigners should be debarred from settling in Australia. He excluded them from fishing within the territories and straits included in his government, and the historian of the French expedition under Baudin complained bitterly of the exclusion as grasping and unjust to the Americans and others. At the same time he stated that the hospitality extended to the French discoverer was bounded only by the means of the Governor and of the colony.

Having thus glanced at the special difficulty created by the French, it is well to turn to the discoveries made during King's term of office.

At the beginning of 1800 the English Government sent out for service in the colony the brig *Lady Nelson*, under command of Lieut. Grant. She was of sixty tons burden, and was originally built for the Transport Department; but, by the Duke of Portland's direction, was sent out to explore and survey the coast of New Holland under the Governor's orders. After Grant had sailed, the Duke of Portland, finding that Bass's Strait had been discovered, sent instructions to the Cape of Good Hope, ordering Grant to sail through the straits. Grant sighted Australia on the 3rd Dec. 1800, named Cape Northumberland, Mount Gambier, Cape Bridgewater, Cape Nelson, Portland Bay, Cape Albany Otway (after Captain Otway, R.N., Commissioner of the Transport Board), and passing at night from Cape Otway to Cape Liptrap, missed the opportunity of exploring Port Phillip, though he described the coast as trending northward from Cape Otway, and called the indentation Governor King's Bay. He anchored at Sydney 16th Dec. 1800. King at once re-appointed Grant as commander, and ordered him to survey Western Port, and examine the wide bay or indentation between Capes Otway and Schanck.

Grant's incapacity as a marine surveyor appears to have been noticed by King thus early, for he sent Ensign⁴⁵ Barrallier to help him. He also gave him minute instructions. As to the wide space between Cape Schanck and Cape Otway, where Grant had not seen the coast, he was to explore it carefully on all sides. In case it should "turn out to be the entrance of a large river or deep gulf, or you should in the further prosecution of these instructions discover any considerable river or deep gulf, you are to navigate up the same as far as the brig or sloop can proceed with safety." A small sloop, the *Bee*, was sent with the *Lady Nelson*. Two other vessels, the *Harbinger*⁴⁶ and *Margaret*, had passed from the Cape of Good Hope through Bass's Straits soon after Grant, and he was to examine the land sighted by them, and then to sail to King George's Sound; and, returning thence, to examine the whole coast from that place to Wilson's Promontory, going to the head of every bay as far as possible.

Grant performed little service. At Western Port, Barrallier made a more complete survey than had been made before; but Grant failed to explore what he had called Governor King's Bay, and after two months' absence the *Lady Nelson* returned to Sydney in May 1801.

Until Flinders arrived, Barrallier was, as much as possible, entrusted with the responsibility of surveying in the *Lady Nelson*. She could not be used in a survey in winter on the turbulent south coast, and was sent in June to explore the Hunter, Barrallier again conducting the survey. The incompetency of Grant was confessed by himself. The tidings of the appointment of Flinders to the command of an exploring ship afforded an occasion for Grant's retirement.⁴⁷

⁴⁵ Barrallier, called by King a "protégé of Mr. Grenville," sailed with King to New South Wales in 1800. Mr. Grenville wished the Duke of Portland to make Barrallier Deputy-Surveyor-General in Sydney. The Duke allowed him to accompany King. He was made Ensign of the New South Wales Corps, and aide-de-camp to the Governor, who frequently availed himself of his abilities.

⁴⁶ The commander of the *Harbinger* (Black) saw and named King's Island.

⁴⁷ On 31st Aug. 1801, he wrote to King:—"From the little knowledge I have of nautical surveying, and understanding a vessel is coming out with gentlemen of scientific knowledge in that line, I respectfully beg

There was in H.M.S. *Porpoise* one John Murray, acting as mate. Pending the arrival of Flinders, and subject to instructions from the Admiralty, King appointed Murray to the command of the *Lady Nelson*. The strict instructions under which Murray acted are illustrated by a letter which, at the same time, vividly portrays the precautions taken to guard against seizure of vessels by convicts. The little exploring vessel was sent to the Hawkesbury for wheat in 1801. Grant was enjoined "not to leave the vessel yourself, or suffer any other person to leave her while in the river, nor let any strangers or visitors go on board. Your boarding netting is to be kept up while in the river."

In Oct. Murray was sent with precise instructions to complete the work formerly entrusted to Grant on the south coast. Murray has generally been spoken of as the discoverer of Port Phillip, but he merely obeyed a distinct order in going thither, to "trace the coast between Point Schanck and Cape Albany Otway, noticing the soundings and everything remarkable." If Murray should see Flinders he was to put himself under his command; and if he should meet the *Geographe* or the *Naturaliste* he was to produce his passport from the Duke of Portland. Thus instructed, Murray (or rather his assistant Bowen) found (as was inevitable unless the *Lady Nelson* had been lost) the spacious inlet which he named Port King, but which King, ever prone to honour his early friend, called Port Phillip. Such a finder has no more claim to the title of discoverer than a servant who, following precise directions, carries a letter to a place which he has not previously seen. Murray left Sydney on the 12th Nov. 1801. Having been ordered, if the wind should be westerly when he was between Ram Head and Western Port, to examine Kent's Group carefully instead of deferring the task until his return, he obeyed. On the 7th Dec. he was at Western Point. Foul weather

leave to return to Europe by the first favourable opportunity, where I may be able to render myself more serviceable to my country." As has been seen, he lost the despatches entrusted to him on his return. King, in acceding to Grant's desires, said he would have been glad if Grant's ability to survey and determine longitudes had equalled his "abilities as an officer and a seaman."

detained the vessel until January. On the 4th, Bowen, the mate, had an encounter with natives. They were curious, and not unfriendly, until an old man seemed angrily to warn Bowen off. They had spears, a stone tomahawk, and a wommerah. When the old man brandished his spear, Bowen ordered a soldier to fire over the heads of the natives, and they vanished in an instant.

On the 5th Jan. the *Lady Nelson* was off the entrance to Port Phillip, and Murray endeavoured to enter the harbour, which all could see. Bowen was at the masthead. The excitement was great, and the rocks and breakers added an element of danger. Murray feared to run risk by approaching a lee shore under the circumstances. He hauled off, and as the morning of the 6th was hazy, and the sea was rough, he made for King's Island, and examined it as directed. He complained in his journal that he had never "in any country experienced such bad weather." On his return he thought he was approaching Cape Otway, and "perceived with surprise that it was Cape Schanck and Grant's Point instead." On the 31st he anchored again at Western Port.

On the 1st Feb. Bowen, with five men and fourteen days' provisions, started in the *Lady Nelson's* launch to do in a boat what had not been done in the brig. Bowen returned on the 4th Feb., having entered "a most noble sheet of water." He gave such an account of the place that Murray recorded in his log: "It would be unpardonable in me not to give this new harbour a strict overhaul." On the 15th Feb., under Bowen's pilotage, the *Lady Nelson* stood "up the port with all sail set." "I have named this harbour Port King in honour of the Governor, P. G. King, under whose orders I act."

On the 17th there was a friendly meeting with eighteen natives. Mr. Bowen and a boat's crew gave shirts to them. No signs were successful in inducing them to point out where fresh water could be found. "They only seemed intent on getting what our people had—even to the last shirt." As a sailor moved towards the boat a spear was thrown at him. A shot fired over the heads of the natives created some panic, and then a volley was poured among them. Some of them stopped to throw spears. A second

volley scattered them. Mr. Bowen seized one of them, and three men assisted him.

“Strange to tell, he made such violent struggles as to get away from them all; nor did the contents of the officer’s piece bring him up, although one ball passed through his arm, and the other in his side. He was traced a good distance by his blood. The remaining pieces were by this time fired, and our party gave chase to them all. . . .”

The pursuers returned with spears and baskets dropped in the flight. Murray from the brig saw the encounter, and “to increase their panic as they passed along I gave them a discharge of our guns loaded with round and grape, but am almost certain they did them no damage. Thus did this treacherous and unprovoked attack meet with its just punishment, and at the same time taught us a useful lesson to be more cautious in future.”

Thus early did the shores of Port Phillip echo to the angry discharge of cannon against its inhabitants, who were probably members of the tribe seen at Western Port, scared by Bowen when the old man brandished his spear there. A few days afterwards many of the articles given to the natives were found abandoned in the forest.

Water was found (18th Feb.), “about two miles nearer the entrance than the foot of Arthur’s Seat.” The fires of the natives were often seen, but there was no more intercourse with them.

On the 9th March, in obedience to his orders, Murray hoisted His Majesty’s colours on board and on shore, and “under a discharge of three volleys of small arms and artillery the port was taken possession of in the name of His Sacred Majesty, George the Third of Great Britain and Ireland, King, &c. &c. &c. Served double allowance of grog.”

Regretting that he had explored the coast no further to the westward, and had not examined the spacious harbour itself, Murray added: “However, the little that is performed of the original orders is pretty accurate, and I trust will give the Commander-in-Chief some satisfaction.”

Baudin, the commander of the French expedition, was on the 9th March distracted from thoughts of intrusion. After visiting the Derwent the *Geographe* and *Naturaliste* were cruising on the 6th March off Schouten Island. A boat landed

with an officer and crew. The ships were blown to sea. On the 7th they vainly searched for their "malheureux compagnons." On the night of the 7th the *Naturaliste* lost her consort. Baudin continued the search on the 8th. On the 9th he was ill, but charged his lieutenant, Freycinet, "d'exécuter la recherche demandée par l'équipage et l'état major." "Toute la journée du 9 Mars y fut consacrée, pendant huit heures. M. Freycinet (Peron writes) manœuvra le long de ces cotés effrayants, avec une audace, un sang-froid, et une précision également dignes d'éloges."

Such was the occupation of the French explorers on the day when, in obedience to the orders of precision of Governor King, the master's mate of the *Porpoise*, in a brig of 60 tons hoisted the English flag on the shores of Port Phillip. The French reached Western Port on the 29th March, and not knowing that they had been anticipated by the *Lady Nelson*, wrote (Peron) "Ici finissent les travaux des navigateurs Anglois. A ce même point commence notre longue et pénible exploration." On the 29th March King reported to the Admiralty the performances of the *Lady Nelson*. On the 11th March the *Lady Nelson* weighed anchor. "With a strong tide running out we got into the entrance . . . we then fell into such a ripple that we expected every moment it would break on board . . . we, however, got clear out." After a rough cruise Port Jackson was reached (24th March 1802), and Murray gave glowing accounts of the land and harbour he had seen. On the 29th King reported the important discovery to the Admiralty, which, with previous surveys, he hoped would

"convince their Lordships that that highly useful vessel, the *Lady Nelson*, has not been idle since under my direction, and although Mr. Murray unfortunately does not possess the qualities of an astronomer and surveyor, yet I trust his efforts and success will, in proportion to his abilities and conduct as a seaman and officer, recommend him to their Lordships' notice, he having passed for a lieutenant at the Cape of Good Hope, a copy of which certificate and of my appointment for him to command the *Lady Nelson* I have the honour to enclose, and respectfully submit his services to their Lordships' consideration."⁴⁸

⁴⁸ Previous misconduct on Murray's part prevented him from profiting by King's recommendation. It was ascertained at the Admiralty that he had not told the truth when he passed the examination at the Cape of Good Hope. He had imposed upon the examiners by alleging that he had served in 1789 in a vessel which was not in commission at the time. Six

The competency of the commander of the *Lady Nelson* became of little moment in 1802, King being directed to make her a tender under the orders of Flinders. Flinders' ship was the *Investigator*, 340 tons. He made true friends, though he did not wear his heart upon his sleeve, and was perhaps less popular than many less deserving. Posterity has done him the justice denied by contemporary inferiors. King always supported him; and Sir J. Banks, the companion of Cook in 1770, the President of the Royal Society in England, a member of the National Institute in France,⁴⁹ was warmly interested in the young explorer. He wrote privately to King that Lord Spencer had "promised to make Flinders a commander, and in case he does the business he is entrusted with well, to make him Post on his return. Two French ships sailed from Havre in October (1800) for the avowed purpose of surveying the N.W. coast of New Holland. . . . They have a passport from the Admiralty."

The importance of Flinders' voyage was well known. Ambition and patriotism spurred him on. Reaching Cape Leeuwin in Dec. 1801, he refitted his ship in Princess Royal Harbour, King George's Sound, and made an inland excursion. Leaving King George's Sound, he examined the coast, and after passing the Australian Bight, affixed names to the previously unseen land.

From Fowler's Bay (named after the first lieutenant of the *Investigator*) to Encounter Bay, working sometimes on land and sometimes on shore, losing a boat's-crew and the sunken boat at Catastrophe Bay, naming Mount Brown after the celebrated botanist who accompanied him, exploring Spencer's Gulf and Gulf St. Vincent, naming Mount Lofty (near the present town of Adelaide), marvelling at the manner in which the kangaroos did not attempt to flee from their destroyers on Kangaroo Island, Flinders passed on, having surveyed the territory which afterwards became known as South Australia.

Evan Nepean told the Governor that in consequence of the imposition "attempted to be practised, Murray would receive no commission, and the Admiralty would not allow him to pass for an officer at any future period."

⁴⁹ 1802.

In Encounter Bay he met the French ship *Geographe*; hailed her; hove to; "veered round as *Le Geographe* was passing, so as to keep our broadside to her, lest the flag of truce should be a deception;" went on board with Mr. Brown the naturalist, who spoke French, and learned that the Frenchman had been exploring the south and east parts of Van Diemen's Land, had been separated by rough weather from the *Naturaliste*, had been to Western Port, and "had explored the south coast from Western Port to the place of our meeting, without finding any river, or the large island, said to be at the western entrance of Bass's Strait." Captain Baudin spoke English, and received information from Flinders which the latter thought full, but M. Peron, the French narrator, thought guarded. The voyagers then parted with mutual goodwill—to receive very different treatment at the hands of those whose passports they held. As Bass had surveyed the coast from Cape Howe to Western Port, and Grant and Murray had examined it westward to Cape Northumberland, there was no part of the coast which the French could find unnamed except in the few miles between Cape Northumberland and Encounter Bay. With regard to Port Phillip, the French were in utter ignorance, Captain Baudin having informed Flinders that "he had coasted along from Western Port in fine weather and had found no inlet of any kind."

When Flinders with his maps and journals was afterwards imprisoned at the Mauritius, and the French Government appropriated his discoveries, they attempted to change all the names given by Flinders. They did not know that before leaving Sydney Flinders had left two copies of his charts with Governor King. They did know from Flinders' journal that when he discovered Port Phillip, he had the magnanimity to respect Murray's prior visit, and as they knew that there were (in Sydney) records of that visit, they claimed credit for respecting the claim of Murray. "Nous le designames sous le nom de Port du Début; mais ayant appris dans la suite qu'il avoit été reconnu plus en détail par le brick Anglois, the *Lady Nelson*, et qu'il avoit été nommé Port Phillip, nous lui conserverons avec d'autant plus de plaisir ce dernier nom, celui du fondateur d'une colonie dans laquelle nous avons

des secours si généreux et si puissans." Time made the geographical larceny as idle as the disingenuous compliment. Baudin had nothing to do with them. He died at the Mauritius before Flinders was imprisoned there. Flinders proceeded on his voyage, entered Port Phillip, and gave various names, which he waived when, on arriving at Sydney, he found that Murray had preceded him, under King's instructions. Like Murray, Flinders praised the appearance of the country at Arthur's Seat. On the 1st May 1802 he ascended Station Peak and deposited in a pile of stones on the top of the Peak the name of his ship. Unlike Murray, he had only friendly communication with the natives whom he saw. In Sydney he accepted the opportunity of treating the officers of the *Geographe* and the *Naturaliste* with the most brotherly kindness. He tells us that "every means were used by the Governor and the principal inhabitants of the colony to make them forget both their sufferings and the war which existed between the two countries." A few days after anchoring at Sydney Flinders applied for permission to ship two aborigines "having before experienced the utility of their presence in bringing on a friendly communication with the inhabitants of other parts of New Holland." Permission was granted, and Flinders, although the *Investigator* was found to be unsound, pursued his voyage, Lt. Murray accompanying him with the *Lady Nelson*. After naming Port Curtis and examining other portions of the east coast, the bad sailing qualities of the *Lady Nelson* induced Flinders to send her back to Sydney from the Barrier Reef, while he proceeded with the *Investigator* and explored the Gulf of Carpentaria. Although his vessel, was so leaky that he was compelled to repair it, and in doing so, found to his dismay that few of the timbers were sound, he continued his survey until want of provisions, ill-health amongst his crew, and the unseaworthiness of his ship, necessitated his sailing to Timor, and thence to Sydney, where he arrived in June 1803.⁵⁰ The *Investigator* being there absolutely condemned, and no other vessel being available, Flinders with a heavy heart proceeded as a passenger by the *Porpoise*; but being

⁵⁰ Eleven convicts formed part of the crew of the *Investigator*.

wrecked in her at "Wreck Reef" was deputed (for on such occasions the worthiest is accepted as the necessary leader) to take command of an open boat, in which he made his way back to Sydney. King did what he could. He gave him the *Cumberland* schooner, of 29 tons burden. With her Flinders returned to the wreck, and was heartily cheered there. Calling at the Mauritius for water, he was seized and confined by the French Governor, General De Caen, who affected to disbelieve that he was the commander of the *Investigator*, to whom the French Government had given the produced passport. Closely guarded, orders being given to the sentries to shoot any one seen on the roof (whither Flinders and his companions went for fresher air), and robbed of his "charts, papers and journals, letters and packets, both public and private," he remained a prisoner from December 1803 till June 1810. His charts and papers were proofs of his identity, but the French Governor really required no proof. The fact that he was Flinders was the reason for his imprisonment. His charts were required.

The Council of State in 1804 commended their appropriation, and in 1806 the Emperor ratified their commendation. In the latter year the narrative of the French expedition was nearly ready for publication, and when it appeared in 1807 it was seen that under the style of "Terre Napoleon" the Emperor laid claim to a territory "dont les deux extremités viennent de rattacher d'une part au Cap Leeuwin à l'Ouest et de l'autre au promontoire de Wilson vers le Sud." Baudin had no part in these claims. He died at the Mauritius (16th Sept. 1803), and, to add to Flinders' misfortune, the *Geographe*, under a new commander, had sailed for France the day before the little *Cumberland* anchored at Port Louis. Thus, eye witnesses to identify Flinders, and take from the Governor all pretext for doubt, were removed a few hours before Flinders needed them. His seizure was keenly resented in Sydney. The *Sydney Gazette* published a letter from Baudin to the Governor of the Isle of France, describing the treatment of the French at Sydney. "Le Gouverneur donna le premier exemple. Quelques que soient les devoirs de l'hospitalité le Gouverneur King à donné à l'Europe entière le spectacle d'un

trait de bienfaisance qui doit être connu, et que j'ai plaisir de publier." The sailor Governor was greatly moved at the ingratitude of the French soldier. Flinders sent a letter, commenced at sea in the *Cumberland* in Nov. 1803, and concluded in close confinement nearly a year afterwards at the Mauritius. He told King how he had "waited on the Captain-General, and after being kept two hours in the street had an audience, but it was to be told that I was an impostor, the improbability of Captain Flinders coming in so small a vessel being thought so great as to discredit my passport and commission." He told how disease had preyed upon him, and how even speech with him, except under Governor De Caen's permission, had been for a time forbidden.

"This account will not a little surprise you, my dear Sir, who have so lately shown every attention to the *Geographe* and the *Naturaliste*, but a military tyrant knows no law or principle but what appears to him for the immediate interest for his government, or the gratification of his own private caprices. Passports, reciprocal kindness, and national faith, are baits to catch children and fools with, and none but such consider the propriety of the means by which their plans are to be put in execution. Men of genius, heroes (that is, modern French Generals), are above these weaknesses. I can give you no further explanation of General De Caen's conduct, except that he sent me word, 'I was not considered a prisoner of war,' and also, 'that it was not any part of my own conduct that had occasioned my confinement.' What I am suffering in promotion, peace of mind, fortune, fame, and everything that man holds dear, it is not my intention to detail, nor have I room."

King wrote a vigorous letter to De Caen, and enclosed it, open, to Rear-Admiral Sir E. Pellew for transmission, if approved. He called to mind that Flinders had a French passport like that which insured friendliness to Baudin in Sydney.

"Nor was there a British subject that lessened the duties of hospitality natural to Englishmen by a recollection that war existed between the two nations. Their passport and distresses were the most powerful claims on my duty in receiving them, and on the humanity of all descriptions of His Majesty's subjects in contributing to render their stay comfortable and agreeable."

Therefore, De Caen might guess King's feelings when he found that Flinders,

"when he at least expected to be treated as a gentleman, was treated in every respect as a spy, except in not being executed as one. This undeserved, unprecedented, and, I may add (considering his and Captain Baudin's relative situations), ungrateful treatment, which that meritorious officer has met with, must be a subject of concern to every man of science and humanity."

In 1779 the French Government, unsolicited, had ordered that the ships under Cook should not be molested though there was war with England. It was King's duty to request Flinders' release with "every document connected with his voyage of discovery, noways doubting that your own humanity will dictate what remains necessary to be done." King did not live to see his friend released. De Caen did the gaoler's work demanded by the vanity of Napoleon. The first volume of Peron's work was published in 1807 in Paris. Fretting against his prison bars, Flinders learned from a "Moniteur" in 1808 that all his discoveries on the south coast were being purloined by others. The land was called by a French name. Flinders must sorely have regretted that he had not complied with King's earnest entreaty that he should avoid the Mauritius.⁵¹

There were Frenchmen who did what they could to redeem the good name of their country, and Flinders gratefully bore witness to their kindness. One Thomas Pitot, a young merchant, was specially distinguished. A literary "Society of Emulation" petitioned the French National Institute in favour of Flinders. Sir J. Banks, a member of that institute, was unremitting in his efforts. Captain Milius, who succeeded Baudin in command of the *Geographe*, was made a prisoner of war, and at Sir J. Banks' intercession was released because he "always expressed the highest gratitude for (King's) excellent usage of the French discoverers."⁵²

The Marquis of Wellesley in 1805 sent a vessel specially to ask for Flinders' release. In 1806 Sir J. Banks wrote to King: "At last I have succeeded in soliciting an order of liberation for our Flinders. M. de Bougainville the circumnavigator, got an order for his release." Even that order was declared to be dictated "par un sentiment de générosité," and its execution was long delayed.

It was not until March 1810 that Flinders received permission to leave, and not until 7th June 1810 (a few months before the capitulation of the island), that, on his "word of

⁵¹ His reasons for non-compliance were—the necessity to touch somewhere; that he did not know that war between England and France had again broken out; that he had a French passport (but not a Dutch one which might ensure kind treatment at the Cape); and that Baudin's reception in Sydney entitled him to expect equal kindness at the Mauritius.

⁵² Letter, 20th Sept. 1806. Sir J. Banks to Governor King.

honour not to act in any service which might be considered as directly or indirectly hostile to France or its allies during the course of the present war," the generosity of Napoleon enabled Flinders to leave for the Cape of Good Hope in the sloop *Otter*, which was cruising off the Mauritius. Even then his letters and papers, a volume of his log-book, and two boxes of despatches were retained. The English Government applied for the missing documents, but neither originals nor copies could be obtained.

Against these injuries Flinders lived to frame a stinging indictment in his account of his voyages. He sowed the truth, but saw neither blossom nor fruit. He died as his work issued from the press, leaving a name cherished by all who knew him⁵³ as that of a loyal Englishman, enthusiastic in discovery as he was dutiful to his country. The hardships of his career induced the legislatures of New South Wales and Victoria to grant in after years pensions to some of his family.

The fate of Flinders makes more notable the entertainment of the French in Sydney. The *Geographe* and *Naturaliste*, after some investigations on the west coast of New Holland and in Van Diemen's Land, were parted in a gale of wind. The *Naturaliste* went to Western Port "without discovering the excellent watering-place at Phillip Island;"⁵⁴ the *Geographe* proceeded westward, without seeing indications of a harbour at Port Phillip, and met Flinders at Encounter Bay. Sickness was in both ships. On the 25th April 1802, Captain Hamelin appeared off the coast at Sydney, with much misgiving as to the reception his vessel might meet. The French narrator declares: "Les inquiétudes ne furent pas longues. Les Anglois l'accueillirent dès le premier instant avec cette générosité grande et loyale que le perfectionnement de la civilisation Européenne peut seul expliquer et que lui seul a pu produire."⁵⁵ To Hamelin's letter asking permission to

⁵³ Sir Joseph Banks wrote, 21st Aug. 1802: "Flinders will, if he behaves well, meet with the best encouragement; but he is not without enemies, who will find out his faults if he commits any." Again, April 1803: "Flinders speaks warmly of your friendship, and I beg you will accept my best thanks for your goodness."

⁵⁴ Governor King. 21st May, 1802. Despatch.

⁵⁵ "Peron," vol. i. p. 364.

enter the port, King replied: "Je m'empresse de vous donner les assurances que rien ne manquera de fournir à tous vos besoins autant que cette colonie est capable. J'ai donné les ordres que votre frégate seroit mouillée à l'entrée de Cove, et en attendant le plaisir de vous recevoir, j'ai l'honneur," &c.

The friendly reception thus opened was continued. All that the stores permitted was afforded. There was much sickness amongst the French, and the sick were taken into the colonial hospital. Flinders records that when the *Geographe* arrived in June 1802 only twelve men out of 170 were capable of duty. It is due to Baudin and to Hamelin to state that on their parts they heartily testified to the kindness they received. It is unnecessary, therefore, to accumulate instances to prove it.

Captain Hamelin saw Flinders arrive in May 1802, and hearing from him of the *Geographe*, determined to cruise on the coast until Baudin might appear there also, as he had led Flinders to expect. Baudin, in piteous plight, arrived in June 1802. News of the Peace of Amiens had just preceded him, but King sent him word at once that "a continuance of the war would have made no difference in my reception of your ship. I beg you would give yourself no concern about saluting. When I have the honour of seeing you, we will concert means for the relief of your sick." The manner in which one of the officers of the New South Wales Corps was constrained to apologize to the French has been noticed. Baudin applied for permission to hold "un jure" on board "pour prendre connoissance du vol qui a été fait." King accorded it—"pourvu que cette séance soit tenue, jugement prononcée et mis en execution abord votre corvette." A French gunner and a soldier were condemned to the chain on board; and four convict accomplices were sentenced on shore to be flogged and otherwise punished.

Permission to careen the *Geographe* for repairs was given in July. The officers landed freely, and were hospitably entertained. Peron speaks with admiration of the establishment of the Rev. S. Marsden, and the managing energy and kindness of the owner. It appears also that the French officers did not shrink from association with those

who had been convicts, for one of that class, who in the English records figures as a "keeper of a grog-shop," is in the French narrative commended as a highly sensible and agreeable person.

There were points on which the Governor thought it fit to be guarded. He obtained from the French commanders their "word of honour" not to allow any person to be received "on board without the Governor's permission."

Voluminous despatches were written about an alleged act of disrespect to the English flag on the New Year's Day of the French Republic, 23rd Sept. The French vessels dressed in honour of the day, and jealous eyes discerned that whereas English vessels in foreign harbours exalted the flag of their hosts to the fore-topgallant mast-head, on this occasion the French gave the post of honour to the United States, while the French flag was "at the main, and the Spanish at the mizen," and the English was debased to the main yardarm. When it was noticed in the morning that the French ships were dressed, King, unaware of the position of the English flag, ordered the English ships to hoist their colours in compliment to the French flag. But one Captain Campbell, commanding a private armed vessel, the *Harrington*, after hoisting his ensign in compliance with the Governor's order, speedily hauled it down. The commander of an American vessel called the attention of the naval officer (Dr. Harris, New South Wales Corps) to Campbell's disobedience. Campbell, appealed to by Dr. Harris, declared "that the English flag must be placed higher before he would again hoist his ensign." There was a tender to the French ships, the *Casuarina*, and her flag was removed to another vessel from which it had been borrowed, in order that the latter might comply with the Governor's orders. The removal roused angry feeling amongst the French. With the American and Campbell Dr. Harris went in his boat to observe the flags on the French men-of-war. In the morning the supposed insult was reported to the Governor, who sent Harris to express his regret "that the British flag had not been hoisted in a more conspicuous place," but supposed there had been some mistake.

The little community was in a ferment. The eyes of England, if not of Europe, seemed to watch whether it was worthy of defending the honour of Old England. Conscious of importance, Harris had an interview with Baudin. Harris thought, perhaps erroneously, that Baudin said the colours had been hoisted "promiscuously," and that had he known that remarks would have been made, the English flag would have been placed at the fore-topgallant mast-head. Harris added that Baudin said, "As he did not understand enough of English, or I of French, he would wait on your Excellency and explain it to you."

Baudin demanded from his people, in a letter which he described as "amère et de reproches à tous mes officiers," an explanation. The French answer was complete. Ron-sard, officer of the guard, and Freycinet, lieutenant, reported to their "Citoyen Commandant" that the despised position, "à tribord à la grande vergue," was "celle d'honneur à la marine Française," and that it was "par excès de déférence que nous l'avons accordé aux couleurs Anglois."

Baudin wrote a long letter to Harris, and sent a copy to King. He complained of "la conduite légère et peu réfléchie" of Harris in his report. "Ce qui est arrivée au *Casuarina* est trop publique pour être révoquée sans doute," but he expected Harris to explain that it was by error or on false report that he had for a moment doubted the intention of the French officers to show the respect due to the flag of His Britannic Majesty. Harris wrote so violently in reply that it is creditable both to Baudin and King that the affair, which might have caused much trouble, was lulled to rest.

King acknowledged that "instead of any slight being intended to the English flag, the utmost attention had been paid to it;" and, to allay excitement in Sydney, published an extract from the French Marine Instructions designating "the starboard main yardarm" as the place of honour.

It was arranged that the dignity of the *Casuarina* should be recognised. She was to salute the English flag with thirteen "coups de canon;" and Baudin hoped that the Governor would order "la forteresse sur laquelle on arbore le pavillon Anglais de lui rendre son salut en même nombre

de coups." King replied, "Je suis sensible de cette marque de votre attention et j'ai donné les ordres qu'on rendra coup pour coup de la forteresse." The *Casuarina* had been purchased by Baudin in Sydney from a private person, after application had been made to the Governor for permission, which he gave in the interests of "science and navigation."

After these events the misunderstanding occurred which caused Captain Kemp to apologize to the French officers for circulating imputations that they had "vendu de rum pour de l'argent;" and simultaneously, Colonel Paterson (9th Oct.) made common cause with his recalcitrant officers by declaring that Barrallier and Dr. Harris could no longer be allowed to do any except their military service. Then followed the appointment of an emancipated bodyguard for the Governor (12th Oct.); the Colonial Commission to Mr. Bellasis (14th Oct.); the Courts-martial on Dr. Harris and Adjutant Minchin; orders that the Loyal Association, though not embodied constantly, should be "exercised" monthly; and the appointment of Captain Kent of H.M.S. *Buffalo* to act as a magistrate throughout the territory and its dependencies. It was convenient to have a naval magistrate, as the Governor assumed a jurisdiction over fishing.

A French schooner, the *Surprise*, arrived in Sept. 1802. She needed repairs. King consented that she might receive them, and sell so much of her cargo as might disburse her expenses; but observing that her clearance from the Mauritius contemplated "a sealing voyage on the coast of New Holland," told M. le Corre, the commander, that he had no instructions to permit such an enterprise by foreigners. He would give no general permission, but rather than inflict unlooked-for hardship on M. le Corre he would allow him, on this occasion, to catch seals within the territories, provided he would not intrude at Cape Barron and adjacent islands, and at King's Island, where King had given exclusive privileges to certain colonists. He suspected some designs of occupation, for within five days of thus warning Le Corre he provided an English vessel, the *Endeavour* (about to cruise in Bass's Straits), with two flags, one of which the master was to "hoist and keep flying during the stay" of any vessel at any island where the *Endeavour* might be. The French explorers did not forget

to complain of the grasping nature of the Governor's claims. The *Surprise* started on her curtailed cruise, and was lost.

In May 1802, just after the arrival of the *Naturaliste*, the Governor had said he would immediately form a settlement at Port Phillip, but that he had no person who could be spared or entrusted with the command.

"When more officers come out, perhaps I may be able to select one who would answer for that situation, which will require a person of some abilities and perseverance. Unless I find it absolutely necessary I shall not take this step without your Grace's approval. . . . I am the more solicitous respecting forming this settlement from the probability of the French having it in contemplation to make a settlement, . . . which I cannot help thinking is a principal object of their researches."

Writing to Lord Hobart (9th Nov. 1802), while the *Geographe* and *Naturaliste* were still at Sydney, King said—

"Notwithstanding the collection he has made in every branch of natural history, . . . yet I am inclined to think that collecting alone is not the principal object of Monsieur Baudin's mission, as it has very forcibly struck me that they have an intention of looking for a place proper to make a similar establishment to this on the W. or N.W. coast. It has also occurred to me that they may have some intention of laying claim to Van Diemen's Land now it is known to be insulated from New Holland. My only reason for this supposition is the length of time, and the very accurate and extensive survey he has taken of what is called by us 'Storm Bay Passage,' and by the French 'Le Canal d'Entrecasteaux,' to whom they attribute the discovery of that passage. How far either or both these conjectures may be probable I cannot say, but I judge it necessary to communicate my thoughts thereon, and to request instructions for my conduct in case the latter conjecture should be verified. I have already stated my ideas respecting the policy of forming a settlement at Port Phillip in Bass's Straits and in Storm Bay Passage, or Derwent River, and reflection on this subject confirms me in the necessity of forming a settlement at one or both those places. Unfortunately I have no person I can at present name to such a situation. Should one offer equal to that charge I shall take it upon me to settle one or both those places, for the reasons given in my former letter."

Colonel Paterson thought more of botanical collections than of extending the cords of British sovereignty. The coolness between himself and the Governor may have partly contributed to his reticence when he heard and did not inform King, during the stay of the French, that they intended to form a colony at Van Diemen's Land. It is certain that as soon as the French ships sailed (17th Nov. 1802) the Governor was informed by the acting principal surgeon that Col. Paterson was in possession of information

to the effect that the French intended to form a settlement in Van Diemen's Land.

On the 18th King formally presented his compliments to Lt.-Gov. Paterson, requesting him to furnish information "in order that Governor King may take the necessary steps which he cannot but lament he had not an opportunity of doing before he closed his despatches." Paterson evasively replied that he considered what he had heard "common-place conversation," which he would have communicated, "but that he could not suppose it was unknown to Governor King." He added in a postscript: "One of the officers who spoke of it sent Col. Paterson the accompanying charts."

King (again on the 18th) told Paterson that had he ever heard the rumour he would

"certainly have required a positive explanation from the French commodore, and would have taken a vessel up to have preceded any attempt. . . . As I have been kept ignorant of it until their departure, it only remains for me to counteract them. It is therefore necessary that an officer of the rank of captain, and as many non-commissioned officers and privates as can be accommodated, should be sent by a conveyance that I hope will be able to leave this in seven days, in order to assert His Majesty's claims and dispossess and remove any party that may be landed there. I shall take leave to retain the chart given to you by the French officer (until a copy can be made) who spoke to you of the settlement intended to be made."

The "conveyance" which was to be the means of asserting His Majesty's claims was the colonial armed schooner *Cumberland* (mentioned sometimes as of 26, and sometimes as of 29 tons burden). Her commander was to be young Charles Robbins,⁵⁶ master's mate of H.M.S. *Buffalo*, who was to be endowed "with the territorial rank of captain."

The Surveyor-General of the colony, Grimes, was to accompany the warlike expedition, which was to go to King's Island and Port Phillip, and thence to Storm Bay, "taking care to hoist His Majesty's colours every day on shore during your examination of those places, placing a guard of two men at each place, who are to turn up ground for a garden, and sow the seeds you are furnished with." H.M.S. *Porpoise* was to follow, on her return from Tahiti with pork, and the King's colours were to be "kept flying

⁵⁶ Robbins entered the navy in 1798, being then sixteen years of age. He was born at Barnstaple in Devonshire.

to indicate the intended settlements to the commander of that ship."

Minute sailing directions were given to Robbins. The shelter suitable in certain winds was pointed out, as well as the harbours in which the *Cumberland* was to be anchored while surveying parties were on shore. Robbins was charged with despatches to the French commodore, whom King wished him to find. Grimes was separately instructed, and a gardener named Fleming, a convict, was sent to make collections and sow seeds.

All were to keep journals, which were to be handed over to the Government at the close of the voyage. Robbins was provided with Murray's and Flinders' surveys at Port Phillip, and was ordered to "proceed to the most minute investigation of that spacious harbour, the unsurveyed part of which you will determine as well as possible, noticing the depth of water and shoals throughout, particularly the parts that have not been sounded or surveyed by the above officers." Particular attention was to be paid to the face of the country, whether

"hilly, plain, or swampy; the nature and depth of the soil; the apparent quantities of ground which are capable of cultivation or grazing to advantage; also fresh water in streams, springs, ponds, or lagoons; the quantity, quality, and size of the timber; the best situations for settlements with a view to commercial advantages, access of vessels, and defence; . . . also where settlers can be advantageously placed."

Robbins was to consult with the Surveyor-General and others.

To Baudin, King wrote (23rd Nov., 1802):

"You will be surprised to see a vessel so soon after you. You knew my intention to send southward to fix on a place for a settlement, but this has been hastened by a report communicated to me soon after your departure—that the French intended to settle in Storm Bay Passage, . . . and that it was recommended by you to the Republic, as a proof of which a chart pointing out the situation was, as Colonel Paterson informs me, given him a short time before you sailed by a gentleman in your ship. You will easily imagine that if any information of that kind had reached me before your departure I should have requested an explanation. But as I knew nothing of it, and at present totally disbelieve in anything of the kind being even thought of, I consider it but proper to give you this information. In case the *Cumberland* should fall in with your ships, the commander of that vessel has my directions to communicate to you the orders he is under. Myself and family join in the kindest good wishes for your health, and will long remember the pleasure we enjoyed in your society. We request you will offer our good wishes to Captain Hamelin and all your officers."

Privately, King wrote to Baudin that all Van Diemen's Land and the south-west coast of New South Wales were proclaimed part of the British Empire in 1788, and could not be occupied by the French without breach of the friendly relations recently entered into between England and France. King was bound to oppose, with all the means at his disposal, any such project as was imputed to the French. On the same day he sent full details to the Secretary of State, announcing that he had lost no time in putting His Majesty's claims beyond dispute. He had ordered Robbins to communicate with Baudin if he could fall in with him in Bass's Straits,

"and whatever may be in contemplation, it cannot be performed by him. How far he may have recommended it to the French Government I do not know. It seems by Colonel Paterson's information that they intend it. It is my intention, as soon as the *Porpoise* arrives, to despatch her with a small establishment to the most eligible place at Storm Bay Passage, and one at Port Phillip or King's Island. Your Lordship's instructions on these points I shall be glad to receive as soon as possible."

Proud of his mission, Robbins sailed in quest of and found the French at Elephant Bay in King's Island. He had no sooner delivered his despatches (including some sent by King to Mr. Thomson, Staff Surgeon, who had been allowed to go as a passenger in the *Naturaliste*⁵⁷ on his way to England) than he landed, reared the English flag, and with a rattle of musketry and loud cheers renewed the claim of his country to the invaded territory. Baudin, though offended, maintained a courteous demeanour. He wrote officially:⁵⁸

"MONSIEUR LE GOUVERNEUR,

"L'arrivée du *Cumberland* m'aurait surpris par le contenu de la lettre que vous m'avez fait l'honneur de m'écrire, si M. Robbins qui le commande, n'avoit par sa conduite fait connoître le véritable motif pour lequel il a été si précipitamment expédié, mais peut-être il est venu trop tard,

⁵⁷ King to Lord Hobart, 9th Nov. 1802: "As I considered it necessary to preclude Captain Flinders' present surveys from the most distant possibility of their falling into other hands, I shall defer sending them . . . but as your Lordship may expect some account of his progress, I shall relate his verbal communications to me." Thomson carried this despatch.

⁵⁸ "New South Wales Correspondence," 26th Nov. 1803. Vol. ii. Dated 'A Bord la Corvette la *Géographe*, Isle King, le 3rd Nivose an 11me. 23rd Dec. 1802. Le Commandant en chef l'expédition de découvertes à Monsieur le Gouverneur King au Port Jackson.'

car plusieurs jours avant qu'il arbora sur nos tentes son pavillon nous avons laissé dans les quatre Points principaux de l'Isle, à laquelle je conserve votre nom, des preuves de l'époque ou nous l'avons visité.⁵⁹ L'histoire qu'on vous a fait et dont on soupçonne M. Kemp, Capitaine au Régiment de la Nouvelle Galle du Sud être l'auteur, est sans fondement. Je ne crois pas non plus que les officiers et naturalistes qui sont à bord puissent y avoir donné lieu par leur discours. Mais dans tous les cas vous deviez être bien persuadé que si le gouvernement Français m'avoit donné ordre de m'arrêter quelque pas au Nord ou au Sud de la Terre de Diemen découverte par Abel Tasman, j'y aurais resté, et sans vous en faire un secret. Le dix-sept le *Naturaliste* a mis à la voile et doit se rendre en droite en France. Malgré toutes mes recherches avant le départ il s'est trouvé trois hommes cachés à bord du *Géographe*, cinq autres étoient sur le *Naturaliste*, et trois sur le bâtiment American la *Fanny* dont le mauvais temps nous a séparé. J'ai, comme nous en étions convenus, mis sur l'Isle King les huit⁶⁰ hommes qui nous concernoient; on leur a donné un peu de pain et quelques vêtements. Vous trouverez cy point leur noms, ou du moins ceux qu'ils ont donnés.

"J'ai l'honneur d'être avec la plus parfaite considération, Monsieur le Gouverneur,

"votre serviteur,

"N. BAUDIN."

Privately Baudin wrote at great length, premising that his letter had no relation to the policy of his government,

"et encore moins avec vos prétentions erronées sur l'isle de Diemen que vous ne connoissez pas plus que moi, quand vous l'avez comprise dans les limites modestes que la prévoyance vous a fait prendre pour de votre nouveau territoire. Cependant chacun sait que Tasman et ses héritiers ne vous l'ont pas leguée par testament." . . . "Dans ma façon de penser je n'ai jamais pu m'imaginer qu'il y eut de justice et même de loyauté de la part des Européens à s'emparer au nom de son gouvernement d'une terre vue pour la première fois quand elle est habitée par des hommes qui n'ont pas toujours mérités les titres de sauvage ou d'anthropophage qui leur ont été prodigués, tandis qu'ils n'étoient encore que les enfans de la nature et tout aussi peu civilisés que le sont actuellement vos montagnards d'Ecosse ou nos paisants de la Bas-Bretagne," &c. . . . [He alluded to the fate of the Sydney natives.] "Malgré vos précautions et les châtimens qu'ont subi ceux des vôtres qui les ont maltraités, ils ont su distinguer vos projets pour l'avenir; mais trop faibles pour vous résister la crainte de vos armes les a fait émigrer, ainsi l'espoir de les voir se mêler parmi vous est manqué, et vous resterez bientôt paisibles possesseurs de leur héritage, car le petit nombre de ceux qui vous environnent n'existera pas longtemps.

"Je n'ai nulle connoissance des prétentions que peut avoir le gouvernement Français sur la terre de Diemen ni de ses projets pour l'avenir, mais

⁵⁹ In the margin King wrote: "If M. Baudin insinuates any claim from this visit—the island was first discovered in 1798 by Mr. Reed in the *Martha*, afterwards by Mr. Black in the *Harbinger*, and surveyed by Mr. Murray in Feb. 1802.

⁶⁰ King wrote in the margin: "Most of those found means to go on board the *Géographe* before she left the island."

je crois que ses titres ne seroient mieux fondés que les vôtres. . . . J'étois bien persuadé que l'arrivée du *Cumberland* avoit tout autre motif que celui de m'apporter votre lettre, mais je ne croyois pas qu'elle fut pour arborer un pavillon Anglais précisément dans le lieu où étoient établis nos tentes longtemps avant son arrivé. Je vous avoue franchement que je suis fâché que cela ait eu lieu."

He proceeded to describe the island at great length:—
 "Je suis tres fâché que l'isle King porte votre nom, en ce qu'elle me semble n'être d'aucune utilité, et n'offrir qu'une ressource passagère pour la pêche du loup marin et de phoque."

He had lost two anchors at Elephant Bay. He described the labours of his scientific companions on the island, and sent his kindest regards to King and his family. The hoisting of the English flag under the eyes of the French annoyed others as well as Baudin. The artist, M. Petit, made a caricature of the petty flag with the armed sentry keeping guard. Baudin wrote to King: "J'ai déchiré cette caricature aussitôt qu'elle me fut présentée, avec defense d'en faire de semblable pour l'avenir." The editors of the French narrative, Peron and Freycinet, remarked,

"Sans doute cette cérémonie pourra paroître frivole aux yeux des personnes qui connoissent peu la politique Angloise; mais, pour l'homme d'état, de telles formalités prennent un caractère beaucoup plus important et plus sérieux. A la faveur de ces déclarations publiques et repetées, l'Angleterre semble chaque jour fortifier ses prétentions, établir ses droits d'une manière plus positive, et se ménager ainsi des prétextes pour repousser, même par la force des armes, tous les peuples qui voudroient former quelques établissemens dans ces contrées. Mais écartons les réflexions pénibles qu'un tel sujet inspire pour reprendre notre narration."

The gallant and humane Baudin did not live to narrate his own intentions, or see the published account of his expedition. The withering of the French schemes was unknown to him. He died at the Mauritius; and it was not under his auspices that the pseudonym of "Terre Napoléon" was attempted to be affixed to South Australia and Port Phillip, under the authority of the "Imprimerie Impériale" in Paris in 1807.⁵⁹

⁵⁹ "Voyage de Découvertes aux Terres Australes," Vol. iii. p. 11. Seconde édition, revue, corrigée et augmentée, par Louis de Freycinet. Paris. 1824. Peron, the naturalist of the expedition, edited the first volume in 1807, and prepared a great part of the second, which was continued and edited by Freycinet in 1816. The later edition of 1824 is quoted in the text.

Robbins, after examining King's Island, entered Port Phillip in January. The Surveyor-General on shore, with assistants, worked upon the east coast, returning to the *Cumberland* when necessary. Robbins and the gardener were often on shore. The schooner was moved from place to place so as to be available for the land-party to return to her at night. Five times the natives were seen, some of them close to the present site of Melbourne. Biscuits were on two occasions given to them, and no ill-usage on either side was recorded. Once Mr. Grimes returned to the ship to obtain a stronger guard, as eleven natives met the party on landing. They were peaceful, and accepted biscuit, fish, and a tomahawk. The mouth of the Yarra Yarra was discovered, and the Saltwater and Yarra Yarra rivers were ascended. The land-party, consisting of Robbins, Grimes, the gardener, with as many of seven sailors as may have left the boat (4th Feb. 1803), stood upon Batman's Hill, long known as a picturesque spot in Melbourne, but levelled in later years to give place to a railway station.

On the following day water-casks were taken up the Yarra Yarra, and the *Cumberland* was supplied from what the gardener styled in his journal "the great river." For several days afterwards Mr. Grimes was surveying on the banks of the Yarra, and the gardener sowed seeds. On one occasion the latter, when alone, saw seven natives, but they did not molest him. Grimes surveyed the course of the Yarra for many miles above the present site of Melbourne. The result of the expedition was not what might have been looked for from such explorers. Neither Grimes nor Robbins praised the soil they saw, although they reported that small portions were fit for cultivation.⁶⁰ The value of the natural grasses in yielding pasture for fine-woolled sheep was not then known. The previous reports of Murray and Flinders, chiming in as they did with the Governor's desires, had, however, been so favourable that the English government, without waiting for further information, determined to occupy Port Phillip.

⁶⁰ It is only fair to Robbins to state that when sent in 1804 to examine Western Port he declared—"I have not seen any part of Western Port in my opinion so eligible for a settlement as the freshwater river at the head of that port" (Phillip).

The necessity to exclude the French having compelled King to occupy the Derwent, he prosecuted his plans with the hope of approval, but some time elapsed before he could find an officer to take charge of the new settlement. King reported that the gallant Robbins, who returned to Sydney in March 1803, had performed his duty entirely to his satisfaction. He sent detailed accounts of the surveys of Port Phillip and of King's Island. The latter was unfit for agricultural settlement. Of the former Robbins said it was

"an extensive and fine harbour, but has only small portions of ground capable of advantageous cultivation, and a great scarcity of fresh water, although sufficient for a settlement and supplying ships." "It now remains to determine" how far it would be advisable to make a settlement at Port Phillip. From its being situated at the western extremity of the entrance of the Straits, it may be advisable some years hence, and indeed absolutely necessary. How far it may be considered as an immediate object, I must submit to your Lordship's consideration."

Almost simultaneously it seems to have occurred to Lord Hobart and to Governor King that the new settlements might be promoted by drafting settlers thither from Norfolk Island. In June 1803 Lord Hobart recommended a partial removal, and that advantages at Port Dalrymple, King's Island, or Port Phillip should be offered to the retiring settlers. There were then a thousand people on the island. In Aug. 1803 King suggested a partial removal. Though the want of a harbour was inconvenient in many respects it presented a great obstacle to escape of convicts. The island had, moreover, "provided entirely for its numbers since 1794," and had from its fertility been of great assistance to Sydney. He could make no "positive recommendation," as much would "depend on the accounts from Van Diemen's Land." When, at a later date, the "total abandonment" of the island was suggested by the Secretary of State, King "humbly submitted (30th April 1805) that it would on many grounds be injurious."⁶² By furnishing salt meat largely to New South Wales, and "preserving the lives of many British seamen," the little settlement had been of infinite use. For the "extending settlements" it would continue to be so.

⁶¹ King to Lord Hobart, 9th May 1803.

⁶² Though King remonstrated against the total abandonment, it will be seen that he has been upbraided for recommending it.

Captain Colnett afforded the means of sending an establishment to Van Diemen's Land. He permitted Lieut. Bowen, of H.M.S. *Glatton*, to volunteer his services, and that officer received his instructions on the 10th June 1803. Mr. Mountgarrett, of the *Glatton*, volunteered in like manner. The *Porpoise* and the *Lady Nelson* were to transport the expedition. Minute directions were given to prevent occupation by settlers of such sites as might be wanted for a town or for fortifications. A few settlers were to receive 200 acres each, with convict labourers and their rations for eighteen months. The "Prayers of the Church of England were to be read with all due solemnity every Sunday." No vessels were to be permitted to communicate with the settlement except to obtain relief. Lieut. Courtoys, who commanded the *Lady Nelson*, was told by King "not to keep too close to the land at any time, as you must recollect that the vessel is very leewardly." Bowen was provided with "sealed orders, not to be opened except on the appearance of French vessels."

In Sept. 1803 Bowen reported his arrival. The land he thought excellent. Natives had been seen, but they were shy. "I have not made any search for them, thinking myself well off if I never see them again." He dated his despatch from "Hobart,"⁶³ at Risdon Cove, King having named the settlement after Lord Hobart. Bowen appears to have struggled manfully with the difficulties of his position until, by the arrival of Collins in 1804, the government of the settlement passed into inferior hands. The appointment of Collins was thus announced by Lord Hobart to King (14th Feb. 1803):

"The accounts you have transmitted of the importance of the harbour in the southern coast of New South Wales in Bass's Straits, to which you have given the name of Port Phillip, and your representation of the excellence of the climate, and promising appearance of the country on that coast, and also the advantageous situation of the island called King's Island, have induced me to consider with great attention the expediency of forming from this country a settlement in that quarter, subordinate and dependent upon the government of New South Wales."

"It is evident that the attention of other European Powers has been drawn to that quarter of the world, and it need scarcely be observed

⁶³ In some manner the name was converted in after years to Hobart Town, and has only recently been restored as "Hobart."

that the establishment of any foreign power on that part of the coast might, in the event of hostilities, greatly interrupt the communication with Port Jackson, and materially endanger the tranquillity and security of our possessions there." . . . "It has on these considerations been determined by His Majesty that a settlement should be immediately formed at Port Phillip, and that as soon as a detachment can be sent from thence a subordinate establishment should be made at King's Island."

Lt.-Col. Collins, on account of his experience in New South Wales, had been chosen to found the new settlement; but "the intended settlements are considered as dependencies upon your government, and the Lt.-Governor is placed under your orders." H.M.S. *Calcutta*, and the ship *Ocean*, would convey the expedition. The detailed instructions to Collins were sent also to King.

About thirty women were allowed to accompany their convict husbands, and ten children were permitted to go with their mothers. Amongst the children was one who was in after years to become an active politician in Victoria. Forty-six free persons, including children, were permitted to settle at Port Phillip or elsewhere. Port Phillip was represented as the most eligible situation, and Collins was therefore directed to form the first establishment there. "You are to endeavour by every means in your power to open an intercourse with the natives, and to conciliate their good will." Violence against them was to be punished "according to the degree of the offence."

Elaborate instructions for promoting agriculture and grazing were given to Collins, and "the clandestine introduction of spirits" was to be vigilantly prevented. If "any quantity of this pernicious liquor should be discovered" in any person's possession, "it will be your duty to seize, and, if necessary, to destroy the same." Religious observances were to be promoted. Though Port Phillip was,

"according to the best information, the most eligible place for the intended settlement," . . . "nevertheless you are not positively restricted from giving the preference to any other part of the southern coast of New South Wales, or any of the islands in Bass's Straits which, upon communication with the Governor of New South Wales, and with his concurrence and approbation, you may have well-grounded reason to consider as more advantageously situated."

Collins was nevertheless to disembark at once at Port Phillip, and not to search beforehand for any more eligible place. "As soon as possible" after overcoming "the first

difficulties" at Port Phillip Collins was to send convicts with an adequate guard to form a post at King's Island, if on examination the place should be found suitable.

In a separate despatch to King, Lord Hobart instructed him as to the manner in which the new settlements would be supplied with food.

"In three years, if the soil and climate at Port Phillip should appear as favourable as they have been represented, the new colony will grow sufficient corn for the consumption of its inhabitants; considering at the same time the superior advantage under which the establishment there will commence its operations, by the facilities it will derive from your fostering care and attention."

There was hardly any subject which was not embraced by the instructions given at this time to King. The decision with regard to the court-martial on Lieut. Marshall was not calculated to strengthen the Governor's position, but highly complimentary expressions were applied to his exertions.

The discovery of coal in quantities at Newcastle prompted Lord Hobart to send a mineralogist, Mr. Humphry,⁶⁴ to assist Collins, and afterwards conform to King's commands.

Captain Woodriff, of H.M.S. *Calcutta*, who conveyed Collins to Port Phillip, desired to become a settler, and King was instructed to grant him six hundred acres of land in "any of the settlements" under the customary conditions.

Collins reached Port Phillip on the 9th Oct., and reported his arrival to King on the 5th Nov. 1803. Three sub-alterns, three sergeants, three corporals, two drummers, and thirty-nine privates of the marine service were with him to control the two hundred and ninety-nine male convicts. Collins had also "a complete civil staff, of whom the Judge-Advocate alone is absent, but I have my Lord Hobart's assurance that he shall be sent out by the first ship that sails after me."⁶⁵ The *Ocean*, storeship, arrived (7th Oct.)

⁶⁴ The name is spelt in various ways in the documents of the day. In an order published in Sydney while the mineralogist was there he is styled "Adolerious E. W. Humphry, Esq."

⁶⁵ The fortunes of Bates, the Deputy Judge-Advocate, were singular. He arrived in 1806 at Hobart Town, and remained there nearly ten years, receiving salary but doing no duty. He was provided with no patent or authority under which Collins thought he could act, his commission being framed with reference to Port Phillip.—Bigge's "Report" (Judicial), 1823, p. 41.

under Captain Mertho. From the first moment Collins seems to have desired to transfer the settlement to Van Diemen's Land. Many writers have wondered at the folly of Collins and his officers in leaving a district so fertile as Port Phillip, which presented rich pasture lands without any need for clearance of timber. It is proper to let Collins speak for himself, and to show that in addition to a hankering to have his settlement close to the open sea, one of his motives was his fear that, if he should settle at the river discovered by Robbins and Grimes, he would not be able to protect himself from the natives. One or two quotations from the log of Captain Woodriff, and the published work of Lieut. Tuckey, of H.M.S. *Calcutta*, explain Collins' fears.

On the 16th Oct., Tuckey was sent in the launch to survey the upper part of the harbour. The log declared that Tuckey found no fresh water, but "fell in with a large party of natives who were very troublesome, their numbers increasing from one hundred to two hundred. The lieutenant and party were obliged to fire upon them, which drove them off, but with loss of one of their companions who was shot." Tuckey's work enlarged upon the treachery and daring of the natives, "upwards of two hundred having assembled round the surveying boats." Such having been the occurrences in Oct., Collins' despatch (to Governor King), dated 5th Nov. 1803, Sullivan's Bay, Port Phillip, becomes intelligible. The intimation from Harris, the surveyor, that "the northern shore was more numerously inhabited than any other parts," condemned it in the eyes of Collins. He had seen Phillip speared at Port Jackson.

The despatches from New South Wales, with the report of the discovery of the Yarra-Yarra river, had not been received in England when Collins sailed thence. King sent his report in May 1803, and Collins left England in April of that year. Collins wrote as follows:—

" . . . From Mr. Mertho, who had been examining some part of the bay, I received the first unfavourable impression of it, which I am truly concerned to observe a more minute survey thereof has only tended to strengthen. Anxious to discover a place possessing the advantages of fresh water, timber for building, and soil for agricultural pursuits whereon I could land my people, I determined to lose no time in examining the bay. . . ."

"I went on shore with Captain Woodriff to a bay on the east side, where very good fresh water had been obtained by sinking casks near the

margin of the sea-shore. . . . I found a level of about five acres upon which I instantly determined to land my people, stores, and provisions. . . . That every further information respecting the capacious harbour should forthwith be obtained, Captain Woodriff despatched the first officer, Lieut. Tuckey, accompanied by Mr. Harris, the Deputy-Surveyor of the settlement . . . on a survey of the harbour. . . . Upon this business they were absent nine days, and I have now the honour to enclose a copy of the report made to me for your information, by which I think it will appear that, having before me but a choice of difficulties, I could not be anywhere better placed than I am."

Captain Woodriff landed a few marines to assist in guarding the stores, but Collins plaintively remarked :

"As the same necessity will exist after the departure of the *Calcutta*, I must submit to your Excellency whether it would not be expedient to increase my force by a small party from the troops under your command at Port Jackson. As this must in a great measure depend upon what may be your determination respecting my future proceedings, I shall add nothing further on the subject, but that were I to settle in the upper part of the harbour, which is full of natives, I should require four times the force I have now to guard not only the convicts, but perhaps myself, from their attacks. I cannot but suppose that all the disadvantages of Port Phillip are as well known to your Excellency as they are to myself at this moment."

It will be remembered that, amongst the titles of Grose to gratitude, Collins had represented the encouragement shown to the soldiery in Sydney, even in their dissipation. He now desired (separate despatch) to confer favours on the civil officers placed under himself. The Secretary of State had directed him not to issue spirits to the civil officers: he was certain that "it could not be intended by the Secretary of State to make such a distinction between" civil and military officers. On this head Governor King gave him no comfort. Neither to the civil nor the military were spirits "to be issued as a ration." Neither King nor any officer in the settlement could recollect such an indulgence since 1791, "except on their Majesties' birthdays."

Mr. G. P. Harris, the Deputy-Surveyor, made a report on Port Phillip as disparaging as that of Collins, and, as regarded the territory to the west of the port, egregiously misleading.

Knowing that the survey made by Grimes, and sent to England by the *Glatton* in May 1803, had not been seen by Collins, King sent him a copy of it (26th Nov.) together with Flinders' chart. After receiving the report of Collins, King concluded "that Port Phillip is totally unfit in every

point of view to remain at, without subjecting the Crown to the certain expensive prospect of the soil not being equal to raise anything for the support of the settlement." He had not desired to fix upon any site without hearing from England. The reports of Mr. Murray and Captain Flinders had led King to adopt Port Phillip temporarily as a site, but he yielded to the later reports of others. He left it to Collins to decide whether to remove to the Derwent or to Port Dalrymple. He sent ample information as to both places, of the former of which Lieut. Bowen, the officer in command, spoke highly.

King wrote at great length, and sent various stores to Collins. He sent an order to Lieut. Bowen to transfer the command at the Derwent if Collins should decide to go thither, and chartered the *Ocean* for four months to assist Collins.

The convicts generally behaved well at Port Phillip. Twelve absconded. Some returned: some were recaptured. Two were unaccounted for, and Collins "took it for granted they had perished." One of them, Buckley, fell into the hands of the natives, whose numbers had alarmed Collins. They treated him humanely, and in 1835 he was found enjoying their hospitality, when John Batman headed an expedition formed to take possession of the land which Collins abandoned in 1804.

Governor King did not resist the entreaties of Collins. He wrote (1st March 1804) to the Secretary of State: "By the *Ocean*, and a boat, I received letters from the Lt.-Governor reporting the badness of the soil and the want of fresh water as decided objections against Port Phillip being eligible for an agricultural settlement. . . . I cannot but regret that Port Phillip has been deemed unfit for a principal establishment."

The receipt of the report of Grimes, with the chart of the Yarra-Yarra, had no effect upon Collins. It deprived him of the plea of want of water, but it furnished fresh evidence of a savage population. Tuckey had encountered from one to two hundred of the dreaded natives at the north-west, and Collins was not inclined to qualify his first report to King, that in order to settle "at the upper part of the *harbour*, which is full of natives, I should require four

times the force I have now to guard, not only the convicts, but myself from their attacks." He did nothing to maintain possession at Port Phillip, and Governor King, in June 1804, commissioned Lt.-Col. Paterson (Lt.-Gov. at Port Dalrymple) to examine whether "a post of occupancy" should be formed at Port Phillip, or at Western Port, to neutralize the schemes of the French.

Collins' affections were elsewhere. He fled to Van Diemen's Land, where Bowen was already established on the bank of the Derwent, easily accessible from the sea. Even there he shrank from the duties of his office. Without assuming control over Bowen in compliance with his instructions, he selected a site for his own settlement on the opposite side of the river, at a place he called Sullivan Cove.

Desirous as he was to yield no footing to the French, King nevertheless declined to multiply contiguous posts of occupation, and in April he directed Collins "to lose no time in taking under your command every place and person at and about the Derwent." Collins delayed. Bowen hesitated. King was peremptory. "There was," he said, "no need for two Governors within six miles of each other." Bowen's general conduct was nevertheless highly commended to the Secretary of State. The name Hobart, which King had affixed to the first settlement at Risdon, was transferred to that formed by Collins.

Collins' disregard of the desires of the Secretary of State that a port in Bass's Straits should be occupied, created a special difficulty. Lord Hobart, in a despatch (24th June 1803), had furnished a ludicrous instance of the dangers which surround ignorance when it affects precision.

"After mature consideration of all the circumstances," . . . "it appears to be advisable that a part of the establishment now at Norfolk Island should be removed, together with a proportion of the settlers and convicts, to Port Dalrymple, the advantageous position of which, upon the southern coast of Van Diemen's Land and near the eastern entrance of Bass's Straits, renders it in a political view peculiarly necessary that a settlement should be formed there."

Colonel Paterson was to go to Port Dalrymple, and as an officer of Foveaux's rank would not be required at the diminished settlement at Norfolk Island, Foveaux was to go to Sydney, and there be ranked as Lt.-Governor *under*

King in room of Paterson. King's position was embarrassing. By his despatches (Nov. 1802) accompanied by charts, he had persuaded the government to adopt his views about founding settlements to bar the footing of the French in the territory; but the circumstantial instructions of Lord Hobart it was impossible to obey. Port Dalrymple was not upon the southern coast of Van Diemen's Land, nor was it near the eastern entrance to Bass's Straits. In this dilemma King, on the 17th May 1804, "exhibited queries"⁶⁶ by "precept" to himself as Governor, Colonel Paterson as Lt.-Governor, and Brevet-Major George Johnston. On the 18th May all three subscribed their opinions. They agreed that King had in Nov. 1802 recommended settlements at Storm Bay Passage and Port Phillip or King's Island, "to counteract any intention of the French intruding a claim to the prescribed limits of any part of this territory," and that Lord Hobart's instructions were founded on the recommendation.

They reported—

"that, his Lordship having so particularly designed Port Dalrymple to be settled, although its situation is named on the south part of Van Diemen's Land, whereas its situation is on the north side, yet the command of Port Dalrymple is so positive that we are unanimously of opinion that that place should be immediately settled in compliance with any political reason that, his Lordship states, renders that measure peculiarly necessary."

The significance of the next query will be seen when it is remembered that the armed rebellion of March 1804 had just been put down by the exertions of King and Johnston. What force should Paterson take with him? How could it be replaced?

"It appears to be necessary that Colonel Paterson should take with him his company with three officers under him; and although a part of the military establishment at Norfolk Island will be withdrawn when the final arrangements are made, yet we are unanimously of opinion from recent circumstances that an additional number of troopers is highly necessary to answer such exigencies as may occur, which addition we think ought not to be less than twenty to the five already mounted—as proper officers and men can be selected and obtained."

¶ The officers of the New South Wales Corps were no longer jealous of the little band of troopers formed by King when Paterson denied him military assistance in administer-

⁶⁶ A despatch, May 1804, from King to Lord Hobart, enclosed the queries and replies.

ing the government. They strengthened his application for enlargement of the irregular force to fix a post at Port Phillip or elsewhere. Arrangements were made to equip Paterson, and to remove a part of the Norfolk Island establishment. King wrote to Foveaux (23rd June 1804) that the island settlers might be offered the "choice of settling at Paterson's or Hunter's River, from whence I have had the most advantageous accounts of the soil and situation." The settlers were unwilling to leave, and at a later date (May 1805) King wrote to Piper the commandant, that he had no intention to remove all the inhabitants. Those who wished to remain might do so; and the accounts given by Colonel Paterson of Port Dalrymple were so encouraging that the settlers need not be alarmed lest the Hunter River settlement should be the only one available for them.

A document has been preserved in which a Norfolk Island settler surrendered 30 acres there to the commandant (7th Sept. 1805), in consideration of receiving 45 acres at Port Dalrymple.

To provide animal food for the new settlements was an urgent need. Commander Kent sailed in 1803 in H.M.S. *Buffalo* to the Eastern Islands for cattle. If he failed at the islands he was to proceed to Calcutta. Before he arrived, King had made a contract with the house of Campbell, to import young cows for the settlements at Van Diemen's Land. The price to be paid was £25 per head on landing. The master was

"to despatch a boat on shore at Elephant Bay on King's Island, where a letter in a bottle will be suspended from one of the rafters in a conspicuous part of the largest shed or house at the said bay, with directions (from King and from Campbell) as to what port in Bass's Straits or in Van Diemen's Land the cows are to be landed at, and to whom delivered, and in case any accident should prevent the letter from being found,"

the master was to proceed to Sydney. As usual, the owners obtained permission to bring a certain quantity of spirits, but it was stipulated that any excess over 5000 gallons should be forfeited, and that the price to the inhabitants should not exceed eight shillings a gallon, exclusive of duty. The precautions adopted to secure live stock were urgently needed for the new settlements.

Lieut. Bowen was actuated by no mercenary motive in delaying the transfer of his settlement to Collins, for he declined to accept any remuneration for his services in governing it. They were arduous. Food was not abundant, and attempts were made to rob the stores. Soldiers were implicated in them, and Bowen carried off a soldier culprit to Sydney in an American whaler, returning to his post in Feb. 1804. Lord Hobart was persistent in commanding King to keep down expenditure, and had vague ideas of a land where food was scant. He instructed Collins (Feb. 1803) "to procure such kinds of animal food as the place (Port Phillip) can supply, and to be particularly careful to cure whatever surplus of fish might be caught." The experience of New South Wales and Norfolk Island was useless to him. He had in 1802 gravely suggested that

"the causes which produced the dreadful and frequent devastations by the inundations of the Hawkesbury, might be brought to operate in favour of the cultivation of an article of food that would not be much less advantageous to the public, or the individuals, than that of bread-corn. . . . Rice would seem to be better adapted for the banks of the Hawkesbury than other corn. . . . It is perfectly well known that rice will only succeed on ground that is occasionally inundated."

King gravely regretted that though occasional floods occurred, yet in some years the rivers did not "rise above the ordinary level," which was at least twenty feet below the top of the lowest bank, and that, consequently, irrigation without more expense or labour than was at the command of the settlers was impracticable. He had, however, procured some seed rice from one of the French ships as an experiment, of "the result of which I shall inform your Lordship."

Though ship after ship carried convicts to the colony, and though settlement after settlement was being formed, and cultivation at each of them could prosper only after lapse of time, Lord Hobart informed the Governor that that there would be a sufficiency of meat and flour for all the wants of all the settlements until the end of 1804. Yet much of the salt meat received in 1802 and 1803 had been unfit for use. As it was a matter of life and death, the Governor, in spite of Lord Hobart's calculations, took upon *himself* the responsibility of contracting for the supply of

cows from India for the new settlement at Port Dalrymple. Colonel Paterson (7th June 1804) embarked thither in the *Integrity*, a colonial cutter of about sixty tons, accompanied by a chartered vessel of twenty-five tons. The latter carried an ensign of the New South Wales Corps and fourteen soldiers. Colonel Paterson was driven back by foul weather to Sydney after ten days; the smaller vessel was driven back after a month's contention with westerly winds in the Straits. Part of King's instructions to Paterson had been: "You are to examine how far you consider Port Phillip or Western Port the most eligible for forming a post, not so much with a view to its being considered a present agricultural settlement as a post of occupancy." The baffling of the first expedition probably neutralised these instructions. It was determined that H.M.S. *Buffalo* after being repaired should carry the expedition. On the 15th Oct. the *Buffalo*, the *Lady Nelson*, the *Francis*, and the *Integrity* sailed for Port Dalrymple. Before his departure Paterson requested King to define his jurisdiction. Collins at Hobart Town was an officer of marines. There had been a dispute at Newcastle whether an officer of the New South Wales Corps could properly be put under command of Lieut. Menzies, the commandant (who was in the marines), and Paterson had no desire for a conflict with Collins about jurisdiction. King notified that the 42nd parallel of latitude should be the line of demarcation between the dependencies at Hobart Town and Port Dalrymple. Paterson was safely landed with all his stores (but not before H.M.S. *Buffalo* had been stranded for three days at Yorkton, Port Dalrymple).

On the 20th Dec. 1804, King urgently represented the necessity of supplies of food. Both Hobart and Port Dalrymple would need salt meat for some years. The cows sent to them and contracted for, would provide for the future, but meantime animal food must be obtained. He had sent estimates of what would be needed until Jan. 1806. At the same time he reported that the settlers at Norfolk Island were loth to accept Lord Hobart's offers. Forty-one had given in their names to Foveaux, but thirty-one withdrew them. Most of them refused to abandon their growing crops. Some were disgusted at the attempt to

remove them, and would have sacrificed their holdings if King had not ordered Foveaux to discourage such "unwarrantable transfers."

The removal was postponed in order that the crops might be secured, and the hardships which ensued at Hobart Town and Port Dalrymple were not aggravated by dragging the settlers from Norfolk Island, where animal food was abundant, to places in which it was scarce. The little island supplied food to both of the new settlements in time of sore distress. In Aug. 1805 the *Buffalo* carried to them some live stock, nearly 30,000 lbs. of flour, a greater weight of pork, and some hundreds of bushels of maize; and in Nov. 1805 the *Sydney* was freighted with similar articles. Opposed as the Governor was to the total abandonment of the settlement founded by himself in 1788, he pleaded in 1806 the benefits it thus conferred. In obedience to Lord Hobart, he had removed most of the soldiers and the convicts, but "used no compulsory measures towards" removing the settlers, only eight of whom had consented to abandon their homes. There were then on the island more than three hundred children. There were only forty of the civil and military class left, and the male convicts had been reduced to about one hundred. After summing up how much good the island had done and was capable of doing, he added: "I am far from wishing to urge the necessity of its being put on its former establishment, but I respectfully conceive the present small establishment would be necessary for the government of the settlers, who I learn are determined not to remove without compulsion."⁶⁷

Lt.-Gov. Collins, with a vivid remembrance of the days of starvation in Sydney in 1789 and 1790, earnestly implored King to send food to Hobart town. In Nov. 1805 the latter, sending 13,000 lbs. of meal, said—

"which, indeed, is what we can ill spare from our present necessities, as our harvest is now getting in, and we are obliged to thrash for our weekly

⁶⁷ King to Lord Camden, 15th March 1806. Amongst the misstatements made by Dr. Lang in his history, the following occurs: "It is at least certain that in conjunction with Lt.-Col. Foveaux, he (King) recommended the entire abandonment of that settlement (Norfolk Island) . . . a more injudicious and impolitic measure could scarcely be conceived."—Fourth edition, 1875, Vol. I., p. 73. To assail a man for recommending what he opposed involves peculiar absurdity.

rations. However, no exertion will be wanting to prevent you from want. . . . I think you will be perfectly justifiable in the existing state of your settlement in causing every useless dog to be destroyed. Every useless dog I consider not only as a public nuisance, but a destroyer of what ought to maintain the inhabitants."

To the Secretary of State King wrote that because of the "uncertainty of supplies of salt meat arriving from England, I have directed that kangaroo flesh be received into the stores (at Hobart and Port Dalrymple) from the officers and soldiers who can procure them, at 6d. a lb., and issued as rations, which I hope your Lordship may approve." A later despatch on the subject (March 1806) to Lord Camden, said:—

"Colonel Collins has informed me that he has long been in expectation of receiving provisions, &c., from England. What reason he has for that hope I am not acquainted with, but I trust it may be the case. His wants have been liberally supplied, and indeed anticipated, from hence as long as our stores and resources admitted. What those supplies have been is stated in the enclosure.

"The wants of Port Dalrymple are equally, if not more, pressing, as the formation of that settlement was entirely from hence, whereas Colonel Collins brought the most ample supplies from England—many still remaining, except provisions which have been long since expended. Providing these supplies in the still infant state of this part of the territory, I can assure you, my Lord, requires much attention and forethought, as it is not only the present but the future wants of the new settlements I have to provide for. It may reasonably be hoped that Colonel Collins' settlement will very soon produce a sufficiency of grain for its own consumption, having now been settled two years, and that Port Dalrymple will soon contribute to its own support. . . . Still they must be fostered, nor must they be suffered to languish, or to cut at the root of their future subsistence by the great reduction of labour that attends a reduced ration, or being obliged to kill their breeding stock, which has cost so much, and cannot be replaced but at a very great expense."

Six hundred and twenty-two cows were landed safely from one vessel at Port Dalrymple in 1805, under the contract with Campbell. Two hundred and eighty-eight had died on the voyage. Those landed appeared healthy, but disease afterwards swept off nearly two-thirds of them. To Hobart, King had sent other cattle brought from India by H.M.S. *Buffalo*, and by a vessel of Campbell's in 1804.

At both settlements there were robberies to obtain food. Three soldiers and a convict charged with robbing the stores were sent by Colonel Paterson to Sydney for trial by the Criminal Court. All were sentenced to death. One

soldier was sent to be executed at Port Dalrymple as an example; the convict was sent to the Derwent to undergo the same fate. There were extenuating circumstances with regard to the other soldiers, and King commuted their sentences to transportation.

Collins made the most of his difficulties. He was in doubt about the names of places. King told him to adopt those given by Cook, Furneaux, Hayes, and Flinders, "without entering into any disquisition how far a prior discovery gives claim to occupancy . . . Van Diemen's Land is wholly included within the British limits."

An unprovoked attack upon the natives at Risdon Cove laid the foundation of troubles, which were to end only with the absolute destruction of the whole race during the lifetime of some Europeans then living. Lord Hobart had instructed Collins to compel all persons under his government to treat the natives kindly. Collins was to punish any act of violence against them. If Lord Hobart had not condoned the killing of peaceful boys at the Hawkesbury, Collins might perhaps have so impressed his instructions upon his settlement that the Tasmanian aborigines, found so friendly by former visitors, would not have been made hostile. It is fair to Collins to state that the affray took place at the settlement formed by Bowen, and before Collins assumed control there. At the same time if he had obeyed the order to assume the command Risdon would have been under his charge at the time.

There was no ground for suspecting the natives of Van Diemen's Land of unfriendliness. Cook's coadjutor, Furneaux, had visited the island in 1773 without collision, although the Frenchman, Marion du Fresne, had stricken them without provocation. In 1777 Cook had found them friendly.

In 1792 the French expedition, which included Labillardière, spent much time in Van Diemen's Land, and under his guidance the natives were kindly treated and behaved hospitably in return. Good faith was not broken, and the savages on all occasions assisted Labillardière in his excursions. They guided, they supported the weary Frenchmen, and the description of them is a picture of Arcadian simplicity and peace.

In 1798 Flinders and Bass saw them and were friendly with them. A paragraph in the *Sydney Gazette* (March 1804) narrated that at that date the natives at the Derwent were "very friendly to small parties they meet accidentally, though they cannot be prevailed on to visit the encampment."

At Risdon Cove, May 1804, peace was rudely broken. Bowen was absent for a few days at the Huon river. A large number of natives, roughly estimated at from three to five hundred, were seen near the camp. Their demeanour, judged with knowledge of their habits, was not hostile. In after days a man who was present deposed that they did not threaten or molest any one. They were kangaroo hunting. But the officer in charge, Lieut. Moore, was foolishly alarmed. Soldiers and convicts were mustered. Fire-arms were discharged without intimidating the startled crowd. Fresh volleys brought many to the ground and they fled, leaving it was said no less than fifty slain.⁶⁸ They were supposed to belong to the tribes at Oyster Bay.

Collins transmitted Lieut. Moore's report to Governor King. It only acknowledged that three natives "were killed on the spot." Collins added: "Not having been present myself, I must take it for granted that the measures which were pursued were unavoidable; but I have reason to fear that, from the vindictive spirit of these people, I may hereafter feel the unfortunate effects of them." In the pursuit a child about three years old had been captured. Collins had directed that it should "be returned to any parties that might be seen in the neighbourhood." An officer wished to retain the boy and take him to England. Collins forbade the abduction on the ground that King George, having seen Bennilong, wanted no more Australian blacks in England. The apprehensions which prevented Collins from settling at the Yarra river weighed upon him at Hobart Town. He wrote: "If the natives never saw the child again, they might imagine we had destroyed it. We have every reason to believe them to be cannibals, and they may entertain the same opinion of us." He would do all he could to bring about friendly feelings.

⁶⁸ West, "History of Tasmania," vol. ii., p. 6. 1852. Mr. West says: "The accounts of this affair differ greatly."

King replied: "I am much concerned at the unfortunate event of the party at Risdon Cove being compelled to fire on the natives, but I hope the measures you had in contemplation to gain their confidence have succeeded." It was idle for the Governor to express such hope, and wrong not to insist upon a searching inquiry. The fact that any young child was with the natives when they were shot sufficiently proved their peaceful intentions. When prepared for an attack it was ever their custom to place their women and children in remote safety. After such wanton treatment it would have been hard to create friendly relations. Collins, a few days after the massacre, sent some men to collect oysters. A band of natives attacked them with "stones and clubs," and drove them back to Hobart Town. Confidence was never restored. The natives were not again seen in large numbers, but when found in the forest were maltreated, or killed, in spite of the protests of the incapable Governor.

Collins praised, rather than blamed the manner in which at Sydney, Grose and officers transgressed instructions by granting favours to military officers. He asked King to sanction similar disobedience at Hobart Town. He wished to grant lands. King told him (8th Jan. 1805)—

"You are sufficiently acquainted with every circumstance on that head from this colony being settled until my taking the government. . . . Previous to Colonel Paterson's leaving England he had directions that the officers of the corps were not to enter into any agricultural or other pursuit that might interfere with their military duty. On a representation of the military officers to H.R.H., the Commander-in-Chief, stating the necessity of their having some means to supply the wants of their families, and requesting to be permitted to continue the cultivation of their farms, Colonel Paterson informed me that the Duke of York had no objection to their continuing their object, but on express injunction not to enter into any traffic."

Officers in New South Wales having always been permitted to cultivate for their "domestic use and comfort," King saw "no just reason" why those under Collins should be "excluded from the accommodation," and for such portions of land as Collins might recommend, not exceeding 100 acres to each officer, King would transmit grants "as early as possible after the descriptions are received."

While the garrulous and pliant Collins was at Port Phillip, one of the Irish convicts had written thence a

sedition letter to Joseph Holt. After the suppression of the insurrection in New South Wales, when, on the dying confessions of some who were executed and other statements, Holt's papers were seized on account of his alleged complicity with the rebels, King sent to Collins (20th April 1804) "an attested copy of the letter, as it is necessary you should know you have some such, if not many, of those hardened and abandoned characters with you." Holt was, he said, "a principal promoter of the late insurrection," and had been sent to Norfolk Island.

When Holt was permitted to return to his family from the island prison, he sailed by way of Hobart in a ship which carried a portion of the establishment in course of removal thither. Collins wrote:—

"A person of the name of Holt, proceeding to Port Jackson, having looked about him here, is so pleased with us that he has solicited my approbation of his coming here to settle with his family, and means to request your consent. I think from all I can learn of him that he would be very useful here, and therefore hope there will not be any objection on your part."

But even Collins had not a word to say for Maurice Margarot. In the same (private) letter he spoke of him as "a dangerous scoundrel, worse a thousand times than Stuart, vaurien as he is."

When King sent Colonel Paterson to Port Dalrymple he thought it necessary to explain to Collins (31st May 1804) that His Majesty's instructions were "positive for settling Port Dalrymple," and he could not hesitate to obey them. He gave the usual injunctions to Paterson about enforcing order amongst the inhabitants, and preventing any acts of violence against the natives, "enjoining all persons under your government to live in amity and goodwill with them."

Paterson's first report on the subject (26th Nov. 1804) may be given in his own words:—

"On the 12th, a body of natives, about eighty in number, made their appearance about 100 yards from our camp. From what we could judge they were headed by a chief, as everything given to them was delivered up to this person. He received a looking-glass, two handkerchiefs, and a tomahawk. . . . The first hut that they came to they wanted to carry off everything that they saw, but when they were made to understand that we would not allow them they retired peaceably. From this friendly interview I was in hopes we would have been well acquainted with them

ere this, but unfortunately a large party (supposed to be the same) attacked the guard of marines (one sergeant and two privates), and insisted on taking their tent and everything they saw. They came to close quarters, seized the sergeant, and wanted to throw him over a rock into the sea. At last the guard were under the unpleasant alternative of defending themselves, and fired upon them, killed one, and wounded another. This unfortunate circumstance I am fearful will be the cause of much mischief hereafter, and will prevent our excursions inland except when well armed."

Neither Collins nor Paterson had the sagacity to follow the example of Flinders, who obtained King's permission to take two Sydney natives to assist him in opening communications with their countrymen. Their sight and memory seldom failed to recognize a person once seen, and they might have saved Collins and Paterson from doubts as to the identity of visitors at the settlements.

As affairs were managed, war to the knife was declared at both ends of Van Diemen's Land in 1804. Paterson's military force was considerable. He had with him seventy-four soldiers at a time when only 129 male convicts were at Port Dalrymple. Contempt and dread ever influenced the meaner order of the whites to maltreat their black brethren. The efforts of the better class could not remove the ill-effect of the misdeeds of the worse.

The small settlement at the Hunter River contained some of the most dangerous convicts. The appointment of Lt. Menzies, of H.M.S. *Calcutta*, as commandant, was approved by the Admiralty, and he remained at Newcastle until the effervescent assumption of a subaltern of the New South Corps caused him to resign. The commanding officer in Sydney was of opinion that Menzies had no right to command the military detachment. Menzies claimed to do so on the ground that a marine was stationed there. King declined to interfere "in point of military form," and Menzies continued to serve until insulted by the subaltern. A court-martial was held, and Ensign Cressey was condemned. The Governor suspended the sentence, because a sentence of cashiering or death required to be laid before the Throne. Another ensign, Draffin, was appointed as commandant on Menzies' resignation, but he soon became deranged, and King wrote, in April 1805: "Having no other person to put in charge of that productive and useful establishment, I have placed it under Mr. Throsby, an

assistant-surgeon, who conducts it with great activity and propriety."⁶⁹

Troublesome convicts were arbitrarily moved from place to place so as to break up their plots. Writing to Colonel Paterson (Aug. 1805), King said:—

“I am sorry to be under the necessity of sending two such characters as H. B. Hayes and Maurice Margarot. . . . H. B. Hayes is a convict for life. At the expiration of Margarot's term of transportation it will be necessary to send him to this settlement, in case no Court of Civil Jurisdiction be previously established at Port Dalrymple, to answer the large debts he has contracted at this settlement, and for the forthcoming of his person this notification is to be considered a sufficient detainer. . . . They are not to be victualled at the public expense, but as Margarot has no resources I have no objection to an exception respecting him if you should think it necessary.”

For better security, Hayes and Margarot were conveyed from Norfolk Island in H.M.S. *Buffalo*, and it was while that vessel called at Hobart that Margarot attempted to impose upon Governor Collins. Colonel Paterson did not retain Margarot at Port Dalrymple, and he was sent to Newcastle. Hayes, the abductor, appears to have led a strange life in Sydney. He had considerable means, and acquired property. His intrigues with Margarot must have been well known, and Margarot's journals abound with notices of him. Hayes endeavoured to spin webs of conspiracy under cloak of meetings of Freemasons. In 1803, for such practices, he was ordered to the new settlement at Van Diemen's Land; but Lieut. Bowen's arrangements were not adapted for such a prisoner. In 1805 Hayes was proclaimed in Sydney as having “escaped from justice,” was apprehended, and sent to Norfolk Island, whence he was carried in the *Buffalo*, with Margarot, to Van Diemen's Land.

The creation of three new settlements within the space of one year, and the necessity for maintaining a staff at each, sorely taxed the resources of the New South Wales Corps. In 1805 Paterson was in command at Port Dalrymple. A subaltern, Piper, was at Norfolk Island. Foveaux had gone to England. A civilian was in charge at Newcastle. Collins had a detachment of marines at Hobart Town. Major Johnston and the Governor agreed to repre-

⁶⁹ King to Lord Camden, 30th April, 1805.

sent the great need of officers for detachments. King (July 1805) wrote to Lord Camden :—

“As there are now seven captains, seven lieutenants, and four ensigns absent from their duties, it would be gratifying to the officers here and beneficial to His Majesty’s service, if the officers who are appointed, or who are on leave of absence in England, were ordered to join the Corps, as not more than Major Johnston, a captain, and three subalterns are at head-quarters (one of the latter being unfit for duty); Lt.-Colonel Paterson, a captain, and three subalterns at Port Dalrymple; a captain and one subaltern at Parramatta; and two subalterns at Norfolk Island.”

An assistant-surgeon had been captain of the Loyal Association at Parramatta. He was convicted before a court-martial, and King (June 1805) suspended the sentence, but in the meantime the office of captain of the Association was vacant. John Macarthur, ever ready for action, though then a settler, was, with the consent of the Association, appointed to its captaincy by King.

Johnston suggested and King supported a plan for recruiting the New South Wales Corps. Both of them had good reasons to desire to strengthen it. There were not three hundred in Sydney; and the scattered men, fifteen at Newcastle, eleven at Hawkesbury, about thirty at Norfolk Island, and seventy at Port Dalrymple, besides a few at Cabramatta, South Head, and George’s Head, afforded but scanty forces to resist a rising, which was chiefly rendered improbable by the determined characters of King and Johnston.

The manner of Macarthur’s return requires special mention. It became the turning-point in the material progress of the colony. His sagacity in observing climatic and other influences upon the quality of wool, his foresight in commissioning his friends, Kent and Waterhouse, to buy for him “any wool-bearing sheep at the Cape,” their success, Macarthur’s exceptional care of the treasure he acquired in the progeny of the Merino flocks of the Escorial, have been mentioned. When his fiery temper brought about a duel with his commanding officer, and he was sent under arrest to England, his sagacity displayed itself. The speculation in his eyes was far-reaching, but the object was substantial. The fibres which he saw growing small by degrees and beautifully less in his specimens of wool, he conveyed with *care* on his circuitous voyage by Norfolk Island and Amboyna

to England. His own words may be employed to tell the result :—

“In 1801 I took to England specimens of the wool of the pure Merino, and of the best of the crossbred, and having submitted them to the inspection of a committee of manufacturers, they reported that the Merino wool was equal to any Spanish wool, and the crossbred of considerable value. Thus encouraged, I purchased nine rams and an ewe from the Royal flock at Kew, and returned to this country determined to devote my attention to the improvement of the wool of my flocks. I only landed here five rams and one ewe of the sheep purchased from the Royal flock.”⁷⁹

It was by labour that he obtained success. The papers of the House of Commons (1837) show that in July 1803 he addressed a memorial to Lord Hobart narrating what he had done, and expatiating upon the national advantage of fostering the experiment of wool-growing in Australia. For himself he asked permission to occupy land and to receive convict servants.

In Feb. 1804 he pressed his views upon Mr. Vansittart at the Treasury. In May 1804 he presented a memorial to the Privy Council. To prove that “no narrow or selfish views of monopoly influence the promoters . . . that their principal object . . . is to relieve this country from its present dependence on foreign nations for that valuable commodity” (fine wool), the company, he suggested, would engage to distribute a stipulated portion of their stock annually amongst the settlers in any manner the government might direct. To the Privy Council he repeated this offer. If it should be declined he would undertake the experiment himself if he should be allotted 10,000 acres of land and permitted to select thirty convicts as shepherds.

On the 6th July 1804 he was summoned before the Privy Council. There he averred such confidence in his plans that he would accept even a conditional grant of land until the government might be satisfied. He had referred to the late Governor, Hunter, who was examined on the same day by the Privy Council. Without committing himself to decided opinions, Hunter testified that “any offer Captain Macarthur might make would be worth attending to.”

On the 14th July the committee of the Council met again. They shrank from recommending that an imme-

⁷⁹ Camden Papers. Evidence before Mr. Commissioner Bigge, 1820.

diate grant should be given to Macarthur or to anyone else. They would not tie the Governor's hands. The Governor might be called upon for a report. A conditional grant "might perhaps be made to Macarthur with safety." Thus armed Macarthur went to Lord Camden, the new Secretary of State, and found at last the recognition he desired.

It was not only the manufacturers, with whom Macarthur consulted, who supported his views. A work published in 1803⁷¹ remarked that the anxiety of manufacturers as to supply of fine wool had been greatly diminished by minute examination of Macarthur's fleeces. Their quality gave "birth to an expectation (which there appears nothing wanting to realize but that government should grant moderate encouragement to the undertaking already so happily commenced) that this expensive and heretofore unproductive colony will speedily furnish our country with ample supplies of fine wool." Certain deputies appointed to attend the progress of a Woollen Bill in Parliament supported the soldier speculator. Lord Camden had no prepossessions against him, and saw the advantage of new sources of supply. The French were sedulously creating an establishment at Rambouillet, whither Spanish Merinos had been imported under the Bourbons, and to improve which it was reported that Bonaparte had "compelled the Spanish government to allow his agents to select 4000 of their finest woolled sheep."⁷²

Lord Camden (31st Oct. 1804) wrote to King by the *Argo*, the ship chosen by Macarthur to convey him to the colony:—

" . . . I am commanded by His Majesty to desire that you will have a proper grant of land, fit for the pasture of sheep, conveyed to the said John Macarthur, Esq., in perpetuity, with the usual reserve of quit-

⁷¹ "Financial and Political Facts of the Eighteenth and Present Century." London: 1803. The author's name was John Macarthur, but he was in no way related to or connected with his namesake of the New South Wales Corps.

⁷² Camden MSS. John Macarthur to Governor King, Sept. 1805. Macarthur wrote: "I entirely concur with you in opinion that nothing should be made public that might tend to draw the attention of the French to this place, and nothing is more likely to produce such an effect than letting them know there is a probability of Great Britain's being supplied with fine wool from hence. They are so aware of the importance of the *pursuit that Bonaparte has*," &c., &c.

rents to the Crown, containing not less than 5000 acres. Mr. Macarthur has represented that the lands he wishes to be conveyed to him for this purpose are situated near Mount Taurus, as being peculiarly adapted for sheep, and I therefore am to express my wishes that he may be accommodated in this situation."

(Convicts were to be assigned as shepherds.)

"His Majesty's Government takes a peculiar interest in forwarding the object of this letter. I am therefore persuaded you will do everything in your power to promote its success, and I shall be obliged for all such observations as shall occur to you upon the subject, and may tend to promote an object so important for the colony."

Macarthur showed shrewdness when invited in London to select a site in Australia. Rightly conjecturing that the grasses which had arrested the straying cattle (lost in 1788) betokened superior pasture, he at once fixed upon them, and the noble estate of Camden Park (named after his patron) still justifies his choice.

Another person, Mr. Davidson, nephew of Sir Walter Farquhar, was promised a grant of 2000 acres contiguous to Macarthur's, and two respectable young men went out "to instruct others in the art of assorting wool and finally to become settlers." A few other persons were allowed to accompany Macarthur.

The Governor hailed the arrival of Mr. Davidson. "Your Lordship has prescribed 2000 acres of land for him, to which I shall add another." Macarthur's former vigorous efforts to undermine King's position were not allowed to deter the latter from loyally promoting the experiment recommended by Lord Camden. It was alike creditable to Macarthur and to King that they acted as if the past had been forgotten.

The *Argo* arrived in Sydney on the 8th June. King reported (20th July 1805) that he had done all he could to promote the object commended to him by Lord Camden. The enterprising Macarthur had brought a ship, to be employed in the whale fishery, to carry wool to England once in eighteen months, and to return with articles of use and comfort for the inhabitants. King enlarged upon these prospective benefits. He had nevertheless shrunk from alienating the land on which the wild cattle were feeding, and had begged Macarthur to choose a larger quantity on the east side of the Nepean, promising to mark out in the

meantime the prescribed grant at Mount Taurus, pending instructions from England. To this Macarthur "very handsomely consented," and King had no further comment to make beyond referring Lord Camden to despatches to Lord Hobart on the inexpediency of interfering with the wild cattle. He was desirous to promote Macarthur's views as far as he could, and had allowed him to select 100 of the finest-woolled ewes belonging to the government (for which grain was to be paid equivalent to £2 for each ewe). Macarthur's exertions would be more beneficial than any which the government could make in promoting the views which Lord Camden had at heart.

On the east side of the Nepean Macarthur could not find a block of 5000 acres of so suitable a character as the more parklike pastures on the west. He applied for permission to occupy the land near Mount Taurus, volunteering to resign the grant if Lord Camden should disapprove of its retention. King, though he would have preferred to wait for Lord Camden's reply to his despatches, considered the government protected by Macarthur's offer, and no longer withheld his consent.

Thus did Macarthur discover the road to commercial prosperity. Others had found the land; he taught the way to use it. In the existing state of Europe, bound by Berlin decrees while Napoleon yet was young, it required some audacity to predict that continental trade would be opened again to England. The schemes of Macarthur embraced the good of the mother country as well as of the colony. Had he not lived, another might in after time have acted as he acted. But Macarthur, and no other, pointed out the way. He sowed the seed of that which was to be a mighty tree. He was not to see its full umbrageousness, but he was permitted to watch the early growth and to know that others were becoming conscious of the blessings which he had ensured to the descendants of Englishmen in the land which he had made his home.

Although most noted for the introduction of the growth of wool in the colony, he displayed energy in other fields. In 1794 he had more than a hundred acres in cultivation, under the universal implement, the hoe. In 1795⁷³ he set at

⁷³ *Camden MSS.* Letter, 1795, from his wife to a friend in England.

work the first plough used in the colony. Governor King, besides encouraging Macarthur, availed himself of the services of Mr. Wood, a wool-sorter, in order to improve the sheep owned by others. The Rev. Mr. Marsden⁷⁴ had improved his sheep, though not at such expense as Macarthur incurred. At the recommendation of Marsden and Macarthur, Wood was ordered to inspect all the sheep in the colony. In Sept. 1805 he made a report. Wherever settlers had endeavoured to improve the wool, beneficial results had been attained.

“But it is with concern that I observed this great national object may be many years retarded by an unaccountable prejudice which appears to prevail in favour of weight of carcase instead of fineness of fleece; coarse wool would “not pay for sending to England, nor if it would is it wanted, whereas, on the contrary, so great is the scarcity of Spanish wool that it sells for almost any price, and serious apprehensions are entertained by the best-informed people that the French will increase their manufactures of fine cloth and exert their influence over Spain to prevent Great Britain from participating in the purchase of the fine wool of the latter country.”

The Governor reported that the examination of the flocks in the colony had been “very accurately” conducted by Mr. Marsden and Wood; that the change from hair to “wool of different degrees of fineness had been and continues ameliorating beyond belief.” He was not about to apply the resources of the colony to the industry otherwise than by improving the flocks maintained for distribution to settlers—

“Experience having pointed out the fallacy of appropriating public labour and expense in works of that nature, which thrive so much better when conducted by the individual who has interest in its produce, and whose situation, unconnected with other duties, enables him to watch, and turn the various changes to an improving productive account.”

He relied on Macarthur's energy to prove to settlers the advantage of the Merino blood, and was “convinced that compulsion,” exercised upon the short-sighted people who bred sheep only for their carcases, would not be beneficial. In a private letter to Piper at Norfolk Island Macarthur wrote (June 1805): “Everything is settled to my satisfaction, and I entertain hopes of universal peace once more

⁷⁴ In Dec. 1804 King sent to Sir Joseph Banks three fleeces grown by Marsden, “who as far as my ideas go is the best practical farmer in the colony.” He wished the fleeces to be laid before the Agricultural Society if Lord Camden should approve.

resuming her reign in this heretofore unhappy place."⁷⁵ With a Secretary of State like Lord Camden, a Governor like King, a man of enterprise like Macarthur, and a climate like that of Australia, the success of wool-culture was assured.

The discoveries by land in the time of King were unimportant. Barrallier was his right hand. At Western Port and afterwards at the Hunter river, where land exploration was followed up, Barrallier was the moving spirit. While Baudin was at Sydney, Barrallier was despatched to seek a passage through the Blue Mountains. M. Peron informs us that King declined to accede to his request to be permitted to accompany Barrallier. On the 30th Oct. 1802 King reported that Barrallier had been unsuccessful, but was about to start again. He started in November.⁷⁷ The direction he took was westward from the Cow-pastures, which led him to the steep-down rocks and gorges of the Burragorang district. After leaving the Nattai river, as the party struggled over the mountains, the fragments of rock detached by the men in front threatened to crush those in the rear. Two Nattai natives were with them. At the foot of a mountain, the whole of the party "being more or less maimed and bruised," some natives were surprised and fled. A Nattaian advanced and spoke. Understanding the cause of the visit, the fugitives returned to their camp-fires. The Nattaian told Barrallier to remain still; and seated himself between the black and white bands. After some minutes of silence his countrymen "called him and placed him in the middle of the tribe." He narrated the doings of the party; how on that day a vain attempt was made to reach the pinnacle of a mountain scarped with inaccessible rock; how Barrallier collected stones, at which droll idea "they laughed most violently." They gave the Nattaian food and a white head-ornament. The other Nattaian, Gogy, then seated himself as his companion had done,

⁷⁵ These anticipations were confirmed during King's stay. In June 1806 Macarthur wrote to Piper, the recipient of his complaints in former times: "The Governor is uncommonly kind and obliging, in so much that I give you my word I am not very anxious for an immediate change." When the change for which he had once sighed took place, Macarthur became its victim.

⁷⁷ *MS. in possession of P. G. King, Esq, Banksia, Sydney.*

“but instead of five minutes they took no notice of him for a quarter-of-an-hour, when, after much dispute between the natives, they permitted him to sit down with them, but no one spoke to him or even answered his questions, except one young man, who was known to Barrallier's party, who treated Gogy with much civility, but all the others looked at him with the most savage stare.”

Barrallier made several excursions from his depot at Nattai, communicating repeatedly with King. After a month's absence on his first journey, he wrote: “I see with satisfaction that the difficulties I have undergone, and which at present appear insurmountable, do not incline you to abandon the project.” No effort had been spared,

“nor have we been stopped by the steep mountains and precipices we were obliged to pass to accomplish the mission you have charged me with; but at length, harassed with fatigue, our feet wounded, and tumbling the one over the other on rocks which appear to have no termination, and dispirited to find everywhere insurmountable opposition to our progress when we thought ourselves at the end of our travels, we were obliged, after journeying six days, to return, not having been able even to kill a fly. I do not believe there can be so barren a desert in any part of Africa as these mountains are—neither bird nor quadruped to be seen, but plenty of reptiles, amongst which are numbers of the most venomous serpents.”

How far Barrallier pierced the mountains on his second journey can only be surmised. Ascent and descent of mountains, which stand like walls, magnify tenfold the labour of progress; and what the crow flies in one mile might involve many miles for the traveller. A knowledge of the map, and one glance at the country amongst the tributaries of the Wollondilly and the Cox, in the line which Barrallier took, will make the most daring admit that his task was impracticable. The one way by which the mountain fastnesses could be threaded was that adopted afterwards by Wentworth, Lawson, and Blaxland; *i.e.* following the sinuosities of the dividing ridge between two watersheds. There was an easier path for Barrallier to the southward, which was discovered by Hamilton Hume in 1814, but it was only to the west that in the early days attention was directed. On his second journey Barrallier wrote:

“Since I wrote last I have discovered another river which runs to the northward. After traversing the mountains seventy-four miles from Nattai in a due west course, I was mortified to find myself on the summit of a perpendicular mountain, from whence I saw a continued chain of mountains bounding the horizon thirty miles to the westward. At this time my courage would have forsaken me but for the sentiment of respect towards you. My companions appeared to have lost all courage or desire

to go on. However, I persuaded them. We kept on mounting and descending till night, when we found a river much more considerable than the Nepean, running to the eastward. The next day we followed the course of the river in the direction of west, still ascending and descending the steepest mountains, between the ridges of which the river ran. Thus we passed another day, the country still as dreary as that we had passed."

On the following day "a high cascade" barred the way, "the sides of the river forming perpendicular rugged mountains." Ascending a steep and lofty peak, even Barrallier was compelled, by a sight of similar rugged country ahead, to give up the task in which he had penetrated farther than any other European, but of which the only gain was in a few mineral specimens sent to England by King.

There were ever floating idle rumours, such as that which (in the spurious Barrington volume) attributed to the convict Wilson the credit of having overcome the mountain barrier. Such stories being current about certain men at the Hawkesbury, King tested their value by offering to reward them if, when accompanied by an officer, they could pass the mountains. They received supplies, and went to make preliminary observations. In twelve days they returned, after useless wandering.

Another candidate for the honour of piercing the mountains appeared in 1805, in the person of Caley, who collected specimens for Sir Joseph Banks. King furnished him with "four of the strongest men in the colony." The spot he is supposed to have reached was about eighteen miles from the Hawkesbury. He had then gained a footing on the dividing ridge where now the railway runs in the course discovered in 1813. A pile of stones was found by Wentworth and his companions in that year, and they attributed it to Bass. But when Governor Macquarie in 1815 proceeded on the road then made, he named the spot Caley's Repulse, because the cairn was "supposed to have been placed by Mr. Caley." The explorers started from the junction of the Grose with the Hawkesbury, "taking the north side of the Grose." As Caley "advanced he found the country extremely rugged and barren, and the valleys, of which many may with more propriety be called chasms, are for the most part impassable." . . . "After *incredible* fatigue Caley and his party got to Mount Banks,

on the twelfth day after he left "Richmond Hill." Caley himself reported thus on the appearance of the country:

"On looking to the westward I saw no large valleys except the one close to us, from which the ground apparently kept rising gradually as far as the eye could see. In a few places there appeared swamps, in others no trees, and very scrubby. By these appearances it might be imagined easy to travel over that space, provided the inaccessible valley close at hand was crossed. Yet there is no doubt but what others of a similar nature would present themselves, as I am too well convinced now of their rugged and impassable state, which becomes at every step an Ha! Ha!"

Nature's gigantic hah-hah, where the fosse may be two thousand feet deep, abounds in the valleys and tributaries of the Grose, and Caley aptly described it. One of his muscular companions, seeing two crows flying over the desolation, exclaimed that the birds "must have lost their way."

Knowing the trustworthy character of his envoy (whose name was often mentioned as Cayley), King sadly wrote:

"I cannot help thinking that persevering in crossing these mountains, which are a confused and barren assemblage of mountains with impassable chasms between, would be as chimerical as useless. Few possess the bodily strength and enthusiastic mind which Caley does to encounter such researches; yet with these qualities within himself, being well equipped, and having the strongest men in the colony to assist him, nothing but his enthusiasm could have enabled him to perform that journey. From its ill effects he did not for some time recover."

For a time "Caley's repulse" was accepted as final. The secret of the mountains was not to be extorted by main strength. There had been two ways of obtaining it. By kindness to natives, such as Phillip enjoined, it could have been had for asking. By such astuteness as was displayed by Wentworth and his companions it was to be had with toil. After Phillip's departure there had been no man wise enough or firm enough to secure the first and better way, which the Hawkesbury settlers had by ill-treatment of the natives made impossible.

It is a melancholy thing that King, resolute in other things, was incapable of restraining, or unwilling to punish, the brutalities of the whites. It is doubtless true that the increase of population and its distribution at more numerous places rendered the task of supervision more difficult than it had been in the earlier days. But all was not done that could have been done to establish peace, and much was

done and sanctioned which was disgraceful. Lord Hobart's despatch (30th Jan. 1802) respecting the men found guilty of murdering peaceful native boys during Hunter's government, was received by King late in 1802. It might have been barbarous to execute the men after so long a delay, but they might have been transported, deported, or imprisoned. To condone their offence was to court its repetition, and it was repeated by rough borderers without compunction.

King himself, while the murderers were under respite, had lent the authority of the government to open warfare against all natives without proof of their hostile intentions. On the 1st May 1801, a government notice declared that the wanton manner in which a body of natives of Parramatta, George's river, and Prospect, had killed sheep and threatened white men, and the killing of one Conroy, a stockman, and wounding of a settler, Smith, made him direct that "this as well as all other bodies of natives in the above district be driven back from the settlers' habitations by firing at them." He added that the order was not to extend to natives in other districts, and that they were not to be molested in "the harbour at Sydney, or on the road leading to Parramatta." He could hardly have expected that, while he commanded that natives, friendly or otherwise, should be fired at throughout a considerable district, their brethren outside of that district would remain at peace, or draw the distinction between guilty and innocent white men which King declined to draw between the blacks. The sable wanderers, whose district from Port Jackson to the Hawkesbury was occupied by their well-armed foes, made such reprisals as they could with their wooden weapons. In 1801 ⁷⁶ King wrote :

"Since grain has been so very scarce among the settlers the natives have been exceedingly troublesome and annoying to them, which has made it necessary to allow them to repel their predatory attacks. It is much to be apprehended that they are incited to several acts they have committed by some worthless vagabonds, who have associated with them for the express purpose of plundering the settlers. However, I hope when grain is more plentiful, the inconvenience will cease."

It is difficult to imagine what the settlers wished the natives to do but submit to be shot. Their means of living

⁷⁶ Despatch to Secretary of State, 14th Nov. 1801.

had been taken from them; warlike or peaceful they were to be shot in districts whose boundaries were undefined; and if, when starving, they crept into corn-fields at night, the same doom awaited them. They were cumbering the earth in the eyes of the invaders, and were to be cut down. It may be remembered that Pemulwy, in 1790, speared the convict gamekeeper employed by Governor Phillip, and that a party of soldiers vainly sought him. He must have lived the life of a hunted tiger. Collins recorded that in May 1795, under Paterson's brief rule—

“An open war seemed about this time to have commenced between the natives and the settlers; that a part of the New South Wales Corps was sent from Parramatta with instructions to destroy as many as they could meet with of the Bediagal tribe (Hawkesbury), and in the hope of striking terror, to erect gibbets in several places, whereon the bodies of all they might kill were to be hung.”

The military party was no sooner withdrawn, after obeying this order, and sending a few women, children, and one reputed cripple, to Sydney,⁷⁷ than the hunted savages wreaked vengeance upon a settler at Richmond Hill. “In consequence of this horrid circumstance another party of the corps was sent out. This duty now became permanent, and the soldiers were distributed amongst the settlers for their protection; a protection, however, that many of them did not merit.” In another passage (March 1795), Collins declared: “All these unpleasant circumstances were to be attributed to the ill-treatment the natives had received from the settlers.”

Pemulwy was still at large in 1795, and when the military were shooting his countrymen at Richmond, Collins wrote, that Pemulwy “or some of his party even ventured to appear within half-a-mile of the brickfield huts and wound a convict. . . . As one of our most frequent walks from the town was in that direction, this circumstance was rather unpleasant.” Again, in 1802, but for the last time, we hear of the hunted Pemulwy. In replying to Lord Hobart's despatch respiting the Hawkesbury murderers, King⁷⁸ told the end of the bold leader who with wooden weapons kept up for years some kind of warfare with those who outlawed him on his native soil. He was described as the terror of

⁷⁷ He escaped by swimming across the harbour to the North Shore.

⁷⁸ King to Lord Hobart, 30th Oct. 1802.

the district. Natives domesticated at Sydney regretted the warfare near Parramatta and Toongabbe, where the natives "were irritated by an active daring leader named Pemulwy, and in the few intercourses we had with some of his companions expressed their sorrow for the part they were obliged to act by the great influence that Pemulwy had over them." Decided measures were necessary. "From their extreme agility, lying in wait for natives was out of the question. . . . With these views (founded on the opinions of the principal officers coinciding with mine) I gave orders for every person doing their utmost to bring Pemulwy in either dead or alive. . . . The natives were told that when Pemulwy was given up they should be re-admitted to our friendship. . . ." Two settlers shot Pemulwy⁷⁹ and another native, and the head of the "daring leader" was carried to the Governor, who ordered that the natives should no longer be molested.

The division of the natives in tribes, of which many were mutually hostile, prevented combination, and fire-arms opposed to wooden weapons would have made a general war fatal to the tribes, even if they had had a Galgacus to array them in thousands. They were forced back, not to the ocean, but to the mountains. But they could not wander freely through them. Inexorable tradition confined them within hereditary domains. They could but lurk like wolves in inaccessible places from which they emerged to take savage vengeance on a passer-by, or to add their own unburied corpses to the numbers already strewn by the modern *raptores orbis* who hunted them on their native soil. In June 1804 the *Sydney Gazette* recorded that fourteen settlers "went against the natives and fired upon them in the mountains beyond the Hawkesbury."

In July 1804 Mr. Marsden and Dr. Arndell procured a conference with two Hawkesbury chiefs, Yarragowby and Yarramandy, and urged the advantages of peace. But there was no peace. Writing (14th Aug. 1804) King said that in May and June the natives on the Lower Hawkesbury farms had been so troublesome that "the whole of the new settlers were leaving their habitations;" that he "was very

⁷⁹ Pemulwy's son, Tjedboro, was left alive, and was kindly treated by John Macarthur on his return to the colony in 1805.

reluctantly compelled" to direct that the natives should be shot, and two (he said) were killed. Marsden and Arndell could hope to pacify the black more easily than the white race.

A settler at Portland Head presented to King a memorial "said to be signed by all the settlers in that district, requesting they might be allowed to shoot the natives frequenting their grounds." On inquiry it was "found that none of the settlers had authorized the man to put their signatures to the paper," and that his fears had actuated him. The attempted imposition was punished by imprisonment.

"Wishing to be convinced myself (King wrote) what cause there was for these alarms, three of the natives from that part of the river readily came on being sent for. On questioning the cause of their disagreement with the new settlers, they very ingeniously answered that they did not like to be driven from the few places that were left on the banks of the river where alone they could procure food; that they had gone down the river as the white men took possession; if they went across white men's grounds the settlers fired upon them or were angry; that if they could retain some places on the lower part of the river they would be satisfied, and would not trouble the white men. The observation and request appeared so just and equitable that I assured them no more settlements should be made down the river. With that assurance they appeared well satisfied, and promised to be quiet, in which state they continue."

Some compunction was felt, and a paragraph in the *Sydney Gazette* in 1804 was well fitted to sharpen it. Some years previously a black child had been seized at Toongabbe, when its father and mother were shot. A man named Bath pitied and reared the boy, who never spoke any language but English, and, as was usual with native children so circumstanced, had no hankering for the life of his forefathers. So vile a pariah had the child of the soil become on its native land that we are told he "testified a rooted and unconquerable aversion to all of his own colour, also esteeming the term *native* as the most illiberal and severe reproach that could ever be uttered." He was named (by his foster-father) James Bath, and died in 1804, having given "undoubted proofs of Christian piety, frequently repeating the Lord's Prayer shortly before his dissolution." Thus touched by the words of the Healer, James Bath vanished from the evil days.

In April 1805 King reported further outrages. He was "confident that the settlers had been extremely liberal to

the natives," but the latter had been "ungrateful and treacherous" at the South Creek and Lower Hawkesbury. On the same day outrages occurred at two places three miles apart. A settler was murdered at one. At the other a settler and his man were burnt in a hut.

"These barbarities calling forth assistance, I directed a party of military to take post at the Branch, and to drive the natives from thence, first assuring them that if the murderers were given up all further resentment should cease; however, the velocity with which these people remove from one place to another put it out of the guard's power to follow them, and since then they have begun their depredations at the South Creek, where they have unfortunately murdered two stock-keepers. A detachment has been sent to that quarter, but I am sorry to say that until some of them are killed there is no hope of their being quiet."

By a general order (30th April) detachments of military were distributed for protection against the "uncivilized insurgents." No settler was to allow a native to approach his premises "until the murderers are given up." Any settler harbouring "any native" was to be prosecuted, and all settlers were "required to assist each other in repelling those visits." The old truth that the stronger animal overcomes or outlives the weaker has lately been puffed into importance as a new theory under the name of "survival of the fittest."⁸⁰ The annihilation of a race was in New South Wales secured by an inversion of the doctrine. No peace was hoped for until the most active and daring could be killed, and, the fittest being swept away, the decay of the miserable remnant would leave the land to the destroyer. The detachments entered upon their work. The *Gazette* tells that Yarragowby and others were assaulted in the mountains. Four or five are said to have fallen. In May 1805 Major Johnston was sent to the scene. A native was caught. A noted chief, Musquito, was seen. He boldly declared to his enemies that the natives would continue their warfare, and "made off" through the forest.

Of Mr. Marsden's persuasive powers a questionable use was made. Several natives were committed to the gaol at Parramatta. Marsden prevailed upon the prisoners to deal insidiously with Musquito. They did so, and the dreaded

⁸⁰ It has well been asked—"Fittest for what?" Colonel Blood and Sir Isaac Newton were contemporaries, and a struggle between them would have extinguished Newton. But who would deem the soldier-thief the *fittest*?

warrior was lodged in the gaol. As several had been shot and Musquito had been surrendered, King determined, to the gratification of his sable capturers, to send him and others to Norfolk Island instead of hanging him. A general order expressed a "hope that the apprehension of the native called Musquito⁸¹ might effectually prevent further mischief." Atkins, the nominal legal adviser of the Governor, plied him with arguments for field-slaughter. He wrote (July 1805):

"The object of this letter is to impress the idea that the natives of this country, generally speaking, are at present incapable of being brought before a Criminal Court, either as criminals or as evidence, that it would be a mockery of judicial proceedings, and a solecism in law, and that the only mode at present, when they deserve it, is to pursue and inflict such punishment as they may merit."

In March 1806, King reported that the natives had continued "on the most amicable footing since their last misconduct." The transportation of "two of the principals to Norfolk Island" had a great effect, and occasioned "the present good understanding." The stranding of a coasting vessel at Twofold Bay in 1806 brought natives around her, and, "according to report," their hostile demeanour rendered it necessary to fire on them, when

"Some of the natives were killed. However much (King wrote 15th March 1806) the white man may be justified on the principle of self-defence, yet I have cause to think the natives have suffered some wrong from the worthless characters who are passing and repassing the different places on the coast; nor would they escape the punishment such conduct deserves if it could in any instance be proved."

In spite of this moral sentiment it cannot be held that King rose to the height of his duty. No man but Phillip had shown that he was just or sagacious enough to punish the excesses of the whites, which, in the pages of Collins and elsewhere, are proved to have been rampant in the land. The white people were amused sometimes by the fights of the natives. In 1803 one Musquito (whether the hero of resistance to the English or not is not stated) had to defend himself against the kindred of a native he had

⁸¹ The singular influence which he obtained as the leader of the natives in Van Diemen's Land will appear hereafter. After assisting in warfare against the Tasmanians, and aiding in the capture of daring bushrangers, Musquito himself became an outlaw, and had the address to put himself at the head of the hostile natives.

wronged. White spectators saw the ordeal. Musquito "defended himself against sixty-four spears, all thrown with rancour and malignity, and seventeen of which went through the target, some to a depth of nearly two feet. The sixty-fifth and last thrown at him entered the calf of his right leg and penetrated six inches through. This was cut short before it could be extracted." The dark race could furnish a show, as the Dacians of old amused their conquerors in the amphitheatre.⁸²

It is a pleasanter task to chronicle King's efforts on behalf of orphans. Before he formally assumed office in Sydney in 1800 he strove to remedy the evils which abounded. Though he arrived in April, he did not assume the government until 28th Sept. In July 1800 he had written to say that for a Female Orphan Institution he had bought, for £1539, a house belonging to Captain Kent, of H.M.S. *Buffalo*. On 9th Sept. he pleaded the cause of the orphans to the Duke of Portland :

"The necessity of some steps being taken to save the youth of this colony from the destructive examples of their abandoned parents, and others they unavoidably associate with, for want of an asylum to draw them from those examples, and the assurances I have of the success which has attended an institution of that kind which I formed some years ago at Norfolk Island,"

had induced him to make conditional purchase⁸³ of Kent's house, and to appoint a committee of management. Most of the children were of an age when instruction and example, either good or bad, have full force. He humbly submitted the propriety of sanctioning the purchase of the house.

Funds for management would be obtained from subscriptions, duties on entry and clearance, on landing goods, watering vessels, quit-rents, fines, and penalties. In a few

⁸² *Vide supra*, p. 95. There must have been several natives called Musquito by the colonists. The *Sydney Gazette* of Jan. 1806 states that a black of that name in that month slew another black in a desperate battle with clubs, in which he laid open his enemy's skull, and that in the night Musquito was treacherously speared, and died in the hospital from the wound. At this time, according to King's despatch, the Musquito first-mentioned was at Norfolk Island.

⁸³ The Duke of Portland lost no time in approving the purchase, and in Jan. 1802 Lord Hobart praised all the arrangements made, and promised *his own support*.

days nearly £800 were subscribed, and when Baudin, the French navigator, was in Sydney he generously gave £50 to the Institution. There were nearly 1000 children in the colony—a large proportion illegitimate.

“Finer or more neglected children were not to be met with in any part of the world.⁸¹ The sight of so many girls between the ages of eight and twelve verging on that brink of ruin and prostitution, which several had fallen into, induced me to set about rescuing the elder girls from the snares laid for them, and which the horrid example and treatment of many of their parents hurried them into.” [Kent’s house was therefore conditionally purchased.] “A committee, consisting of the chaplain, three other officers, Mrs. King (the Governor’s wife), Mrs. Paterson (Colonel Paterson’s wife), accepted the office of managing this institution. Forty-nine girls from seven to fourteen years old were received into the charge of as eligible people for that purpose as could be selected in the colony. They are victualled by the Crown, but every other expense attendant on this institution has been defrayed by contributions, fines, duties on shipping, &c., with no other expense to the public except the house.”

A new building was commenced in 1801.

King contributed funds for the orphans. Forfeitures and fines for the benefit of the Orphan Fund gleam constantly through King’s Orders.

In Oct. 1802, when, obstructed by Colonel Paterson, he dispensed with his military body-guard and improvised a guard of emancipated convicts under Lieut. Bellasis, it was ordered that any persons convicted of polluting the stream⁸⁵ (running where Pitt-street now is) should forfeit £5 to the Orphan Fund for each offence, and that their houses should “be taken down.”

The Rev. Mr. Marsden was entitled, as treasurer, to 5 per cent., but he “presented the amount to the institution on resigning the treasurership when he went to England.” In spite of all these provisions, King wrote (Aug. 1804) that but for the most rigid economy and perseverance on the part of the committee the institution must have languished. To provide for its future he had endowed it with a grant of 12,000 acres of land at Cabramatta. The grant, with a farm of nearly 600 acres at Petersham, near

⁸¹ King to Duke of Portland, 31st Dec. 1801.

⁸⁵ King’s predecessors had laboured to protect the Tank Stream. During his reign (Oct. 1803) the *Sydney Gazette* said that the tank was enclosed, the rubbish removed from the sides, “and the crystal current flows into the basin with its native purity.” The *Gazette* was under government control.

Sydney, and the Orphan House and grounds, were held by the committee, consisting of Mrs. King, Mrs. Paterson, Rev. Samuel Marsden, the principal surgeon (T. Jamison), the commissary (J. Palmer), and the naval officer (Dr. Harris).

How necessary, and how beneficial, the institution has been may be gathered from the last paper (1806) in which its founder described it. There were then 1808 children of both sexes under nineteen years of age. Only 900 of them were legitimate. Four hundred and thirty-four were maintained from the government stores, the rest by their parents. The managing committee, under the Governor, had remained almost the same throughout. When Marsden went to England he handed to the succeeding secretary £845.

Six of the girls had "been well married and portioned with £10 sterling each, and eleven had been apprenticed to officers' wives, and other respectable persons." Between sixty and seventy girls were in the school. As King sailed with his wife from Port Jackson in 1806, in the ship which carried Mr. Marsden also, he wrote :

"A most sincere wish is formed by those who have had the principal management of it, and are about to leave the colony, that its success and good management may long continue, being well persuaded that nothing else can make the rising generation useful to themselves or creditable to the country their parents came from. Nor can those who have felt such anxiety for the success of this benevolent institution lose sight of the land it is placed in without repeating the sentence—*Esto Perpetua*—which has been adopted as the motto of the asylum, and engraved on a stone placed over the front door of the house, with the month and year of its commencement (21st August 1801)."⁸⁰

When King retired, in 1806, he wrote a separate despatch announcing that Governor Bligh would protect the institution, the intention of which would be "materially promoted by his amiable daughter having undertaken to succeed Mrs. King in the internal superintendence."

An attempt was made in 1803 to form a similar asylum for boys at the Hawkesbury, but the original scheme was abandoned, and the building was used as a day school.

⁸⁰ In 1819 the school was removed from George-street, Sydney, to Arthur's Hill, Parramatta, where, under the direction of Mr. Marsden, a building had been completed in the course of five years—1813 to 1818—on land granted by King.

King's published orders prove that there was hardly any exercise of authority which he avoided, and a few instances will give a life-like picture of the social condition of the colony. Writing to the Duke of Portland (1st March 1802) he described the demands upon his time thus:—

“The most rigid economy is observed . . . nor is there a nail issued but by my written order, which takes up one entire day in the week, nor am I less occupied the remaining days in other objects of public duty; nor can the affairs of this colony be transacted in any other manner than by the Governor's immediate direction and control in every and the most minute public transaction.”

When soon after Hunter's departure it was ascertained that numbers of convicts, by bribes to clerks (also convicts) employed by the government, had fraudulently procured the alteration of the registers of their sentences, stringent measures were taken and musters both of convicts and settlers were rigidly enforced. It was necessary even for a free labourer to carry a pass from a magistrate. A General Order is worth perusal:

“6th Aug. 1802. The settlers, and other persons cultivating or occupying grounds by grant, lease, rental, or permission, will be mustered by the Governor, at the following times and places, viz.:—Those in Sydney and its districts at Government House there, on Tuesday morning, the 10th instant, at eight o'clock. At Parramatta . . . at Government House there . . . at eight a.m. At Hawkesbury at Government House there on Monday morning, the 16th instant, at eight o'clock. Officers, civil and military, holding ground as above, are directed to give an account of their farms, stock, &c., according to the forms left with the Governor's secretary, the Rev. Mr. Marsden, and T. Arndell, Esq. Those forms are to be filled up previous to the day of muster at the respective settlements where the farms may be placed.”

In 1801 and 1802, by General Orders, limitations were imposed as to the number of assigned servants allowed, and as to those who, when assigned, “would be victualled by the Crown.”

In August 1798 Hunter had issued injunctions for due observance of the Sabbath by all in the colony; and directed “that the women, who, to their disgrace, are far worse than the men, be most strictly looked after, and ordered to attend Divine service regularly, or they will expose themselves to punishment.” “As example from superiors is certainly highly effectual in all such cases,” officers were told to send their domestics to church, and the Governor

“desires he MAY have, and he trusts he SHALL have, the assistance of the whole body of the officers, both civil and military.” . . . “K &c

attention is not paid to these Orders, and such shameful conduct in the people more rigidly looked after, the Governor is resolved to shut up every public-house, and to prosecute with the utmost rigour all who shall attempt to retail strong liquors without regular permission."

Hunter repeated his Orders in 1799 and 1800. King confirmed them in October 1800, and added:—"All sentinels and watchmen are to confine every person who may be strolling about the towns of Sydney and Parramatta during the hours of Divine service."

The missionaries who took refuge in Sydney when driven from Tahiti in 1798, were kindly received by Governor Hunter; and Mr. Johnson, the chaplain, testified to the Church Missionary Society that several of them had "almost from the first gone to the settlements established in different parts of the colony to preach and exhort amongst the settlers." Mr. Johnson's retirement in 1801 left Samuel Marsden in the post of principal chaplain, and King's despatches (1804) prove that the missionaries still laboured.

"For the last three years we have had but one regular clergyman, who does duty on Sunday morning at Sydney, and in the afternoon at Parramatta, and generally once in the week he visits one of the out districts for this purpose; and so sensible have I been, in conformity with my early education, of enforcing an attendance to religious duties, that I have caused three missionaries, formerly at Tahiti, with their families, to be victualled, and receive other indulgences, as a recompense for their reading prayers and preaching every Sunday at those settlements that the Rev. S. Marsden cannot attend, and I am happy to assure your Lordship, from my own knowledge, that those religious meetings are duly and numerously attended."

In another despatch King mentioned that he had given a conditional emancipation to the Rev. Mr. Fulton, "sent from Ireland for seditious practices," and "directed him to perform Divine Service at Norfolk Island," Mr. Fulton's conduct after arriving in the colony having been "most exemplary." Mr. Fulton belonged to the Church of England.

The appointment of the Roman Catholic priest, Dixon, was discontinued in 1804, when the rebellion showed that if he was loyal he was unable to control his countrymen, while if he was disloyal there was no need to encourage him. When news of the Battle of Trafalgar reached Sydney, *the next Sunday* was appointed as a Day of Thanksgiving.

Services were held at Sydney, in front of Government House, Parramatta, Castle Hill, and Hawkesbury, "at which places all persons not prevented by sickness are expected to attend." Three volleys were fired after the service, and the battery at Dawes' Point fired a salute.

The general powers of the Governor were freely resorted to by King, though it must be remembered to his credit that at Norfolk Island he stoutly contended that no freed man should be flogged. In July 1804 "a general muster of all the male prisoners on and off the stores; also freemen of all descriptions (except those who hold ground by grant, lease, or rental) on or off the stores" was ordered to be held. Women were to attend on a different day. "All persons who do not appear at these musters will be taken up as vagrants, and punished to the utmost extent of the law, if free." Prisoners failing to attend were to be sent to the gaol gang for twelve months. On the 4th Aug. 1804 it was ordered that no

"prisoner or freeman who is not a settler, is to leave the place he resides in without a pass from the magistrate or officer in command of the district. . . . If a freeman offends he will, on conviction, labour three months for the public; a prisoner to receive a corporal punishment, at the discretion of the magistrates, not exceeding 100 lashes. . . . Persons employing or harbouring any prisoner or freeman without seeing his certificate or permission, will on conviction be fined £5, and 2s. 6d. for each day such freeman or prisoner has been harboured or employed; and £20, with 2s. 6d. each day any prisoner has been harboured or employed until he is regularly indented for, according to the Orders of 6th Jan. 1804."

These orders were promulgated shortly after the rebellion, and rigid as they were, they did not shake the public confidence in him whose vigilance had contributed to the prevention of general massacre. The Orders of Jan. 1804 furnished a complete form of indenture which employers were to subscribe on receiving convicts as "Indented Servants." Some special difficulties with regard to convicts may be mentioned under the head of arbitrary Orders, for the whole of the prisoner class was subject to them without appeal. The following paragraph in a despatch⁸⁷ shows the weapons with which the wilier convicts contended against their keepers.

⁸⁷ King to Duke of Portland, 21st Aug. 1801. An original indent in King's possession aided in detection of the frauds described.

"A few days previous to Governor Hunter's departure from this colony, the person who acted as his clerk was discovered to have made several erasements in the indents sent with the convicts to this colony, which it has since appeared was done for the reward of £12 for changing from 'life' to seven years, and more in some cases. It appeared that at least 200 prisoners have had their terms thus changed, which has introduced such confusion into the indents and Orders-in-Council by which these convicts were transported, that there is great difficulty in tracing any convict's term of transportation, but by secret inquiries and secondary means.

"It has lately been discovered that the (convict) clerks in my office have had similar transactions, and received considerable property from convicts to change their times, but as the indents and Orders-in-Council have been constantly in my own possession they were soon detected, and a stop put to it, as your Lordship will perceive by the enclosed notice. I have felt it my duty to state this circumstance to account for the numbers who may have been taken up in England as having escaped from this colony."

Condign punishment was meted out to clerks on several occasions. Transportation to Norfolk Island was a ready resource. To facilitate detection Lord Hobart (29th Aug. 1802) transmitted duplicate lists of the convicts sent to the colony during Hunter's "administration, specifying the several periods of their respective sentences." The escape of convicts concealed in departing vessels (even without the connivance of the captains) may be illustrated by one example. S. Halcrow, of *La Fortune*, private ship of war, wrote thus, 3rd Feb. 1802, to King from Rio Janeiro :

"After leaving Port Jackson (June 1801), and your officers attending to search the ship and to muster the people permitted by your Excellency to come on board, near three days had elapsed when it was observed there were a number of strange faces upon deck. The hands were called out, and found, upon muster, nineteen men who had found means to get on board and stow themselves away, which men were immediately confined in irons and put on prisoners' allowance. I found they were sickly from confinement, and was obliged to release them for the benefit of their health."

At St. Maria Island, while the privateer was "wooding and watering," the greater part of the prisoners escaped. At Rio the remainder got on shore "by the guard boat and by swimming." A leak had driven Halcrow into Rio. He had been unsuccessful, taking only one brig in ballast, and one loaded with sugar, &c. He sent the names of the runaways, and hoped their escape in his ship would not be imputed to his neglect, "as they have been, from the provisions consumed, a great loss to the cruise. I beg my best respects to Mrs. King, and remain, &c."

The "stowaways," as convicts concealed in ships were called, had in 1799 caused a remonstrance from India to Governor Hunter, against the system which permitted them to escape to India. Not only was it desired to exclude convicts under sentence, but "those of every description, whether the period of their transportation should have expired or otherwise."

King made stringent orders to meet the Marquis of Wellesley's views, and transmitted copies to each presidency. Early in 1805 he made them more stringent. The master of every ship was compelled, "before entering into any communication with the settlement, to give security, himself in £500,

"and two sufficient freeholders or well-known merchants or dealers in the sum of £50 each, not to carry off any person whatever without the Governor's certificate of a convict having served his or her term of transportation, and a free man or woman having no detainer lodged. Nor is he to depart himself without the Governor's leave, under an additional penalty of £50."

The ill-usage to which the convicts were sometimes subjected deserves exposure. An inhuman master of a ship with a cargo of convicts exercised powers of which it was hard to prevent the abuse. A vessel, the *Royal Admiral*, arrived (Nov. 1800) with convicts who had suffered much on the voyage. Writing (30th Oct. 1802) King said he did not apprehend they would ever recover strength. It was his custom to visit newly-arrived vessels and inquire how the prisoners had behaved, and whether they themselves desired to prefer complaints. He wrote (Oct. 1802) that in June and July 1802 the *Hercules* and *Atlas* arrived with Irish convicts, "after a passage of nearly seven months, with nearly the whole of the convicts in a dead or in a dying state." Sixty-three out of 151 male convicts in the *Atlas* died on the voyage. By the log-book, &c., your Lordship "will observe the dreadful diseases that raged on board those ships, and the consequent great mortality, exclusive of the numbers killed on board the *Hercules* in a mutiny." The miserable state of the survivors, their filthy condition on arrival, and the fact that a quantity of merchandise had deprived the convicts of air and means of cleanliness, had demanded an investigation. The case was rendered more glaring by the

fact that five other convict ships had recently arrived with all their people "in excellent state of health and strength of body," while those in the *Hercules* and *Atlas* were "in a state shocking to humanity." To the master of the *Coromandel* King conveyed his pleasure "at the general thankfulness and gratitude every prisoner expressed for your care and attention during the voyage."

On arrival of the *Atlas* and *Hercules* "some of the convicts were lying dead with heavy irons on, and many died as they were coming from the ship to the hospital."⁸⁸ King's commissioners, Lieut. Fowler, of H.M.S. *Investigator*, Dr. Harris, the naval officer, and Mr. Law, master of a South Sea whaler, condemned the gross misconduct on board of the *Hercules* and *Atlas*.

Proceedings were taken against the master of the *Atlas* by T. Jamison, the surgeon, who had sailed as a passenger, but was compelled to leave the ship at Rio. The abductor, H. B. Hayes, associated intimately with the master, and Jamison brought actions against both, in Sydney. Hayes was sentenced to six months' imprisonment; Brooks, the master, was ordered to pay £100 damages.

The commander of the *Hercules* (Betts) reported a mutiny. Two sentinels were on the quarter-deck. The other soldiers were between decks and unarmed. The master, chief officer, surgeon, and purser, with Captain Wilson, a passenger, were at dinner. Screams of convict women were heard. A rush had been made, and the sentinel was overpowered.

"I came forward with my officers and Captain Wilson, and immediately shot one man, who had a blunderbuss presented at me, but the piece did not go off; some more of the insurgents were killed by the rest of the party; and the convicts, seeing their intentions frustrated, ran forward as speedily as they came aft, and the ship's company and troops now being collected together, began to vent their rage upon such of the insurgents as were to be found on deck, in beating them with cutlasses and the butt-ends of their muskets, until at length they forced them down into the prison. When the tumult had entirely subsided we found twelve of the convicts killed, and ten wounded, two of whom died soon after. . . . It may be necessary to remark that Jeremiah Prendergass, who towards the latter end of the affray I had been obliged to shoot, was a desperate ringleader,

⁸⁸ King to Transport Commissioners, 9th Aug. 1802. Subsequent improvement in the condition of ships and treatment of convicts was greatly due to the benevolent exertions of Mrs. Fry.

and a man that had been reported to me as a person singled out to head another party in case the first had failed. I had this information from James Tracy, who then conceived himself in a dying state. He is now living."

The defence of the shooting of Prendergass seemed indirectly to prove that "the latter end of the affray" was misnamed. King's commissioners were directed "to inquire whether the master was necessitated to proceed to such extremities." They thought he was, but that the matter should be brought under the cognizance of the Vice-Admiralty Court.

Five sailors were tried for complicity in the mutiny, and were acquitted. Betts was tried for the shooting in the affray, and for shooting the ringleader "(it was alleged) some time after the mutiny."⁸⁹

"On the first count he was acquitted, and in the second he was found guilty of manslaughter, and sentenced by the Court to pay £500 to the Orphan School, and to be imprisoned until it was paid. As a doubt arose in my mind respecting the propriety of his being fined, I have given a conditional remission of that part of the sentence, which I have referred to the Judge of the Admiralty Court for His Majesty's pleasure being signified thereon; and that the course of justice may not be perverted (if I am wrong respecting the fine), the master is bound over to abide by that determination and to surrender himself within five days after his arrival in the port of London."

King "respectfully hoped" that if the sentence should be confirmed the money might be "transmitted for the benefit of the institution it was adjudged to." While he wrote these despatches the military were combined to oppose him, and Paterson was withholding information as to the designs of the French, but under no circumstances was the Orphan School forgotten.

The escape of convicts by ships required continual watching. When Flinders was sailing from Sydney in 1803 as passenger in H.M.S. *Porpoise*, King instructed him to deliver to the Dutch commandant at Timor, to labour there, any convicts who might be found secreted in the *Porpoise* or the ships accompanying her. The labour was to be "a sufficient indemnification" for the provisions. If the Dutchmen would not receive runaways found in the *Porpoise*, Flinders was to exact a bond from the masters of the ships to deliver the prisoners into custody in India for

⁸⁹ King to Transport Commissioners, 9th Aug. 1802.

re-transmission to Sydney, or to take them to England if no ship was about to sail to Australia from India. All that Flinders did he was to report in England.

The Governor-General in India was as arbitrary as the Governor in Sydney. A convict was landed in Calcutta in 1800 from the ship *Hunter*, commanded by one Hingston. The Marquis Wellesley directed the seizure of Hingston and his ship, and that steps should be taken to condemn the vessel and all the "persons engaged in an illicit trade in India in violation of the chartered rights" of the East India Company. The alarmed Hingston falsely averred that he had gone to India with the approbation of Governor Hunter, and the Marquis relented. King exposed Hingston's fraud, and hoped (Oct. 1801) that the Indian Government would put no faith in similar declarations made by persons not holding

"my permission in writing, which will never be granted except in such cases of necessity as are at present unforeseen. . . . I feel much obliged by your Excellency's wish to promote the interests of this colony, and you may rest assured that no exertions shall be wanting on my part to prevent the emigration of any description of people from this colony to any port in India."

King sent (1802) to the East India Company's supercargo at Canton lists of all persons permitted by him to leave the colony, and suggested that passengers in ships sailing from the colony by way of China to England should be mustered on arrival at, and departure from, Macao. By these means he preserved the goodwill of the Governor-General, which was of no slight benefit to the struggling colony, sorely in need of food and live stock in the beginning of the century.

American vessels sinned against the Ordinances of the Governor. In 1804 two of them were ordered to leave the harbour at a few hours' notice. In 1806 another American vessel, having shipped a British subject contrary to law, was forbidden to land any part of her cargo.

Port Jackson saw strange scenes in the beginning of the century. In 1806 there was a mutiny on board the colonial schooner *Governor Hunter*. All persons "concerned in colonial vessels were ordered to cause the people they employed to go on board some of the vessels in the Cove at 8 a.m. to witness the punishment to be inflicted on these

daring offenders, whose example it is hoped will prevent acts of so destructive a tendency." The *Sydney Gazette* narrated that the mutineers "were punished through the Cove in different boats equipped for that purpose."

The money question troubled the colonists before the end of the eighteenth century. By proclamation (Nov. 1800) King notified that His Majesty had graciously sent a supply of copper coin, which was to pass current at the rate of twopence for each coin weighing one ounce, "stamped with the profile of His Majesty on one side and Britannia on the other." At the same time a table of specie legally circulating in the colony was published.

A guinea	£1 2 0	A Spanish dollar	£0 5 0
A johanna	4 0 0	A rupee	0 2 6
A half-ditto	2 0 0	A Dutch guilder	0 2 0
A ducat	0 9 6	An English shilling	0 1 1
A gold mohur	1 17 6	A copper coin of one ounce	0 0 2
A pagoda	0 8 0		

God save the King.

Exportation or importation of copper coin by the public was forbidden under severe penalties, and confiscation of the coin; and the authorized copper coin could not be legally tendered in sums exceeding five pounds sterling. In 1804, to check "vexatious suits," King fixed the rate of interest at 8 per cent.; anyone receiving more than that rate was to forfeit "treble the value, to be appropriated to such fund as the Governor may direct."

In 1803 a Government mineralogist accompanied Collins to Port Phillip. But the golden treasures of that part of the colony were not then to be unlocked. In 1805 the same mineralogist was at Sydney and it was ordered that he should "pass uninterrupted and receive assistance in his researches."

In 1801 the settlers at the Hawkesbury, alleging that they could not pay their debts "owing to extortions practised upon them," petitioned "for one year's suspension of the Civil Courts of Judicature." The Governor reminded them of "the inconsiderate conduct of a great part of those whose names appear in the petition and the flagrant abuses they have made of the exertions used to extricate them from the state they were in last year." They had

not been obedient "in reducing the price of labour among the freemen," and he was "sorry to observe that idleness and dissipation among the settlers, which must ever keep them in a state of abject poverty and dependence: he means their destructive propensity to the use of spirituous liquors, to obtain a taste of which many of them have sacrificed the fruits of their whole year's labour and maintenance." He hoped that the success of the whale fishery and the efforts of the Government to supply the settlers with articles at a low price would excite a "general spirit of exertion;" he had postponed the meeting of the Court till after the sowing of wheat was finished, but it would be a flagrant breach of his duty to impede the due course of the law, though he hoped the creditors would not be needlessly oppressive.

The Orders to restrain traffic in spirits have been spoken of. With regard to general traffic it was announced (1st Oct. 1800) by General Order aimed against monopoly and extortion—

'that the inhabitants will be informed whether government purchases the whole or any part, and notice published of the rates at which such articles will be delivered to the inhabitants from the public stores under proper and equal restrictions; and should the Governor decline purchasing on the public account, measures will be taken to ascertain the value of the articles, and in no case will private retailers be allowed to charge more than 20 per cent. on the purchase from the ship." . . . "And as it has been the custom of dealers and their agents in this colony, in order to recover the ruinous charges they have made on individuals, to procure their notes of hand for payment, without specifying how those debts have been incurred, the Governor, considering himself authorized by his instructions, and the local situation of the colony and its inhabitants, hereby directs the members of the Civil Courts of Judicature not to take cognizance of any suit, action or demand for the recovery of any alleged debts, unless the plaintiff produces a bill (and on oath if required), specifying the consideration and the price for which the defendant becomes indebted to him."

The sailor borrowed a leaf from the book of Edward the First, when some of the clergy, dishonourably servile to a foreign yoke, would have rejected their duty to the State. He denied them in return the benefit of his courts, and the insults and rapine to which they were exposed brought them back to obedience. Promissory notes of all kinds, and forgeries, gave trouble. In 1800 written promissory notes were forbidden (after 30th Nov.), and "that the

inhabitants may not lose their claims on each other, and for their future accommodation, blank printed forms" were supplied by the government. An Order in 1802 rendered it compulsory to register every assignment of property, unregistered assignments being made illegal. An Ordinance of 1801 prescribed that bakers should use only one quality of flour, *i.e.*, of meal from which 24 lbs. of bran had been taken from 100 lbs. Offending bakers were to be fined £10, and their ovens were to be pulled down. The weight of the loaf was fixed, and (15th May 1801) a General Order notified that for selling a loaf 6 ozs. short in weight a baker's oven had been pulled down and he had been fined. "This notice is inserted to convince every description of persons that the Governor is determined on having his orders enforced." Butchers also were licensed. By a Proclamation (16th March 1802), King announced that he and the magistrates would license two butchers in Sydney and one in Parramatta. Unlicensed persons would be fined £5 for each offence. No cow, ewe, or breeding sow was to be killed. Weekly returns of the male stock slaughtered were to be given to the Governor. Licensees were to give no more than 13d. per lb. for mutton, and 6d. per lb. for swine's flesh, and to "demand no more than 15d. per lb. for mutton and 8d. per lb. for swine's flesh." In Oct. 1804, the butchers having "combined with a few individuals," further Orders extended the number of licensed butchers to six in Sydney, two at Parramatta, and one at Hawkesbury. The price of beef was fixed (from the average of tenders) at 1s. 9d. per lb., of mutton at 1s., and of pork at 8½d. Each licensee was to pay £2 sterling to the Orphan Fund.

A public brewery was established at Parramatta in 1803. King wrote (Aug. 1803):—"Much barley has been saved this year. I hope a final blow will be given to the desire of obtaining, as well as the importation of, spirits, the yearly difference of which your Lordship will observe by the enclosed return." It was difficult to keep watch over convict servants and overseers, and after a time the brewery was let at a rate which returned interest on its cost. Flax and woollen factories were established, and prices for their products were fixed. Salt was made in pans, both in

Sydney and at Newcastle. The establishment at Sydney, like the brewery, was, for greater economy, leased after a time.

Like his predecessors King paid attention to agriculture, but he is reported to have said, like Phillip, that he could not make farmers out of pickpockets.

In 1801 he made, and in 1804 he repeated, an Order that—

“No person whatever is to set fire to any stubble without giving his neighbours sufficient notice; and not then until every person is prepared by having their wheat stacked and secured. Should any person neglect this necessary regulation, they will, on conviction, be obliged to make good all losses sustained by such neglect. No persons whatever are to smoke pipes or light fires near any wheat-stacks, public or private.”

From a “muster in 1806” King compiled the following statement:

Land held by—	Acres Sown.	Pasture.	Fallow.	Total.
The Crown	336	80,915	854	82,105
32 Civil Officers... ..	839	12,431	2,350	15,620
29 Military and Naval Officers	155	19,439	1,103	20,697
329 holding various allotments up to and including 30 acres each	3,233	1,522	905	5,660
56 from 30 to 50 acres	839	1,099	330	2,268
143 from 50 to 100 acres	2,321	7,817	1,038	11,176
82 from 100 to 200 acres	2,496	7,664	1,023	11,183
23 from 200 to 300 acres	998	3,622	645	5,265
13 from 300 acres upwards	474	10,296	1,138	11,908
	11,691	144,805	9,386	165,882

About 20,000 acres had been “cleared of timber.” Of the acres in cultivation, about 6000 were in wheat, nearly 4000 in maize, 1000 in barley, only 80 acres in oats, 433 in “orchard and garden,” 185 in potatoes, and less than 40 in pease and beans. The average yield was 16 bushels of wheat per acre; of maize, 25 to 30 bushels. There were large reserves of land for public uses.

Reserved for government allotments there were—

	Acres.
At Baulkham Hills, about	6,000
At Castle Hill, about	35,000
At Prospect, about... ..	39,000
For the orphans there was an appropriation—	
At Cabramatta of about	12,000
At Petersham more than	500

For commons there were devoted (in 1804) in the—		Acres.
Nelson district more than...	...	9,000
Richmond Hill district nearly	...	6,000
Phillip district about	...	6,000
Prospect and Seven Hills more than	...	9,000
Baulkham Hills and North Boundary nearly	...	4,000
Eastern Farm and Field of Mars about	...	5,000
The Government occupied at Toongabbe	...	410
At Castle Hill	...	700
At Parramatta	...	300

“exclusive of the ground the towns stand on” (as a *précis* in King’s handwriting informs us). In 1805 the Judge-Advocate notified by command the rights appertaining to commons, and the residentiary trustees throughout the colony. The distribution of land and grants before and during King’s government was thus stated by him in 1806:

	Acres Granted and Purchased before 1800.	Acres Granted and Purchased since 1800.
32 Civil Officers	7,190	7,930
29 Military and 6 Naval Officers...	10,186	10,700
74 settlers, free, from England	1,440	6,751
38 from ships	805	4,584
13 born in the colony and came free	—	4,668
80 discharged soldiers and seamen	2,480	5,329
405 from late convicts	11,593	7,073
Association, 2 officers	1,930	7,000

The live stock was estimated thus:—

	Horses.	Cattle.	Sheep.	Goats.	Pigs.
Belonging to “The Crown”—					
In New South Wales ..	34	2,158	1,068	—	191
In Norfolk Island	5	23	1,228	—	27
In Hobart	6	194	225	—	4
In Port Dalrymple	3	287	200	—	
	48	2,662	2,721	—	222
To “Individuals”—					
In New South Wales ...	518	2,128	20,389	2,283	6,797

Many cattle and sheep were stated by the Governor to have been given to settlers, and he recorded dolefully: “1103 cattle purchased; 622 were landed at Port Dalrymple, where 400 died!” The early Governors thus, with scant means, maintained a continual struggle with crime, and with the vicissitudes of nature.

King's despatches abound with proofs of his encouragement of farming, and Mr. Marsden actively seconded the Governor's efforts. In the fixing of task-work for the "government gangs" we find Marsden recommending the separation of the idle from the hard-working, so that the latter might not suffer from the shortcomings of the former. At the same time he urged that the "task of fire-making" in clearing timber should be reduced from sixty-three rods, which was excessive, to forty, which was fair. Though strict, the reverend farmer was just.

How pressing is "the art of our necessities," and how, under varying conditions, human wants dictate kindred measures, was shown by the proclamation of commons for the use of settlers. The community seemed to crave the distinction of land into town, arable, and waste lands, which preceded among our ancestors the feudal system of the Conqueror, and which in the eighteenth century were being rapidly obliterated in England. The sailor Governor, alive to the existence of commons in England, reverted to them as essential to the need of those reprobates of the Aryan family, whom he was appointed to control. He enforced the right of the general body to prevent waste. He told Lord Hobart (Oct. 1802), "those to whom on the same account (industry) I have given additional quantities of land, I have prevented from leaving or making away with it by granting it to their children, who are precluded from alienating it before they have attained the age of twenty-one years, and then not to dispose of it without the Governor's consent first obtained."

As the patriarch of the community, he asserted rights on its behalf, which, in the dim ages, primitive households arrogated to themselves in the cradles of the Aryan race. The possession of the fee by individuals was sometimes barred by the imperious claims of the household and the clan. The modern instincts which make freeholds dear to Englishmen had brought about the acquisition of homesteads, and in a few of them the word "home" was becoming precious. But the town or village community having being formed at Sydney and elsewhere, and farms having been fenced in and cultivated at various places, *another* want was impressed upon the Governor's mind.

He was "warned of the necessity"⁹⁰ by inconvenience experienced by the Hawkesbury settlers, "who, having others placed immediately behind them, had no means of having their allotments enlarged for their increasing and acquired stock." The common or waste land of the ancient Aryans was therefore established in the forests of Australia. "To remedy that evil your Lordship will observe by the chart that I have granted a tract of land to the settlers of Nelson district as a common ground for grazing their cattle and sheep, which shall be as generally extended as possible to other districts." Thus were the problems (the tracing of which in times past exercises antiquarian research) dealt with on the spur of occasion in a new field. A year afterwards King wrote that every industrious settler was possessed of some kind of live stock, to feed which

"requires pasturage. To give all two or three hundred acres would soon alienate all the disposable land adjacent to the settlers, and to give particular people three or four hundred acres in places of their own selection would soon reduce the small farmer to sell his farm and stock (because he cannot feed them) to the person who can command money or its worth."

The Governor did not affect to have discovered a principle. In a *Gazette* notice he declared that in order to secure pasturage for the use of settlers the common lands "were to be held and used by the inhabitants of the respective districts as common lands are held and used in that part of Great Britain called England."

Incessant efforts were made to induce the farmers to use the plough, but it was by slow degrees that the hoe gave way. In 1806 King wrote: "The plough is now used by many, and from its evident advantage will in time be preferred to the hoe." On ground where wheat was blighted he said: "It is to be lamented that no example or advice can turn the settlers . . . from throwing away their labour and time to procure a wheaten cake, to raise a certain and plentiful crop of maize."

The extent of cultivation carried on by the Government was diminished by order of Lord Hobart, as soon as the industry of the settlers augmented after repression of the traffic in spirits. Lord Hobart's order was obeyed, but King pointed out that the "distant observer could not be

⁹⁰ King to Lord Hobart, 7th Aug. 1803.

acquainted with the local difficulty of raising grain for the annual supply of those necessarily victualled from the public stores." In times of plenty settlers grumbled if the government declined to buy a superabundance of grain. When there were losses by reason of drought, or of flood, forestallers ground down the settlers, and the existence of a reserve of government grain was of incalculable value. When the flood of 1806 occurred, the stores of 1805 (35,510 bushels of wheat, and 96,080 of maize) averted famine, and even after the drain upon the resources of the government in 1806 there were nearly 5000 bushels of wheat, and more than the same number of maize in stock.

In modern times, when high prices are given for well-bred stock, it is interesting to look back upon the casual and heterogeneous importations in the infancy of the colony. Cattle were taken originally by Phillip from the Cape of Good Hope. What was called the "small Buffalo breed" was afterwards imported from Calcutta at various times. A Spanish ship left an Andalusian cow in 1794. An English bull and cow, neither of which had horns, were sent in 1796 from St. Helena, and "much improved the herds in the colony." When Mr. Blaxland arrived in 1806 he was astonished at the excellence of the progeny of the St. Helena bull. A disease broke out in time of drought in 1803. "A spongy substance"⁹¹ appeared on the tongue which prevented the cattle from eating. On its removal disease in the foot followed, which extended to the sheep. A few animals died, but on the breaking up of the drought all disease disappeared.

Clover and lucerne were cultivated, the latter "yielding at least four cuttings a-year," but few farmers used it because it was intolerant of being depastured upon.

Governor Phillip carried horses from the Cape of Good Hope in the first fleet. Before 1806 Arab and Persian stallions were imported from the East Indies. In 1802

⁹¹ The text is quoted from King. The *Sydney Gazette* (27th Nov. 1803) recorded that the disease appeared among working cattle at Parramatta, and that it "affected the creature first in the tongue and in the interstices of the hoof." Nearly three-quarters of a century elapsed before the "foot and mouth" disease became an object of terror to colonists apprehensive of its importation.

“a very strong bony stallion was brought from England by an officer.” The studs had thus been improved, and there were more than 300 brood mares, but the Governor looked for more benefit “if two blood stallions could be sent by a safe conveyance.”

In the memorable March of 1806 trouble from the elements descended upon the settlement. “The great flood” took place at the Hawkesbury. Traces of high floods had been observed by Phillip and his companions when they discovered the river. The natives confirmed their surmises. Partial floods occurred after the farms had been taken up, and damage was done, especially in March 1801; but the mountain torrents of the Nepean, the Wollondilly, the Grose, and other tributaries had never poured down their fully-collected wrath upon the colonists until 1806. Early in March a flood covered the lower portions of the alluvial flats between the river and the low ranges at a varying distance from its channel. More rain fell. The waters rose higher and higher; and at last the only refuge for the hapless settlers, who had not betaken themselves to the distant hills while yet the waters permitted, were the roofs of islanded huts round which the tawny torrent was foaming and gurgling. Many cast themselves on heaps of straw, which, floating on the waters, still cohered as a mass and moved ungovernably in the current, some of them even reaching the sea with wretched pigs and poultry clinging to them.⁹² Mr. Arndell, the magistrate who represented the government in 1804, was still at the Hawkesbury, and guided the work of saving lives. Boats under his orders plied their humane mission. But the boats were few, and the flooded huts were many. Several settlers distinguished themselves by noble acts of daring and endurance. At night the howling of dogs, the signal-shots of distress, the surging, sullen, sound of the sea of waters, not overwhelming but saddening every voice, gave a horror to the scene which can be understood only

⁹² Nine large stacks floated to the Lower Branch, and some settlers there proceeded to appropriate them, but were stopped by the Governor, who claimed them for their owners if they could be found; if not, after payment of salvage, to be divided amongst the most necessitous who have lost their stacks.

by those who have experienced it. From fire there may be escape under most circumstances; and its victims are often stifled before the flames reach their prey. For them who cannot swim or are without an ark of safety, the lapping of the rising flood as it mounts by slow but sure ascent before sweeping off its victims is the most relentless persecutor. They are unbound, but are as powerless as though they were chained to a rock. The horror of the scene by day becomes an agony of doubt by night.

One man with his wife, two children, and his mother, with three men, after floating seven miles on a stack of barley, escaped by the exertions of those on land. Tales of distress were relieved by heroic deeds of life-saving. One man swam a mile with a boy upon his shoulders, and swimming a mile in an enraged torrent bearing wreck with its foam is totally different from swimming in smooth water, and without encumbrance of clothes. The misery caused by the flood it was impossible to gauge. The loss of live stock and crops was estimated at £35,248. Hundreds of the inhabitants were homeless, and without means of subsistence. Two hundred and thirty-eight women, four hundred and sixty-one children, and seven hundred and ninety-four men, were objects of relief in a community of seven thousand five hundred persons.

While the waters were retiring, King issued an order (28th March) reducing the rations of those victualled from the public stores. On the 20th June the ration was further reduced, pending the reaping of wheat in November, and the arrival of rice ordered from India.

Special attention to garden cultivation was earnestly impressed upon the settlers, "and particularly turnips, carrots, and cabbage, for which the present season is most favourable." In June the Governor "observed with much concern" that many gardens were neglected in the time of scarcity, and "no vegetables were growing."

"As such neglect in the occupiers points them out as unfit to profit by such indulgence, those who do not put the garden ground attached to the allotments they occupy in cultivation, on or before the 10th July next, will be dispossessed (except in cases where ground is held by lease), and more industrious persons put in possession of them, as the present necessities require every exertion being used to supply the wants of families," &c.

Bakers were to find due security, to deliver no more "to their customers, who are off the store only, than the government ration allows to those on the store weekly;" to deliver weekly lists of such customers; to supply no bread to any one not a regular customer without an order signed by a person appointed for that purpose; to bake "no cakes, biscuit, nor any kind of pastry whatever," nor to expose them for sale, "on penalty of £5 for each offence, and to have their ovens taken down, their license and securities forfeited."

Permits were required for the moving of grain. The Governor issued them at Parramatta. "This order is meant to counteract the infamous attempts of a few monopolizing re-graters, against whom the law is open, and will, on complaint, be rigidly enforced." The price given by the government was raised to fifteen shillings for a bushel of wheat.

The war raging in Europe found distant echoes in New South Wales. The solitary and daring cruisers which naval wars produce scudded over the southern seas. In 1803, when the short-lived peace of Amiens crumbled at the will of Bonaparte, Lord Hobart wrote (16th May), in consequence of the unfavourable "termination of discussions lately depending between His Majesty and the French Government (of the probability of which result I gave you notice in my secret despatch of the 7th instant), His Majesty's ambassador left Paris on the 13th instant." Letters of marque were to be issued. King was to promulgate the fact so as to guard against injury to His Majesty's subjects, "and that they may likewise be prepared to do the utmost within their several stations to distress and annoy the French by making captures of their ships and destroying their commerce. Under these circumstances it will be advisable that homeward-bound merchant ships should wait until such a time as they may have an opportunity of being convoyed home." King called upon all who wished "to contribute to the defence of the colony to give in their names," and announced that all foreigners residing in the colony without his permission were "subject to be put to public labour until an opportunity offers for their leaving the colony or being sent away." A proclamation

(8th Dec.) declared that the Loyal Associations would be embodied "to guard against the first effects of any unexpected attack from the enemy." The Irish insurrection in March 1804 found the community better prepared than it might have been if not thus aroused to a sense of duty. News arrived fitfully; but prizes were occasionally taken to Port Jackson to be condemned.

In May 1803, when H.M.S. *Glatton* sailed for England, the Governor wrote that a small trading vessel owned at Madras had recently arrived from South America. Sailing southwards from Coquimbo the captain was "chased by an armed vessel which took his boat and thirteen men." Recent captures on the South American coast were enumerated, and the force of the enemy—"two frigates, a ship of fifty guns (that sails very ill, built in Peru), two armed whalers, a cutter brig, and a lugger. I have judged it proper to state this circumstance to possess your Lordship of the hazard that any commercial enterprise on that coast is attended with."

War tidings stirred the remote sons of England like the booming of distant guns. In Nov. 1804 the sound came to their doors. The look-out officer at the South Head signalled for an officer from head-quarters. Lieut. Houstoun was despatched from Sydney. Two ships were in sight. Drums beat to arms. The New South Wales Corps and the Loyal Association were assembled (*Sydney Gazette*) to "welcome the strangers." At eleven o'clock in the morning a trooper spurred in haste to Government House. A battle was fought outside the heads. The English whaler *Policy* (carrying letters of marque), with six twelve-pounders, chased by a Dutch vessel, the *Swift*, with six eighteen-pounders, made ready for action, bore down upon the *Swift*, was at close quarters at half-past eleven, and in two hours compelled the Dutchmen to strike their colours. Twenty thousand Spanish dollars were on board the prize, which was duly condemned and sold in Sydney.

As traffic in the Pacific increased, the temptations of a dissolute life began to attract numbers of Europeans, "among whom" (the Governor wrote 30th April 1805) "are some of indifferent not to say bad characters, mostly left by *ships* going to the north-west of America, whalers, and

several from this colony who have gained much influence with the chiefs whom they have assisted in their warfare." He regarded the act of an English master,⁹³ Campbell, of the *Harrington*, in seizing two Spanish vessels on the coast

⁹³This case occupied reams of despatches. William Campbell, the master of the *Harrington*, owned in Madras, was the man who in 1802 refused to hoist his flag in honour of the French because the English flag was not placed high enough in the French ships. He was chased on the South American coast, and lost a boat and thirteen men. The peace of Amiens interrupted his reprisals. He returned to Sydney (Jan. 1804) with letters of marque, issued at Fort St. George, against France and Holland. Before he sailed for the coast of Peru the Governor warned him that he must be careful not to make reprisals against powers not included in his letters of marque. Nevertheless (26th Sept. 1804) he captured a Spanish brig at Coquimbo. At Goasco the Spanish Governor unsuspectingly went on board the *Harrington*. At Caldera, Campbell fired upon a Spanish cruiser (*Estremina*) and when the crew ran her on shore the daring privateer carried her off (2nd Oct.). On arriving at Norfolk Island, Campbell, finding that there had been no war between England and Spain in Sept. 1804 feared to take his prizes to Sydney. He sent them to cruise on the coast and await his orders. He arrived in Sydney 4th March 1805. King found erasures in the log of the *Harrington*, and issued a proclamation commanding all persons who might fall in with the Spanish vessels, "hovering about some part of this coast," to cause them to be sent to Sydney, and to hoist the Spanish flag "in its proper place until it is known whether war did exist (on the 26th Sept. and 2nd Oct.) or not." The *Lady Nelson*, despatched by the Governor, seized the *Estremina* in Jervis Bay. Robbins, in the little *Integrity* cutter (59 tons), found the brig (*St. Francisco St. Paulo*) off Kent's Group, and took charge of her. The *Harrington* was detained at Port Jackson.

King wrote a long letter to Don Lewis de Guzman, Captain-General, Governor, and President of the Royal Audience of the Kingdom of Chili, Rear Admiral, &c. This he entrusted to Robbins, who took charge of the *Integrity*, and sailed for Peru with a certificate under King's hand, and precise instructions as to hoisting colours, flag of truce, and seeking audience. The vessels seized were sold in Sydney to avert loss by decay, and the proceeds were eventually handed to the Spanish Government. King sent Robbins "under a flag of truce, in case hostilities should have since commenced, to request the Government of Chili to cause proper persons to be sent, not only for reclaiming those vessels, but as witnesses on the trial of the commander and crew of the *Harrington*, for seizing and bringing away the ships and goods belonging to a power at peace with His Majesty."⁵³ Lord Castlereagh (21st Nov. 1805) sent his approbation of the spirit and "principles" under which King had acted. The *Harrington* and her master were then released. In 1808 the *Harrington* was seized at night in Farm Cove, near Campbell's own house, and carried to sea, the chief officer and others being sent back in boats from the open sea. The *Harrington* was taken shortly afterwards by a man-of-war off Luconia: and the ringleader, Stewart, was taken to Calcutta. The last trace of the gallant Robbins (only twenty-three years old when he bore the despatches to Don Guzman) is his departure from Sydney in the *Integrity*. He was then rated as Acting-Lieutenant in H.M.S. *Buffalo*. Minute search at the

of Peru (when there was no war between Spain and England, though the man alleged his belief that war had been declared), "as leading to these acts if not noticed" and checked. Such practices would be injurious to His Majesty's possessions, and tended to destroy the fishing prosperously established.

"To prevent these growing evils I would respectfully suggest the propriety of two or three sloops of war being stationed here for the purpose of preventing too great a number of bad characters from establishing themselves on the Society Islands, and to prevent many abuses and irregularities on the part of the Americans, as well as for the protection of these settlements generally."

By an Order, in May 1805, King took under his protection all Otaheitan, Sandwich Islanders, and New Zealanders. No one was to take them on board in Sydney without his written order, "which will not be given unless with a certainty of the masters taking them to the island they belong to." Campbell of the *Harrington* had manned his unlawful prizes with Tahitians, and King declared that "all such Otaheitan, &c., are protected in their properties, claims for wages," and redress, like His Majesty's subjects.

A few words may be said about the control of the convicts as a body. Constant attention was "required to make their labour in the least beneficial." There were, King wrote, exceptions, but the general character of the male convicts was perverse; they were indifferent to labour; "their perseverance in their crimes could only be corrected and their labour made productive by the inspection and exertion of authority. The overseers placed over this description are not much better, being mostly under sentence of the law, and requiring the incentive of a certain reward, which is limited to the labour of one convict each, and their families victualled from the stores, with the prospect of emancipation, and eventually a free pardon."

Convicts assigned to individuals were permitted to agree with their masters, for increased allowances and money payment, to do additional work. For a year of such extra service the established price was £10. On proof of misconduct during assignment, convicts were "remanded to

Admiralty, kindly promoted for the author by Admiral Sir Antony Hoskins, has resulted in a "return" concluding with the words, "No further trace." Inquiry by the author through the British Ambassador in Madrid, and in person with the learned Don Pasquale de Gayangos, failed to elicit any facts about Bass or Robbins.

government labour and excluded a similar indulgence during the remainder of their sentence, which in a great measure" secured their good conduct. No magistrate could "inflict a severer corporal punishment than fifty lashes if the Governor is absent, or without his approbation." Of the women convicts, there were "many whom no punishment or kindness could reclaim." Among the most thoroughly abandoned were

"the London females and the greater part of those from Ireland. Among the comparatively few who came from the English counties many are well-behaved women, who soon after their arrival are selected and applied for by the industrious part of the inhabitants, with whom they either marry or cohabit, several being useful in domestic economy, rearing stock, and even in agriculture. The worst are those permitted to accompany their exiled husbands, and who are almost without exception receivers of stolen goods, or lead the most dissolute lives. . . . No more than 360 couple of every description are married in the colony, 170 having been united since 1800. It certainly would be desirable if marriage were more prevalent, as every encouragement is given for their entering into that state, but as the will of the individuals ought in this instance to be free, I cannot say that I approve of a proposed plan to lock all the females up who are not married until they are so fortunate as to obtain husbands."

"On arrival" precautions were taken. Females were placed in the manufactory at Parramatta under care of the resident magistrate. The well-behaved were encouraged to marry. If large numbers were locked up as proposed, instead of marriage being respected it would become a mere act of convenience to escape from imprisonment. As a set-off against the bad character given to the Irishwomen, it should be added that while the male convicts from London were described as vile, the great part of the Irish and men from the interior of England were industrious and persevering.

In all his plans for the benefit of his reprobate subjects the Governor was ably assisted by his wife. She was the life and soul of the management of the Female Orphan Asylum; and without her aid the superintendence of the "factory" (as the place which contained the convict women was called, because they worked there) would have been difficult even for King and the untiring Marsden.

One baneful curse hung upon the colony in the shape of the cloud which surrounded the children even of the free.

There were no schools to which their parents could send them. The schoolmasters and tutors who could be found were convicts or freedmen. The careful mother had to be present while her children were imbibing from so dubious a fountain. No less than six convicts were pardoned conditionally with the express object that they were "to be schoolmasters," but the schools in which they taught contained the children of the bond.

The total number of men conditionally pardoned by King was 326; of women, twenty-five. Absolute pardons were given to 167 men and to fifteen women. For active and exemplary services at the rebellion in 1804, eight absolute and thirteen conditional pardons were given. Though nine rebels were then executed, it is satisfactory to find that the number of capital convictions carried out in six years under King did not exceed twenty-one.⁹⁴ Thirteen suffered as felons, four as forgers, two as murderers, and two for rape. Twenty-eight felons, three murderers, four forgers, and two ravishers received commutations of their sentences. Sixty-five prisoners received free pardons in order to enable them to serve in the New South Wales Corps, in the Loyal Associations, and in various king's ships. Twenty-six received conditional pardons in order that they might serve in colonial vessels and on the Australian coasts. The power of pardon was a potent engine in a Governor's hands; and the repression of the rebellion in 1804 had shown how vigorously he could wield the sword. No sound of treason disturbed him again until a few days before he transferred the government to Bligh.

On Bligh's arrival discussions as to the possibility of rearing the flag of rebellion successfully against the new ruler caused rumours that a rising was intended. Indignant at the idea, King at midnight left Sydney, and at daylight was on the road from Parramatta to Castle Hill. Having given directions at each place, he returned to Sydney in the evening.

⁹⁴ In a private letter to King (Aug. 1804) Sir Joseph Banks wrote:—"There is only one part of your government which I do not think right—that is, your frequent reprieves."

The population⁹⁵ of New South Wales and its dependencies was thus distributed when King left:—

	Men.	Women.	Children.	Total.
New South Wales	4224	1412	1883	7519
Norfolk Island	394	183	437	1014
Hobart	344	73	69	486
Port Dalrymple	210	33	200	443
	5172	1701	2589	9462

Among the personal occurrences during King's government the mysterious fate of Bass the explorer deserves mention. That he considered himself slighted by the English Government is shown in several letters. He wrote to King (31st Jan. 1802) from Matavai Bay (Tahiti), that though he had little to communicate, he "would not be thought to fail in that esteem which I have ever held and professed for you out of your official capacity." He had touched at Dusky Bay (New Zealand). He commended the civility of the missionaries at Matavai:

"This civility is all we want, as it appears to be indeed all they have to bestow, for I should not conceive that men in their situation either would wish, or can if they wished it, have much authority amongst the islanders or over us. We neither conceive them to be able to protect an establishment if it was threatened by the natives, nor to chastise us should either Bishop [Bass's partner] or myself be for a moment inclined to relinquish the path of right and just conduct which has for years past been our guide. I would tell you my ideas of the state of hogs in this island, but perhaps you would suspect something of the hocus-pocus in it, as also of the Attaboroo war, but that more will be known of it before this letter leaves Otaheite. Please to present my most respectful compliments to Mrs. King, and believe me to be your faithful friend and humble servant,

"GEORGE BASS."

Bass carried a cargo of pork and salt safely to Sydney from Tahiti, and received £2351 12s. 3d. for it. In Dec. 1802 he wrote from his brig, *Venus*, Sydney Cove. He proposed "the extension of the rising commerce of this territory," and doubted not to receive the Governor's "encouragement." "It is said, but your Excellency is the best judge of its truth, that an island abounding with salt has been discovered by Captain Flinders upon the S.W.

⁹⁵ Returns vary considerably as to the census of the colony, and some which have been printed are without doubt inaccurate. In this and other cases, the account which seemed most authentic has been adopted.

coast of this island. Taking for granted the existence of such an island, I shall proceed with my proposal." He would load the *Venus* with the salt, sail to Batavia, and

"under favour of your Excellency produce (to the Governor there) some paper from you, signifying that I was an adventurer upon no other than a voyage of lawful commerce. From Batavia I would load the *Venus* back to this colony with rice, sugar, arrack, coffee, and Java horses. . . . I cannot be ignorant of your Excellency's unremitting exertions⁹⁰ to prevent the excessive importation of spirits into this colony, nor am I ignorant that you find the necessity of importing certain quantities of common spirit occasionally for the use and due support of the labouring people. Now, the quantity of arrack to be by me imported I would leave to your Excellency's judgment, and upon its arrival here, after the government's necessities are supplied, I shall most cheerfully submit to your will in the disposal of the rest, as to time, quantity, and persons, so that no ill consequences may be likely to ensue from an improper issue."

He would sail to the westward through that strait "which I had the good fortune to discover in 1798, and which through the favour of his late Excellency Governor Hunter bears my name." He would lay his journals and charts before King on his return, but added: "I cannot here refrain from remarking that my unwillingness to exhibit to your Excellency the journal and sketches of the discoveries I have made during my late voyage arises from no other cause than the unparalleled neglect I have met with from the British Government for my services in this country formerly."

Looking forward to a safe return, after extending his voyage to South America to procure guanacos, he carved out a new career for himself. On the 30th Jan. 1803 he wrote again to the Governor. By his recent voyage to the Society Islands he had enabled King to issue meat from the public stores at greatly diminished cost, "thus furthering your arduous exertions and producing to myself a profitable though very moderate return." He wished to do more with the same view. "I have every proof short of actual experiment that fish may be caught in abundance near the south part of the south island of New Zealand or at the neighbouring islands, and that a large quantity might be

⁹⁰ The letter of Bass, clearly written in ink still black, comes like testimony from the grave to refute the statements which have so long been circulated, by maliciousness or mistake, as to the importation of spirits during the government of King.

supplied annually to the public stores. Government aiding me in the project, I will make the experiment." The aid asked for was "exclusive privilege or lease of the south part of New Zealand, or that south of Dusky Bay, drawing the line in the same parallel of latitude across to the east side of the island, . . . together with ten leagues of sea around their coasts." The lease was to be for seven years, renewable to twenty-one if successful during the seven. The first seven years being probationary, he could not undertake to supply any specific quantity, and therefore did not ask the government to bind itself to receive any fixed quantity.

For fish delivered he would be content with a price less by one penny a pound than the cost of a meat ration. "If your Excellency thinks the above proposal worthy your notice, I request at once to have the privilege that I may begin to set matters in motion. If I can draw up food from the sea in places which are lying useless to the world, I surely am entitled to make an exclusive property of the fruits of my ingenuity as much as the man who obtains letters patent for a corkscrew or a cake of blacking."⁹⁷

King seconded Bass's project. It was to be at Bass's risk; the government was not bound to buy. Bass's last voyage had been most lucrative to the government in obtaining pork. He presumed that every encouragement should be given, and that the project would

"be attended with much advantage, but how far the lands described by him can or ought with propriety to be leased to Mr. Bass for so laudable an undertaking I must submit to your Lordship's wisdom, as the permission I shall give him to that effect will be conditional until I have the honour to receive your Lordship's instructions on this point."

The fishing scheme was not to be proved until the return of Bass from the cruise to Batavia and elsewhere. Meanwhile he projected a new scheme. King wrote:

"Mr. Bass's enterprising speculation has led him to attempt getting a breed of guanacos from the coast of Peru, for which purpose he solicited a certificate from me which I took upon myself to grant, a copy of which I have the honour to enclose. . . . I do not perceive any political inconvenience that can attend the open and unequivocal manner he goes in, and perhaps it may ultimately tend to some public advantage."

⁹⁷ MS. autograph of Bass.

Bass sailed in February. His certificate from King stated that

"Mr. George Bass, of the brigantine *Venus*, has been employed since the 1st day of Nov., 1801, upon His Britannic Majesty's service, in procuring provisions, and still continues those exertions. Now should he, in order to avoid a long and precarious research amongst the islands of the Pacific Ocean, find it expedient to resort to any harbour or port in His Catholic Majesty's dominions upon the west coast of America, this instrument is intended to declare my full belief that his sole object in going will be to procure animal food and live stock for breeding, which the colony is much in want of. . . . I have therefore to request that all Governors or Commanders-in-Chief of any of the ports or places in His Catholic Majesty's territories, where the aforesaid Mr. George Bass may happen to touch, will not only afford him their countenance and protection, but also assist him so far as may be consistent with their instructions. . . . (3rd Feb. 1803)."

A shipping list informs us that Bass sailed on the 5th of Feb., comforted, we may hope, by the thought that the Governor was not one of those from whom he had met "unparalleled neglect." As regards Bass, King's despatches tell little more. He warned Lord Hobart in May 1803, and doubtless had discussed with Bass the "hazard of commercial enterprise" on the west coast of America. On the 1st March 1804, he wrote, "After twelve months' absence he is not yet returned, which makes me apprehensive for his safety." In April he wrote, "I almost give up hopes of seeing Mr. Bass, who I begin to conjecture has met with some accident." The rest is silence. The gallant explorer is heard of no more.

Rumour, "blown by surmises, jealousies, conjectures," assigned various crimes and deaths to Bass. Because M. Peron wrote that he saw in Sydney, in 1802, armed vessels "intended for contraband trade" with Peru, one historian tells that, "in one of these vessels Mr. Bass risked his fortunes and his life;"⁹⁸ that he was taken prisoner and sent to the mines; and that his death was variously ascribed to hardships in captivity, and to shipwreck in an attempt to escape. Contradictory rumours may be allowed

⁹⁸ "Australia Discovery and Colonization." Samuel Bennett. The mistake has been repeated by others, but the imputation against Bass seems to be rebutted by the facts detailed in the text. Dr. Lang gave currency to the charges against Bass, but neither he nor others quoted any authority upon the point; whereas the statement in King's despatch must be admitted to be of value if even Bass's written professions could be set aside.

to neutralize one another, but not to take the place of truth. As the character of a hero is dear to mankind, all that could be certainly traced has been narrated here to show that of Bass, as much as possible, by his own words and deeds.⁹⁹

When King sent Robbins in 1805, in the *Integrity*, to explain to Don Lewis de Guzman, the untoward and illegal captures by Campbell, the master of the *Harrington*, the envoy and the sender must have had a keen sense of the danger of the mission. Both of them had recently learned the treacherous seizure of Flinders at the Mauritius; both of them were persuaded that Bass had met an untimely, perhaps a treacherous end, but neither of them shrank from duty.¹⁰⁰

A characteristic occurrence in 1801 shows the nature of the cases brought before the Civil Courts in matters of trade; and that King bore no grudges against those who had been troublesome to him in former years. Sergeant Whittle bought, in 1801, one hundred and forty-three packs of cards from one Turnbull. Considering them inferior to the sample, he returned them. Turnbull sued him for the price. The rate of profit fixed under King's orders was 100 per cent. on the goods in the importing ship, but the naval officer certified that the cards were not entered in the manifest. Nevertheless, Turnbull obtained a verdict. King reversed the decision, and directed "the

⁹⁹ An unpleasant circumstance occurred with regard to Bass's affairs. After he had been gone more than three years, an emancipated convict, a trader in Sydney, sued the agent for Bass and his partner Bishop, averring that Bass had taken away by mistake a trunk containing goods. The agent denied the fact, and alleged that before Bass sailed in 1803 all accounts were carefully closed by Bass. Bishop had become insane, and the agent had become his guardian. The Civil Court, composed of Atkins and two others, unfortunately gave credence to the trader. The agent appealed. King's sympathies were with the absent man, against whom, "after a lapse of three years without any demand made," such a claim was preferred.

¹⁰⁰ Robbins was to obtain tidings of Bass, if possible. King wrote (July 1806): "I am much concerned to inform your Lordship that the *Integrity* is not yet returned, and I am more than apprehensive for that vessel's safety, but for the hope that she may have been detained on some pretext by the Government of Chili; although I think no consideration ought to have operated on the Spanish Admiral, who governs that province, to detain her under the just and honourable principles in which she was put within his power." See note pp. 367-8.

said cards to be confiscated and burnt before the county jail by the public executioner, as a nuisance imported clandestinely into the colony." Turnbull applied for a copy of the Governor's decision, "merely for the satisfaction of principals in England." King replied that he gave no copies of his decisions in appeal,—

"but if it will be any satisfaction to the parties in England, for whom you are concerned, you can inform them that the cards . . . were brought into this colony and landed by you in a clandestine manner, contrary to every existing order, regulation, and the policy of the colony, and your not entering them subjected you to the penalties of the Manifest Act, exclusive of the forfeiture of your bond of £200."

Friendly overtures were made by King to the islanders of the Pacific. Pomare asked for fire-arms, King sent him six old muskets, and instructed the commander of H.M.S. *Porpoise* (then going to Tahiti for pork) to deal with the seamen. He hoped that "your Majesty will take care that Captain Scott is not imposed upon" in purchasing pigs. He gave strict injunctions to Scott as to his behaviour to missionaries and natives. A notice (28th March 1801) was sent to Tahiti, warning all masters of English vessels to prevent the disorderly conduct of their crews, "that the British name and character may not suffer in the opinion of the natives by such licentious acts." The missionaries were to be respected, and no cause of offence was to be given to the natives. Contrary conduct would be reported to England, "that delinquents may be brought to justice." The order was sent to a resident missionary.

At a later date (Nov. 1801) the brig *Norfolk* (56 tons) was sent to Tahiti. The master was to "suffer no natives on board except Otoo, Pomare, and the rest of that family, to whom you will show equal attention, as you observe Lieut. Scott has done." . . . "As Pomare has signified a wish to come to this place, should he persevere in that desire after you have told him the great length of the voyage and the uncomfortableness of the vessel you command, you will not disappoint him by persisting in a refusal to take him on board."

At New Zealand, the kindly feeling created by the restoration of Tookee and Woodoo had ensured kind treatment for British sailors, many of whom visited the Bay of *Islands*. Tip-a-he was influential there, and in return for

his civilities King directed the commandant at Norfolk Island to send him some breeding stock. Tip-a-he, anxious to see the author of the gifts, sailed to Sydney in H.M.S. *Buffalo*, which called at New Zealand. Maurice Margarot was on board as a prisoner at Hobart Town, while Tip-a-he was received as a guest.

Colonel Collins sent presents to Tip-a-he. King wrote to Lord Camden (15th March 1806):

“As he had always been spoken of with the greatest gratitude by the commanders of the South Sea whalers frequenting the Bay of Islands, who have received much kindness from him and his people, I caused every attention to be paid to him; and that he might receive no unpleasant impressions he ate at my table, and was with his four sons comfortably lodged; nor have I a doubt that the attention shown him by the inhabitants in general, and the abundant presents he took from hence, will procure the greatest advantages to our South Sea whalers. This worthy and respectable chief (for so we found him in every sense of the word after residing among us three months) informed me that he had long intended this visit, being encouraged by the report of the two New Zealanders (from) Norfolk Island.”

He was inquiring and communicative. He wished to know how the nationality of vessels touching at New Zealand was to be ascertained, and

“complained that a New Zealander had been flogged by the master of a whaler, and hoped that I would give orders that no such act would be committed in future, and very liberally observed that he supposed the master must be a bad character in his own country to commit such violence on a stranger whose countrymen were relieving his wants. I assured him that I would give strict directions that nothing of that kind should happen again, but if unfortunately it should recur, every pains should be taken to bring the offender to justice.”

King gave Tip-a-he a silver medal.¹⁰¹ Some colonists wished to introduce New Zealanders as shepherds in New South Wales. Tip-a-he agreed with the idea, but

“insisted on sending the middling order of people, who would be more expert at labour and tractable than the Emoki, or lower class, who were

¹⁰¹ The inscriptions were: “Presented by Governor King to Tip-a-he, a chief of New Zealand, during his visit to Port Jackson in Jan. 1806;” and on the obverse: “In the reign of George III., by the grace of God, King of the United Kingdom of Great Britain and Ireland.” These attentions to Tip-a-he perhaps influenced him in his efforts to save the lives of Englishmen when the *Boyd* was subsequently attacked in New Zealand because on board of her a New Zealand chief had been flogged. A few survivors were saved. The story belongs to New Zealand history. Tip-a-he and his village were destroyed by crews of whaling vessels.

too idle and vicious to send here, and from whom no good could be got. Hence it appears as well as from his general conversation that the Emoki are made to labour by the authority of the chiefs."

King sent Tip-a-he home in the *Lady Nelson*, and reported that from "everything that passed during the *Lady Nelson's* stay it is evident that Tip-a-he is a chief of considerable authority." King hoped (26th July 1806) to call at New Zealand on his way to England in the *Buffalo*, and confirm the friendly relations established with Tip-a-he, so that Governor Bligh (then expected) might derive benefit therefrom.

Visitors to Sydney at the present time can scarcely picture to themselves the aspect of the shore when the Tank stream ran where Pitt-street is laid out, and a watery inlet spread widely over the space near the Sydney Exchange. In August 1803 the Governor reported that amongst other works "we have begun a strong stone bridge to facilitate the communication of the two sides of the Cove at Sydney." A "stone fort" (Fort Phillip) was commenced soon after the rebellion in 1804, and a "stone barrack" had previously been built at Castle Hill. A "stone church" was in course of erection in 1803. The enlargement of the wharf in Sydney, and the construction of the diminutive vessels, the *Cumberland* and others, which carried the flag of England in the Southern Seas, were duly communicated to the Secretary of State. The "assessment" or Customs duty of one shilling a gallon on wine, and sixpence a gallon on wine which King imposed in order to create a "Jail Fund," yielded £3890 13s. 8d. With this he built and maintained gaols at Sydney and Parramatta, discharged other public claims, and left a balance in 1806 in the Treasurer's hands. The approval of the Secretary of State was not withheld from a singular distribution of titular honours in 1802 by Governor King in naming two parishes and churches. It was ordered that Sydney and adjacent districts should be a parish, "to be henceforth named 'Saint Phillip' in honour of the first Governor of this territory;" that Parramatta and certain districts "be henceforward named 'Saint John's,' in honour of the late Governor Captain John Hunter, and that the churches now building at Sydney and Parra-

matta be respectively named Saint Phillip and Saint John." Eighteen years afterwards, Mr. Sorell, then Lt.-Governor of Van Diemen's Land, followed this example, and directed that "the new church of Hobart Town shall be called 'Saint David's' Church out of respect for the memory of the late Colonel David Collins, of the Royal Marines, under whose direction the settlement was founded in 1804."

Amongst glimpses of the condition of the people may be noticed an order in June 1804, stating that the "Royal Standard having been hoisted for the first time in this territory on this the anniversary of His Majesty's birth" (amidst salutes and volleys at 9 a.m., and with further firings and salutes at noon, the Governor being ready to receive the compliments of the officers—civil, military, and naval—at half-past one o'clock), free pardons were granted to an officer under sentence of court-martial, to twenty soldiers of the New South Wales Corps, who had previously received conditional emancipations, and to twelve other conditionally emancipated persons, while to sixty-seven prisoners conditional emancipation was given. The different gaol-gangs were liberated, and "the usual allowance of half-a-pint of spirits" was given to each non-commissioned officer and private.

Tradition, neglectful of more important events during King's rule, preserved a few characteristics of his demeanour. We are told that when a man who had been a marine applied for something which the Governor did not think fit to grant, he said, "Can you go through your exercise still?" and being answered in the affirmative, gave the man marching orders while he himself re-entered his house. One occasion a man applied to him for work, and he called the man into another room and showed him a mirror. "Look there, and you will see the man that ought to give you something to do." These and other anecdotes of like import have, in the absence of a true record of occurrences between the departure of Phillip and the appointment of Bligh, been allowed to stand as almost the only redeeming features in the character of the man whose doings are here chronicled, and whose despatches have been largely quoted

in order that a faithful portraiture may be obtained by those who may read these pages.¹⁰²

Though the *Sydney Gazette* teemed with General Orders from which the events of King's career could be gathered, even without access to the despatches, a historian¹⁰³ who had access to those Orders and quoted them when it suited his purpose, condemned King—as having wanted perseverance, and having “very soon left things to take their natural course;” as having “neglected to encourage farming;” sanctioned the “grinding monopoly established in favour of the officers of the New South Wales Corps;” allowed the military to retail spirits at £2 or £3 a gallon from every vessel that entered the harbour; and profusely granted to emancipated convicts licenses to sell rum. The same writer averred that neither marrying nor giving in marriage was thought of in the colony under his rule; that “the arm of the civil power was withered under the blasting influence of the miserable system that prevailed;” that industry was neither encouraged nor protected; that bands of “runaway convicts traversed the country in all directions,” committing “fearful atrocities;” that “it is at least certain that King recommended the entire abandonment of Norfolk Island;” and that his “administration was on the whole unfortunate for the colony.” That all these averments were erroneous the reader of the foregoing pages must know. None but those who know something of Dr. Lang, otherwise than by his own statements, could surmise the grounds upon which, in a history of public affairs, any writer would desire, or would dare if he desired, to impute to a worthy servant of

¹⁰² The author's sources of information have been ampler than those of previous writers, and the following letter written by Governor King to his son (afterwards Admiral P. P. King) gives eloquent testimony to the straightforward character of the writer. The boy was at school in England, and not fourteen years old when his father wrote to him from Sydney:—“Take care to observe the sailors' golden rules—hold fast; never neglect your prayers; and shun bad company; doing to others as you would be done unto. Keep your head cool, and your feet warm, and use plenty of exercise, and you may bid defiance to Old Nick and all his works. With most affectionate wishes for your health, I remain, my dear boy, your affectionate father, Philip Gidley King.”

¹⁰³ Dr. J. D. Lang.

his Sovereign the sanction of crimes which that servant employed his life in correcting.

To obtain no credit for good work done is a common lot. To bear blame for creating evils which a man has found rampant and has vigorously repressed is a rarer misfortune. More than a quarter of a century elapsed after King's death before Dr. Lang compounded his grotesque chapter upon the government of New South Wales during the eventful six years of King's government. The motive for Lang's mis-statements, so early committed and persistently repeated, it might be difficult to assign. Major Goulburn was the ever-recurring butt of his ridicule because he placed obstacles in Lang's way, when by misrepresentation of amounts of private subscriptions it was attempted to extort undue grants from the Treasury. The wife of Mr. Commissary Wemyss, in whose house Lang was received as a guest, did not escape vituperation when her husband failed to support Lang's plans with satisfactory earnestness. But these persons were yet alive, and might be supposed to feel the lash of their offended critic; whereas Governor King had long passed to a realm where such criticism, if it have effect, can only injure its pronouncer. In King's case it would be difficult to assign a motive unless it be that Admiral P. P. King, the son of the old Governor, in after years displeased Dr. Lang by failing to support him in some scheme, and it was desirable to mete out a wider vengeance than that of the Decalogue, and to visit the sins of the children upon their forefathers.¹⁰⁴

¹⁰⁴ If it should be thought that Lang's statements are unduly censured in the text, the following paragraph will show how necessary it is to prove their worthlessness. From the time of Phillip to that of Governor Gipps there was no such effort made as that by Gipps to enforce justice to the aboriginal race. Nevertheless, when Sir G. Gipps failed, in Dr. Lang's opinion, to procure evidence of the truth of a rumour which reached him, Dr. Lang denounced Sir G. Gipps as a participator in crime and as having this "black blood upon his hands;" and now that Her Majesty has relieved him "of the task of misgoverning the most important of the Australian colonies, he may wipe it off if he can."—"Cooksland," by J. D. Lang. London: 1847. Gipps died before the invitation was published. Lang added in a note: "Sir G. Gipps was alive when this was written. He has since gone to his account. I see no reason, however, why I should expunge a syllable of what I had written in the case." But the charge against Gipps was unjust; and, even if it had been true, how could he return from the dead to essay the vain task of Dr. Lang's sleep-walking countrywoman, Lady Macbeth?

When a man's career has been blackened by one writer, it is insufficient for another to assert that the first is untrustworthy. History cannot be written negatively. Those who know the vindicator of the truth will, of course, believe him; but he writes for many who know him not. Under these circumstances the government of King has been chosen to illustrate the daily doings of the colonists; to trace their household life and their excursions of discovery; to follow them to the camp, the market-place, the reformatory; to describe the Courts, Civil and Criminal, and the arbitrary edicts of the Governor; and the steps taken on his recommendation to guard the shores of Australia from the talons of the eagles of Napoleon. It would be tedious to write all history at such length; but an air of romance clings to the character of pilgrim fathers and of expeditionary governors, and no period seemed fitter for picturing the life of the colony than the one which previous misrepresentations had made it necessary to examine closely. The fibres of the transplanted tree reward scrutiny better in the time of King than at any other period. History is but the drama of the lives of those who pass like waves over the ocean of time. Many scenes must be unrepresented, but "the age and body of the time, its form and pressure," ought to be made known. Scenes which have been by others falsely exhibited have now been shown in their true colours, under the light obtained from contemporary records, not written to deceive, but prompted by the exigencies of the hour; in a time of war, of tumult, and of pressing needs.

To dispel falsehood and bring truth to light has been a labour which, though often toilsome in poring over musty manuscripts, has been lightened by the hope of communicating to others the sparks of long-lost truth which have gleamed upon the author in the course of his researches. He has aimed not to represent King as wiser than he was, but to show exactly how and why he acted. His was a discretionary government, often highly arbitrary. It was incompatible with any extant written law, and when he required new powers he wrote a fresh General Order, and enforced it. He was his own interpreter of it in the *Appeal Court*. Like the control of a man-of-war, the

government of a penal settlement was under the eye of a commander at Sydney, and at Norfolk Island. But as settlement extended to the Hawkesbury, difficulties were multiplied. Phillip continued his exertions till health gave way. Grose abandoned, Paterson neglected, his duties, and Hunter was incapable. King undertook the increasing duties with energy which knew no check but physical prostration. When he wanted money for his Orphan School he imposed taxation by his sole authority with an audacity which excited in after times the censure of William Charles Wentworth.¹⁰⁵ He persuaded successive Secretaries of State to sanction his act. When the military obstructed him he showed that he was independent of them in a matter in which they confidently hoped to reduce him to submission. He brought them to trial resolutely, even though there was no hope of convicting an offender before a court composed of his comrades. He entreated the Secretary of State to appoint a jurist to fill the office of Judge Advocate or of Chief Justice,¹⁰⁶ so that the administration of the law might be duly conducted. He sent folios of reports to bring the true state of affairs to the knowledge of the Secretary of State, and to persuade him to send out a small artillery force so that, for defence purposes, the arrogant corps might be in part dispensed with. He was irascible, and was accused of being violent. Yet, when in 1803 the officers of the Criminal Court put the officiating Judge-Advocate under arrest, he recognised the gravity of the situation, summoned a council of advice, comprising Captain Kent of H.M.S. *Buffalo*, Colonel Paterson, Mr. Marsden, and others, and at their suggestion appointed a substitute for the arrested Judge-Advocate, though his own desire had been to suspend the proceedings of the Court until His Majesty's pleasure

¹⁰⁵ Wentworth was born at Norfolk Island when King governed there in 1793. He admitted that King devoted the fruits of his illegal taxation to objects of great importance and utility, though he hinted that Bligh was not so scrupulous. But the taxation, under the "*ipse dixit* of a governor," was an "unprecedented deviation from all constitutional authority."—"Description of the Colony of New South Wales." London: 1819. Wentworth was twenty-six years old when the first edition of his work was published.

¹⁰⁶ *Vide* pp. 233, 250, 258, 259.

might be known. He duly submitted the whole case to Lord Hobart, and if that nobleman had risen to his duty he would thereupon have laid down rules which might have averted the irregular conduct which led to Bligh's deposition.

Though the repression of traffic in spirits and the prevention of the striking of convicts by their military masters made many enemies, they did not detract from the general respect in which King was held, and after 1804, when the corps was called into the field under Johnston, we find no further dispute between the civil and military authorities. Lords Camden and Castlereagh, wiser than Lord Hobart, kept King at the post from which Lord Hobart had been about to withdraw him.

For the founding of the new era which was to create a market for Australian products, though it happened under his sway, King cannot claim credit. He fostered whaling and seal-fishing and kept away foreign intruders, but to the sagacity of Macarthur and the goodwill of Lord Camden, must be attributed the success which made King's reign the seed-time of the harvest which was to justify Macarthur's predictions. It was probably in consequence of Macarthur's movements that the attention of settlers of education and possessed of worldly means was first practically directed to the colony. Phillip had sighed for such a class, and King earnestly pointed out the need of them. But they did not arrive until Macarthur's ideas had become known, and Lord Camden had sanctioned the granting of considerable tracts of land for pastoral uses.

No man could immigrate to New South Wales without permission from the government. In July 1805 Lord Castlereagh accorded that permission to two brothers of the name of Blaxland, and acceded to their request to be allowed to choose 8000 acres subject to King's approval. It was also arranged that free passages should be given to the family, and the emigrants were to be allowed to pay for live stock (selected from government herds and flocks) by bills on the English Treasury. For these and some minor advantages the brothers stipulated, on their part, to employ a capital of not less than £6000 in New South Wales. The aid to be extended in the colony (Lord

Camden wrote to King) "I leave entirely to your discretion, but you will understand that I wish it to be as liberal as circumstances will permit." Mr. Gregory Blaxland reached the colony while King was yet there, and was treated as desired by the Secretary of State. His brother, John Blaxland, arrived when Bligh was in power, and bitterly remonstrated against obstructions then thrown in his way.

In July 1805 Lord Castlereagh wrote that Captain Bligh, R.N., had been appointed to succeed King, and would receive such instructions as on perusal of King's despatches (yet to arrive in England) might "appear to be expedient for the future government of the colony." In November Lord Castlereagh wrote again:

"His Majesty has full confidence that you will communicate in the most confidential manner to Captain Bligh all the information in your possession respecting the interest of the colony, and furnish him with all your sentiments as to the most eligible manner of proceeding in carrying into execution His Majesty's commission with which he is invested. The appointment of a successor to you having arisen from your personal request to be relieved from the fatigues of your government, I am happy when I thus recommend Captain Bligh to your attention to express His Majesty's¹⁰⁷ entire approbation of the conduct you have manifested in the important charge committed to you, and his satisfaction at the great improvement which the colony has received under your superintendance."

Bligh arrived in Sydney on the 7th Aug. 1806, and King reported: "On the 13th of that month I gave the government up to him with every mark of respect and ceremony due to his situation." King, who was senior captain of H.M.S. *Buffalo*, arranged for an immediate departure for England; but the want of provisions for the ship, and the task of "possessing Governor Bligh of every circumstance respecting the colony as directed by your Lordship," delayed his voyage until the 10th Feb. 1807. In addition to the complimentary terms in which Lords Camden and Castlereagh had addressed him, the departing Governor received a testimonial equally precious. Sir Joseph Banks wrote: "For the quiet disposition of the colony which you

¹⁰⁷ Those who are sufficiently interested in the subject of Dr. Lang's accuracy to compare his account of Lord Castlereagh's feelings with Lord Castlereagh's words, will find in his 'History' that "the period of King's administration" was shortened by underhand misrepresentations, and that he was treated in England with neglect which embittered the remainder of his days.

brought about, after so much labour and difficulties so very discouraging, your merit has been very great, and your conduct such as in my opinion deserves great reward." Thus gladdened at the close of his career by testimony from England the successful Governor received hearty expressions of goodwill from all in the colony. Deputations waited upon him. Major Johnston represented the military. The Judge-Advocate headed the civil officers. John Macarthur represented the free inhabitants. Mutual compliments and friendly feelings were expressed.

King reciprocated their "kind good wishes, and what is equally dear to me, your sentiments of my conduct in the situation I have had the honour to hold in these settlements." For the support and assistance he had received from the different classes of His Majesty's subjects he was truly grateful, and "although he had obtained leave to resign his office, at no period of his future existence would an earnest desire and solicitude be wanting to do his utmost in forwarding the interests of this remote part of His Majesty's dominions, and the prosperity of the inhabitants." He promulgated his "approbation of the general good conduct" of the New South Wales Corps, and of the Sydney and Parramatta Loyal Associations. He published as a final Order "the entire approbation by His Majesty of his 'government of the colony,'" and announced that "all existing General Orders, proclamations, and local regulations were to remain in full force and effect," unless formally altered. As he passed to the wharf military honours were paid to him by the New South Wales Corps and the Sydney Loyal Association, "which were repeated on Governor Bligh's repassing the line after taking leave of Governor King at the wharf."

A few words may be devoted to the remnant of King's life. Like other governors, he was in after years accused of having prostituted his position by conferring grants of land too largely on himself. In the record he left of the state of the colony at the time of Hunter's supersession he declared his intention to abstain from commercial, or farming, or other pursuits for gain. He adhered to his resolve, but he allotted grants to each of four children. *The largest grant was of 660 acres to his eldest son,*

Phillip¹⁰⁸ Parker King. The smallest was less than 300 acres. Succeeding Governors gave more land to the family. Bligh himself carried on board the *Buffalo* (in the harbour, as King was sailing to England) an additional grant of 790 acres near those apportioned by King to his children, and persuaded Mrs. King to accept it. Macquarie added a grant of less extent, and long afterwards Governor Darling, in recognition of marine surveys conducted by Phillip Parker King on the north-west coast, granted him 1500 acres more. Muniments of title are so carefully preserved that when, after the lapse of a quarter of a century, a newspaper writer ventured to affirm that King granted to himself 10,000 acres of land, Admiral King was able promptly to disprove the allegation.¹⁰⁹

The Governor's predecessors had received pensions in England, and his services would probably have been recognized in like manner. He, like Phillip, had suffered in health, but, unlike Phillip, he was soon to succumb to disease. He died in Sept. 1808. When his death was made known in Sydney, Colonel Paterson (the Acting-Governor) and the officers of the New South Wales Corps "attended Divine service in mourning, as a tribute of respect for the memory of the much-lamented Governor—P. G. King."¹¹⁰ His memory is kept green among many scores of his descendants born in the colony. His acts have been for the first time placed before the public in these volumes.

His widow presented a memorial to the Secretary of State, which stated that she was without relations to assist her in caring for her children. She asked for relief from the government. She stated that he was of an ancient and respectable "family declined in circumstances;" that the small sum at her command had been diminished by expenses during his illness; and that though he was

¹⁰⁸ The affection of the Governor for his patron Governor Phillip was shown by the name he gave to his son. Though his own Christian name was Philip, he adopted the spelling of Arthur Phillip's name in christening his son.

¹⁰⁹ The details need not be given. The son's triumphant refutation is to be found in the press, and is preserved by the family. Its date was 24th July 1833.

¹¹⁰ *Sydney Gazette*, 7th May 1809.

economical he had been at charges for educating his children. Lord Castlereagh supported her prayer, on the ground of King's "unremitting zeal and integrity" during "more than twenty years' service in forming subordinate settlements in that remote quarter of the globe, or in conducting the government of the whole." The pension recommended by Lord Castlereagh, £200 a-year, was at once awarded.

She returned, after many years, to the land of the South, and lived and died beloved by her children and grandchildren. Her son rose to the rank of Admiral, and was called by various Governors to assist in the councils of the colony. The writer of these lines can recall to his memory her intelligence, her matronly dignity, and her piety.

CHAPTER VI.

GOVERNOR BLIGH.

KING's successor, Bligh, was a naval officer. Except during the *ad interim* tenures of office by Grose and Paterson, only sailors had held command in the colony. Bligh had obtained notoriety by the voyage of the *Bounty*, in which he sailed to procure bread-fruit trees in the Pacific and carry them to the West Indies. His arbitrary conduct excited ill-feeling before he arrived at Tahiti. The mate of the *Bounty* was Fletcher Christian, brother of a lawyer who edited Blackstone's "Commentaries." Educated, adventurous, and perhaps intolerant of discipline as well as tyranny, Christian was not inclined to bear the coarse insults which Bligh's ungovernable temper heaped upon those under his command. After leaving Tahiti in 1789, Bligh accused Christian of stealing, or combining to steal, cocoa-nuts. Christian controlled his temper and resolved to leave the ship. Others availed themselves of the indignity cast upon him. So many sailors had been flogged that a mutiny was easily planned and executed. Bligh and eighteen others were seized and put into the launch. After hardships which excited sympathy, Bligh made his way from the Friendly Isles to Timor with twelve companions. A boat voyage of more than forty days, compassing more than 3500 miles, would have somewhat redeemed his character even if his cruelties had been known. But the witnesses were far away.¹

¹ Christian sailed to Toubonai after calling at Tahiti. Finding the natives hostile he returned to Tahiti, where several men who had taken no

The mutineers led by Christian had left some of the crew at Tahiti before taking up their own abode at Pitcairn Island, and of those left at Tahiti several were taken to England, and three were tried and executed. Bligh was again sent to Tahiti, and he safely transported the coveted bread-fruit to its new home in the West. He was chosen to succeed King as Governor. He had friends who must have credited him with some good qualities, but he wanted qualifications for governing others, and his language betrayed that he was unable to govern himself.

Dr. Lang, whether carelessly ignorant, or misrepresenting the instructions to King, which commanded him to remedy the evils caused by traffic in spirits, has stated that the "breaking up of the monstrous system" was specially enjoined upon Bligh. The fact was that King had so effectually checked the traffic by officers, civil and military, that the clause in King's instructions which censured their entering into the "most unwarrantable traffic" was withdrawn from those issued to Bligh. It was no longer needed. The injunction to restrain the general traffic, and to put in force similar measures to those adopted by King, was renewed. Bligh published a General Order on the subject (Feb. 1807). Lord Castlereagh (31st Dec. 1807) approved of Bligh's proceedings.

Some writers have accepted, without investigation, the idea that Bligh's deposition was due to his determination to interfere with the profits made by the officers of the

part in the mutiny left the vessel. Thence Christian sailed to Pitcairn Island, where after twenty years the descendants of the mutineers were found. He destroyed the *Bounty* after arriving there. The strange colony which Christian founded was removed to Tahiti in 1830, where crimes unknown in Pitcairn Island distracted them, and they returned to their old home. In 1856 they were removed to Norfolk Island as an act of kindness, but the love of their native land was stronger than any inducement to cultivate Norfolk Island and form a British community. Listless and ill-adapted for the struggle of European life, some of them went back to their island of tropical fruits and indolence. The original mutineers had quarrelled with Tahitians whom they took to the island; and Christian and others were killed. Only two, Young and Adams, were left with twelve Tahitian women and some children after the other men of both races had been killed. When Young also died Adams was left to guide the natives and the children of the mutineers. He taught them from a *Prayer Book*, and when found after lapse of years the little flock were decorous and earnest in their religious services.

proceeding should be carried on during his absence; and that, with afterwards selecting the officers for particular duties, caused the Major to wait on him to ascertain the cause of such order, and he felt, like all great men in authority, indignant. Johnston informed him that he would write to the Commander-in-Chief respecting his interference with the private detail of the regiment. . . . It, however, gives me much pleasure to hear every description of persons heaping blessings on the head of my friend the late Governor . . . praying for his return . . . nay, even those who were most censorious are now his greatest advocates."

Such was the testimony of the bluff Dr. Harris long before Macarthur encountered Bligh's wrath. It will be remembered that on one occasion, when Dr. Harris was upbraided for supporting King's measures, he was tried by a court-martial, one object of which was to ascertain whether Harris or Adjutant Minchin told the truth, at a time when some officers of the corps were intriguing against King. In 1807 they were of one mind. By a singular coincidence, amongst manuscripts yet preserved is a letter written by the same Minchin to King on the 20th Oct. 1807. He also styled him "Dear Governor," and said: "I can only say as an individual I was happy under your government. I am now unhappy, and if a military officer might be allowed to use the words tyranny and oppression, I would add that *until now* I never experienced their weight."

A word may be said about the cabal who formed Bligh's council of advice. The perjured Crossley, who had become his friend, is already known. Mr. Palmer was the Commissary, at whose house Crossley in 1805 prepared the petition intended to coerce King to permit the landing of a large quantity of spirits from the ship *Eagle*, on behalf of Campbell, for whom Palmer was acting as agent. Mr. Campbell, who had returned to Sydney, was the gentleman whom King commended for everything "except forcing spirits on the colony." Another of the "friends and directors" enumerated by Harris was a freedman.

Gore, the Provost-Marshal, had arrived in the colony with Governor Bligh, and had so conducted himself on the voyage that Bligh warned several persons in Sydney against association with him. Nevertheless, he himself associated with him.³ When Gore was tried for stealing from a

³ Evidence at court-martial on Colonel Johnston, 1811.

On the same day, writing to Mrs. King as "My ever honoured and much respected Madam," Harris said that Bligh's measures

"became so very glaring and irksome to me that I resigned the office of naval officer, and he, to be revenged, dismissed me from being magistrate. . . . He has turned every person who held the least appointment under Governor King from any situation, and is surrounded by a few who find it their interest to do whatever he may dictate. God only knows the horrid measures that are adopted. It is completely the reign of Robespierre, or that of terror."

He described the pompous state affected by Bligh:

"Nothing less than a coach-and-four in waiting; six or eight light horsemen with a sergeant, two or three footmen or outriders, and he himself riding in a small sulky with a canvas awning over him with brails, and the sides of this vehicle stuck round with pistols and a blunderbuss. . . . Shortly after your departure he began finding fault with everything Governor King had done, and, as is natural to all cowardly fellows, making use of most vile abusive language and degrading epithets before the prisoners and other low vagrants, or those who he knew or thought would be pleased therewith. He happened once or twice to forget that I was present, and I do assure you I did not forget him nor pass it easily over. . . . I have heard much of *Bounty* Bligh ere I saw him, but no person could conceive that he should be such a fellow. He has been every day getting worse and worse, and if some steps are not soon, nay, very soon, taken, this place is ruined. Caligula himself never reigned with more despotic sway than he does. He destroys and makes away with all private property, saying everything is his; that that fool King had no power or authority to grant leases; takes any part of them he chooses, and gives to any creature of his own who will tell him any lies. . . . The greatest swindler, the most absolute thief and cheat (and who is the Governor's friend) is Gore, the Provost-Marshal; he has everybody in some way or other under contribution to him through Sydney. . . . In short, everybody is in a state of dread. . . . Such then is the land we exist in (not live); how long it can remain in such a state I know not, but I think not long. . . . Crossley has got (from Bligh) two bullocks and a cow for pleading and assisting Gore at his trial for stealing some green talc curiosities, and on another indictment for fraudulently obtaining payment twice for the same bill. . . . Mr. Wentworth has been tried and reprimanded by a general court-martial on the public parade for not taking a man into the general hospital by order of Captain Abbott, who is factotum at Parramatta; and, strange to say, the day after the reprimand the Governor thought fit to suspend him from further duty until His Majesty's pleasure is known, and refuses to give any reason why or wherefore he has done so.² . . . When he went last to Parramatta and Hawkesbury he sent down word that no Civil Court or any judicial

² A despatch from Bligh (31st Oct.) said—"The extreme misconduct of D'Arcy Wentworth, in applying convicts to private labour whom he received into the hospital at Parramatta as sick men, rendered it absolutely necessary for me to suspend him . . . on 25th July last until His Majesty's pleasure is known."

proceeding should be carried on during his absence; and that, with afterwards selecting the officers for particular duties, caused the Major to wait on him to ascertain the cause of such order, and he felt, like all great men in authority, indignant. Johnston informed him that he would write to the Commander-in-Chief respecting his interference with the private detail of the regiment. . . . It, however, gives me much pleasure to hear every description of persons heaping blessings on the head of my friend the late Governor . . . praying for his return . . . nay, even those who were most censorious are now his greatest advocates."

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dwelling-house, he applied to Bligh's secretary for permission to employ Crossley in his defence. Bligh, who had already begun to consult Crossley, asked⁴ Atkins, the Judge-Advocate, for an opinion on Gore's behalf, although Atkins had officially prepared the indictment against Gore. Bligh sent to Gore the opinion he obtained from Atkins (in whose office Crossley was employed), and Crossley went to the Court to defend Gore, but was ordered out of the Court; the members of which declined to allow such an innovation as advocacy before them by any of the convict class.⁵ Gore was acquitted; but was tried for fraud in twice obtaining payment for the same note of hand. Crossley in this instance drew the information; and, though the obtaining of the money was sworn to, the Court found that as the note was "made payable neither to order nor to bearer," the obtaining payment could not be charged as fraud. Gore, at the trial of Col. Johnston in 1811, swore to many things absolutely untrue. Col. Johnston called Lieut. Ellison, R.N., of H.M.S. *Porpoise*, who deposed that from what he had heard of Gore he would not believe him on his oath. Such were the principal advisers of the passionate man who assumed the reins of government at King's departure. Though he allied himself closely with Crossley and Atkins, he described the latter to the Secretary of State in the following terms:—

"Accustomed to inebriety, the ridicule of the community, pronouncing sentence of death in moments of intoxication, of weak determination, and floating and infirm opinions; his knowledge of the law insignificant, subject to private inclination, and so constituted that confidential causes of the Crown, where due secrecy was required, were not to be entrusted to him."

Bligh's demeanour in 1807 may be gathered from its description by Dr. Harris.⁶ Those who have been misled by the assumption that King did nothing to repress traffic in spirits have necessarily misinterpreted the events of Bligh's short rule. Imagining that Bligh arrested traffick-

⁴ *Idem*, *passim*, and in Bligh's reply read to the Court by the Judge-Advocate.

⁵ To protect their position, the Court referred to section 4 of the Act 12 Geo. I., cap. 29, imposing transportation for seven years on any convicted perjurer practising as attorney, &c., "in any suit or action." (Confirmed by 21 Geo. II., cap. 3.)

⁶ *Supra*, p. 392.

ing in spirits by officers, they attributed his disasters to his endeavour to perform a duty which had been so completely performed by his predecessor, that an injunction with regard to it was deemed unnecessary in the instructions to Bligh. He did, however, announce his intention to obey the Secretary of State in restraining the importation of spirits. He republished the General Order issued by Hunter (to suppress illicit distillation), which King had enforced and had supported by an additional Order in 1805. He issued stringent Orders on various subjects. It was asserted by his enemies that he unduly interfered with the functions of Courts, and the Judge-Advocate, Atkins, swore that when Gore was indicted for felony, Bligh sent a written Order from the Hawkesbury, directing that the trial then proceeding should be stayed, and that the magistrates should not meet until Bligh's return to Sydney. He was accused of harshness towards captured runaways, against whom, when one indictment failed, a second was preferred. The lash seems to have been inflicted even upon the free. Eight men, one of whom was free by servitude, were charged with stealing a boat (Jan. 1807). They pleaded that their object was to appeal to the generosity of a captain of a ship about to leave the harbour. They were acquitted of stealing, and were then tried before the Magisterial Court, seven for absconding, and the free man for assisting the seven. They were sentenced : One to receive 1000 lashes ; three to 500 lashes ; one to hard labour at Newcastle with an iron collar ; one, " free from servitude, 200 lashes and three years' hard labour ; one, emancipated, 200 lashes and three years' hard labour ; and one, 200 lashes and three years' hard labour, and to work in the gaol gang until further orders."

Bligh was vexed to find houses built on land originally reserved by Phillip, but leased by his successors. The symmetry of his own grounds was encroached upon. In July 1807 he issued a General Order for the removal " of a number of houses adjacent to Government House, to its great annoyance now occupied by (six enumerated persons) and others." The occupants might remove the materials, and build on such other unoccupied ground as might not

interfere with Bligh's arrangements, but they were to be gone in November.

Sergeant Whittle had a lease from Governor Hunter, of which some years were unexpired. Whittle swore that Bligh (about Sept. 1807) attended by two dragoons, visited Whittle's abode, and threatened to pull down the house. Whittle resorted to his Adjutant, Minchin, for advice, and "signed the house over to his commanding officer" for protection.⁷ It is needless to multiply instances, but there is ample evidence that the coarse and rash disposition which encountered mutiny in the *Bounty*, displayed itself in Sydney, in the manner reprobated by Harris in the letter already quoted.

He who is harsh to opponents is often partial to partisans. Crossley was not the only object of his favour. He had made one Andrew Thomson (an emancipated convict) his bailiff at a farm at the Hawkesbury, and entrusted to him a puncheon of spirits for distribution to settlers. There was conflict of evidence as to the privilege conferred on Thomson, but facts were admitted which proved Bligh's misconduct. Mr. Campbell, the merchant, was one of a bench of magistrates which fined Thomson for selling for his own profit the spirits entrusted to him for distribution. Mr. Campbell, who was Treasurer at the time, admitted that Thomson did not pay the fine. Bligh swore that he did not remit the penalty, and said the magistrates would be forthcoming to prove the facts; but he was unable to produce any evidence except the damaging admissions of Campbell. The conviction, from the consequences of which Bligh's favourite thus escaped, took place in the end of 1807.

The court-martial on D'Arcy Wentworth occurred earlier in the year. Atkins, the Judge-Advocate, swore that

⁷ Whittle declared ("Trial of Colonel Johnston," p. 368) that Bligh's arbitrary proceedings destroyed the market value of his house. Before Bligh arrived he could have obtained £600; afterwards he could get nothing until he "sold it to Governor Macquarie for two hundred gallons of rum." Macquarie, when called upon to explain the transaction, admitted that he did, on behalf of the government, pay for land and for houses in spirits. He included "a small house belonging to Sergeant-major Whittle, of the 102nd Regiment, for the accommodation of the present Provost-Marshal." He added that he never trafficked on his own account.

Wentworth was reprimanded in accordance with the sentence—that Bligh announced his intention to suspend Wentworth; that Atkins remonstrated against such a procedure, as it was contrary to law to punish a man twice for one offence; and that Bligh retorted: “The law, sir! Damn the law; my will is the law, and woe unto the man that dares disobey it.” Atkins also swore that on other occasions when the proceedings of the Court were submitted to Bligh, the Governor used “language which hurt (his) feelings exceedingly.” These instances prove that the letter from Harris to King’s wife was founded on occurrences then rife in the colony; and which were so galling in October 1807, that it was thought by some that the reign of terror under which they were groaning could not last long.

Before dealing with Bligh’s deposition, it is proper to advert to Norfolk Island. The nephew of Captain Kent, of H.M.S. *Buffalo*, was acting-commander of H.M.S. *Porpoise* on the Australian coasts during Bligh’s government, but commanded the *Lady Nelson*, when he was sent (Sept. 1807) upon the ungracious service of compelling the settlers to leave Norfolk Island. King’s remonstrances against the abandonment of the island were not heeded by the Secretary of State. On the 30th Dec. 1806,⁷ Bligh was instructed to take measures forthwith for withdrawing the “settlers and all the inhabitants, together with their live and dead stock, the civil and military establishment, and the stock belonging to government.” Grants of land were to be made “either in the new settlement of Port Dalrymple, or of Hobart Town,” to the different classes of persons removed.

Bligh sent Kent with written instructions to Piper, the commandant. “No application is to be made to me (he said) by any settler or person whatever in order to change the Minister’s commands; everything must be done as he has directed.” Kent deposed on oath, afterwards, that he carried verbal orders to Piper, “that he was to send the settlers off the island, and in case any of them refused to go, he was to use military force; and if any of them took

⁷ Despatch. Mr. Windham to Governor Bligh.

to the woods, he was to outlaw them and to shoot them." The orders were reluctantly obeyed. The settlers, according to Lient. Kent, for the most part elected Hobart as their new abode, in order to remove as far as possible from Bligh. New Norfolk and Norfolk Plains still bear witness to the affection with which the exiles regarded the place from which they had been torn, and whose memory was revived in naming their new homes. The historian⁹ of Tasmania declared that "years after they spoke of the change with regret and sadness."

Dr. Harris predicted (Oct. 1807) that the state of dread created by Bligh could not last long. Bligh in the same month reported that the New South Wales Corps was a dangerous body:

"About seventy of the privates were originally convicts, and the whole are so very much engrafted with that order of persons as in many instances to have had a very evil tendency. . . . There is no remedy but by the change of military duty, a circumstance which can only prevent a fixed corps becoming a dangerous militia."

He roused their passions by his lawless treatment of Macarthur, who had once been a captain amongst them, and by threatening several of their officers.

Macarthur, after presenting an address to the retiring Governor, King, was equally prominent in presenting for the free inhabitants congratulations to the risen sun. Johnston, on the part of the military, and the Judge-Advocate for the civilians, presented addresses also. Bligh warmly responded. In a few days he assumed an attitude of hostility to Macarthur. The latter deposed that Governor King, on Bligh's assumption of office, retired for a brief period to the Government House at Parramatta; that Macarthur saw Bligh there, broached the subject of wool production, and asked him if he had been informed of the wishes of the English Government on the matter; that Bligh thereupon flew into a passion, said, "Are you to have such flocks of sheep and such herds of cattle as no man ever heard of before? No, sir! I have heard of your concerns, sir; you have got five thousand acres of land in the finest situation in the country, but, by God, you shan't keep it!" Macarthur said he had received it by order of

⁹ Rev. J. West.

the Secretary of State on the recommendation of the Privy Council. Bligh exclaimed, "Damn the Privy Council! and damn the Secretary of State too! What have they to do with me? You have made a number of false representations respecting your wool by which you have obtained this land." In the course of the morning, however, Bligh, accompanied by King and Major Abbott, visited Macarthur's house in the neighbourhood, and saw some of the sheep depastured there; but even then used violent language. This is Macarthur's account. Bligh denied its truth, but when asked, "Will you venture to re-state upon your oath that you never did utter any of those expressions (in the presence of Major Abbott and Lt. Minchin), or any words to the like effect?" he tempered his denial by saying, "To the best of my recollection I know of nothing of this kind of conversation taking place." Abbott on oath confirmed Macarthur's statement. It may be that in anger Bligh used words which he could not afterwards recollect. If so, he proved in one way that unfitness for his office of which the use of the words would have convicted him in another. Even coarser expressions were sworn to as used by him on other occasions.

The distress caused by the floods in 1806 caused high prices, and seed-wheat and corn were dear. Bligh continued the relief measures adopted by King. Macarthur had taken the promissory note of Bligh's bailiff, Thomson, for the repayment of wheat, advanced by Macarthur. Such transactions were common. After Thomson gave his note the flood of 1806 occurred, and there was a disturbance of prices. Thomson refused to render back the quantity he had received. The value, he alleged, was altogether changed. Macarthur replied that Thomson himself had not been a sufferer from the flood, and was as strongly bound to comply with his contract as Macarthur would have been on the other hand if no flood had occurred, and wheat had become cheaper. The case was referred to the Appeal Court, where Bligh decided against Macarthur. He, indignant, ceased to go to the Governor's house.

Another cause of quarrel arose. Abbott had sent to England for a still. His agent put it on board the *Dart*, of which Macarthur was part owner. Without any

order to that effect, the agent, who also acted for Macarthur, put on board for him also a still. There was no attempt to conceal the importation, and when the ship's manifest was seen, Bligh directed that the two stills should be retained in the King's stores in order that they might be sent back to England. The heads and worms were so retained, but as the coppers had been filled with imported drugs, they were allowed to be taken to the stores of the consignees. When a vessel was ready to carry the obnoxious stills to England, Bligh demanded the delivery of the coppers. Macarthur said he had nothing to do with Abbott's still; "he intended to dispose of his own to some ship going to India or China, but if this were objected to, the head and worms might be disposed of as His Excellency thought fit, and he would apply the copper to some domestic use." Bligh repeated his order, sending an officer with a receipt "for two stills with heads and worms complete." Macarthur, resolved not to admit (what indeed was untrue) that he had ever had such things in his possession, declined to take any such receipt. The officer, after consulting Bligh, refused to give a receipt in any other form. Macarthur showed him the copper, telling him he could take it at his own risk if he chose. He took it. Macarthur prosecuted him for illegal seizure of property, and stated his own case thus:

"It would therefore appear that a British subject, in a British settlement, in which the British laws are established by the Royal Patent, has had his property wrested from him by a non-accredited individual, without any authority being produced, or any other reason being assigned, than that it was the Governor's order. It is therefore for you, gentlemen, to determine whether this be the tenure by which Englishmen hold their property in New South Wales."¹⁰

There was also a dispute about a lease of land to Macarthur (Jan. 1806) by King. Macarthur was about to build, and (Jan. 1806) the Surveyor-General, Grimes, carried a verbal message from Bligh to prevent Macarthur's occupation of the land, and to inform him that he might select an equal area elsewhere. Grimes, when requested, committed the message to writing. Macarthur selected suc-

¹⁰ Bligh told the Secretary of State that Macarthur's speech showed "the inimicability of his mind to Government."

cessively three other sites which Bligh refused to grant. Grimes told him of a situation which Bligh would grant. Macarthur declined it and Bligh desired Grimes to say that he would not "locate either of the three situations you have fixed upon, and will not allow you to build on your lease, or make any erections until the Governor may receive orders respecting that spot from England; and that the Governor will not receive any letters from you on the subject."

Macarthur, in writing, regretted that the "three situations" were not approved of, declined to accept the objectionable allotment, and begged "leave to retain the lease" in his possession. He had commenced to fence the ground by means of the labour of soldiers of the New South Wales Corps. Bligh desired Johnston to order that the soldiers should not go on with the work. Johnston complied. The posts were placed loosely in the post-holes, and the rails were on the ground. Macarthur stood by talking to Major Abbott and Kemp, when an emancipated convict, a "superintendent of labour," rode up, and in reply to a question said he had orders from the Governor to remove any post fixed in the ground. Macarthur immediately fixed one. The overseer alighted, pulled out the post "by order of the Governor," and added: "When the axe is laid to the root the tree must fall."

Grimes, the Surveyor-General, had recently returned to the colony. He deposed that on being requested by another lessee (who was to be disturbed) to put the Governor's message in writing, Bligh told him in a very violent manner at his peril to do so.

The pulling down of the post fixed by Macarthur occurred (Jan. 1808) while he was under committal for trial upon a charge by means of which one at least of Bligh's abettors hoped to crush him. The cause of Crossley's special enmity cannot be told; but Macarthur was obnoxious to the dissolute because his domestic life was pure, and his imperious temper was not apt to conciliate those who differed from him. The petard which was to hoist him was found in an Order of Governor King's to prevent escape of convicts from the colony. Atkins swore (in England) that Crossley and the Governor had previously concerted the terms of an information against Macarthur,

keeping it secret from Atkins; that Bligh desired to include the charge about importation of a still, and that when Crossley thought it useless Bligh gave positive orders for its inclusion. Other circumstances caused the information to be dropped, but Atkins heard of it from Crossley. It was intended to revive it, Atkins said, amongst general charges, but in the meantime a breach of the port regulations was put forward in order to lay hold of the victim.

A schooner, the *Parramatta*, of which Macarthur was part owner, had gone to Tahiti, and an escaped convict had gone thither in her, although she had been searched by the myrmidons of the Provost-Marshal at Sydney before sailing. The missionaries at Tahiti complained of the intrusion of the convict, and proceedings were taken against the *Parramatta* for breach of the port regulations established by Governor King. The owners were condemned, and their bond for £900 (taken on arrival of the vessel from England, and binding her owners to obey the port orders) was declared to be forfeit. Macarthur asserted that the convict had concealed himself, and was not willingly carried away. He appealed, but the Governor refused to interfere with the forfeiture.

The owners refused to pay the penalty; the port officers prevented the landing of any cargo, and put constables on board the vessel. Macarthur thereupon elected to abandon the vessel, and told the master and the crew that he had no more to do with her. The port regulations forbade seamen to absent themselves from their ship and to remain on shore, and the master of the *Parramatta* made an affidavit to the effect that he was compelled to leave the ship by reason of Macarthur's abandonment of her. It is not easy to see the relevancy of this statement, because if the vessel was forfeited to the government it was manifestly necessary for the master to arrange with the government as to the terms on which he could remain in or leave the ship.

The Judge-Advocate, Atkins, by command of Bligh, desired Macarthur "to show cause" as to his having "deprived the seamen of their usual allowance of provisions," and thus compelled them to leave the ship. Macarthur replied (from Parramatta) that the Judge-Advocate

had been "many days ago informed that he (Macarthur) declined any further interference with the schooner, in consequence of the illegal conduct of the naval officer in refusing to enter the vessel and detaining her papers;" he begged leave to refer him to that officer "for any further information;" he has had two police officers "on board in charge, and it is reasonable to suppose they are directed to prevent irregularities."

Immediately Atkins issued a warrant for Macarthur's apprehension on the charge of having "illegally stopped the provisions of the master, mates, and crew of the schooner *Parramatta*, whereby the said master, mates, and crew had violated the colonial regulations by coming unauthorized on shore." In the warrant Atkins referred to his former communication as an "official letter." Oakes, the Chief Constable at Parramatta, appeared at Macarthur's house with the warrant at eleven o'clock at night. Macarthur declared that if the issuer of the warrant had served it he would have spurned him from his presence, and to satisfy the constable, gave him a written statement in the following terms:—

"Parramatta, 15th December, 1807.

"MR. OAKES,

"You will inform the persons who sent you here with the warrant you have now shown me and given me a copy of, that I never will submit to the horrid tyranny that is attempted until I am forced; that I consider it with scorn and contempt, as I do the persons who have directed it to be executed.

"J. MACARTHUR."

Oakes returned to the Judge-Advocate and deposed to what had occurred. A fresh warrant was issued, and a body of armed police apprehended Macarthur (16th Dec.) at the house of Surveyor-General Grimes in Sydney. Taken to the house of Atkins on the same day, he was bailed. On the 17th, before a bench of magistrates presided over by the Judge-Advocate, Macarthur was committed to be tried for "high misdemeanours." Major Johnston was on the bench.

It was while Macarthur was thus under committal that Bligh sent the convict overseer to pull down any fence erected by Macarthur upon his leasehold; and the felon minister, relying upon felon advice behind the throne,

growled that when the axe was laid to the root the tree would fall. The tyranny of which, three months before, Harris had said that it could not last long, had begun to burn so fiercely¹¹ that men began to wonder whether life itself would be safe from the madness of the Governor and the machinations of Crossley. But the Criminal Court still existed, and its authority was as yet unquestioned. While it remained, there was a gap between Crossley's purposes and Bligh's acts. Johnston, when defending himself in England, declared that he had no connection with Macarthur, and was not even intimately acquainted with him, although they had been brother officers. At Macarthur's committal, in December, Johnston had told him that he injured "himself by so much impetuosity," and had concurred in ordering that he should be tried before the Criminal Court. But at the same time Johnston described Crossley as a man of infamous character; eminent for nothing but roguery; implicated in perjury, subornation, conspiracy, and forgery. The community, he said, was shocked at Bligh's consulting Crossley, and it was, in his own humble opinion, "disgraceful, if not criminal, for a Governor to be led at all by his advice, or to consult him officially on any business whatever."

The Criminal Court was composed of Captain Kemp and Lieuts. Brabyn, Moore, Laycock, Minchin, and Lawson—all

¹¹ Independent evidence of Bligh's demeanour in 1807 was afforded by Mr. Alexander Berry, who was afterwards for many years a member of the Legislature in Sydney, and died there in his ninety-second year. Bligh, at an interview with the sailing master of the ship which Berry took to Sydney for trading purposes, "threatened to hang" the man for destroying a letter which he had expected from Port Dalrymple. Subsequently Bligh rated Berry for leaving with "those paltry fellows at Hobart Town and Port Dalrymple the pick of the cargo." Twice Berry was recalled to Bligh's presence by an orderly, and the last time found Atkins, Campbell, and Palmer in the room. He was questioned as to the persons he had spoken with in Sydney. He mentioned Macarthur, which seemed to produce "a startling impression." But his conversation with Macarthur had been unimportant, and Atkins told the Governor that he had no more questions to ask "if that was the only conversation." Berry "then took leave of the inquisitorial tribunal." At a trader's house Berry heard Crossley say that the government were able to verify charges against Macarthur which would subject him to flogging and imprisonment for years in England, but "he did not know what the punishment would be in this colony." Berry was present at Macarthur's arraignment on 25th January.

of the New South Wales Corps—Atkins being the Judge-Advocate. Between the committal and the day of trial Macarthur was on bail. On the 25th Jan. the Court assembled. The members were sworn, and as Atkins was about to take the oath prescribed for him, Macarthur interposed with a protest. He declared that he had three times vainly applied for a copy of the indictment or information against him, that in this unprecedented situation he had appealed to the Governor “to appoint some disinterested person to preside at the trial.” To this His Excellency was pleased to answer : “That the law must take its course, as he does not feel justified to use any interference with the executive power,” by which “I suppose is meant the judicial authority, and I humbly conceive His Excellency’s power must be the executive.” Thus wronged, Macarthur appealed to the members of the Court, “under an entire confidence that what I can prove to be my right, you, as men of honour, will grant me.” He protested against Atkins “being allowed to sit as one of the judges,” because there was a suit between them to be submitted to His Majesty’s Ministers; because Atkins had “for many years cherished a rancorous inveteracy” against him, “displayed in the propagation of malignant falsehoods;” because there was a conspiracy between Atkins and Crossley to deprive Macarthur of property, liberty, honour, and life: of this, he continued, “I have the proof in my hands in the writing of Crossley¹² (here it is, gentlemen, it was dropped from the pocket of Crossley, and brought to me);” because only by convicting Macarthur could Atkins escape an action for false imprisonment; and because Atkins had arrived at a foregone conclusion by declaring that the bench of magistrates had the power to punish Macarthur by fine and imprisonment. In conclusion, he cited eight authorities on the right of challenge of jurors, and maintained that, the Judge-Advocate presiding in the Criminal Court, the

¹² Crossley, like many of his class, was a dissipated rogue. When drunk at the Hawkesbury, he vain-gloriously exhibited a MS. draft of the indictment he had framed against Macarthur. An Irishman, who was present, picked it up and gave it to Macarthur. It corresponded with the formal document found among the papers seized afterwards by Johnston in the Judge-Advocate’s office.

characters of juror and judge were combined, and that his authorities were therefore to the point.

Atkins vainly endeavoured to interrupt the reading of the protest, which was wound up by an appeal to the officers of the New South Wales Corps; "to them the administration of justice is committed; and who that is just has anything to dread?" Atkins, still unsworn, threatened to commit Macarthur, but one of the officers (Kemp) retorted, "You commit! No, sir, I will commit you to gaol." Atkins then called out that he adjourned the Court, but the officers declared themselves a Court without him. Atkins left the place. Macarthur appealed to the Court for protection, deposed that he was informed that armed persons, associated with Crossley, were prepared to carry into execution a warrant from Atkins; and therefore, declining to give bail, asked for a military guard. The officers desired some of the soldiers to guard him. The Provost-Marshal forthwith acquainted Atkins, who, with Messrs. Arndell, Campbell, and Palmer, magistrates, issued a warrant to lodge Macarthur in gaol. This warrant was executed early on the 26th Jan.; but in the meantime the members of the Court had been in constant communication, on the 25th, with the Governor. They told him they had allowed Macarthur's objection to Atkins, asked him to appoint another Judge-Advocate to preside, and prayed for protection against the gross insults and threats of Atkins. Bligh (at "half-past noon") told them there could be no cause of challenge against the Judge-Advocate, "without whose presence there could be no Court—that Atkins had a right to commit any one who insulted him in Court;" and directed that Atkins should sit. The officers rejoined that they could not consistently with their oath or their consciences sit with Atkins, and prayed His Excellency's further consideration, styling themselves "faithful and obedient servants." Bligh (at "quarter past two o'clock") took no notice of this appeal, but "required" the officers to deliver to the Provost-Marshal and Bligh's secretary the papers left by the Judge-Advocate on the table, and those read by Macarthur, "that they may be delivered to the Judge-Advocate, His Majesty's legal officer." The officers enclosed to Bligh a copy of a deposition by Macarthur, praying for

protection, and they entreated the Governor to grant it. In a separate letter they stated that they were "not defensible in giving up the papers," required by Bligh, "to any person unless your Excellency thinks proper to appoint another Judge-Advocate to proceed on the trial of John Macarthur, Esq." Bligh (at "three-quarters past three o'clock") peremptorily demanded, "finally in writing, whether you will deliver these papers or not, and I again repeat that you are *no Court* without the Judge-Advocate." The officers expressed their willingness to give attested copies, or to give the originals to any one appointed as Judge-Advocate for the trial of Macarthur, but they would keep the originals for their justification, and added, "The Court constituted by your Excellency's precept, and sworn in by the Judge-Advocate, beg leave to acquaint you that they have adjourned to wait your Excellency's further pleasure." It seems strange that they did not cite the case in which, without any rebuke from England, a court-martial had formerly placed the Judge-Advocate under arrest, in the time of King.¹³ Bligh then (at half-past five o'clock), scrupulously recording the time, despatched a missive to Major Johnston (commanding the New South Wales Corps), requesting to see him without delay. Johnston, who was at his house four miles from Sydney, returned a verbal message to the effect that he was "too ill to come to Sydney, and was unable to write." He had been thrown from his chaise. Thus ended the first day of disorder.

In the morning of the 26th Jan., the anniversary of the foundation of the colony, when the six assembled officers learned that Macarthur had been lodged¹⁴ in gaol (on the warrant of Arndell, Campbell, and Palmer), they wrote again to the Governor. They sent him an attested copy of Macarthur's protest; reminded him of their oath well and truly to try Macarthur's case; prayed him to appoint some impartial person to execute the office of Judge-Advocate; informed him that they found with much concern that

¹³ *Vide supra*, pp. 250 and 254, *et seq.*

¹⁴ When Macarthur reached the gaol the gaoler told him there were some ruffians sworn in as constables, and armed, who would probably aim at Macarthur's life; but he added—"There is a cutlass for each of us, and we will sell our lives dearly."

Macarthur "has been forcibly arrested from the bail which the Court remanded him in, which illegal act (grounded on the false deposition of the Provost-Marshal) we beg leave to represent to your Excellency is in our opinion calculated to subvert the legal authority and independence of the Court of Criminal Jurisdiction;" and prayed that His Excellency would "restore John Macarthur, Esq., to his former bail, that the Court may proceed on his trial." Bligh paid no attention to their prayer, and they adjourned at 3 p.m. till his pleasure might be known. The felon adviser recommended, and Bligh adopted a daring course. Crossley drew up, and Atkins signed, a memorial, submitting that the crimes of the officers amounted "to an usurpation of His Majesty's government, and tended to create rebellion or other outrageous treason," and Bligh issued a summons to each of the officers in these words:

"The Judge-Advocate having presented a memorial to me in which you are charged with certain crimes, you are therefore hereby required to appear before me at Government House at nine o'clock to-morrow morning to answer in the premises. Given under my hand and seal at Government House, Sydney, this 26th day of January, 1808."

When the morrow arrived, Bligh was no longer in power to enforce any behest of Crossley. Bligh wrote again on the 26th to Major Johnston to inform him ("apprehending that the same illness will deprive me of your assistance at this time") that on the memorial of the Judge-Advocate he had summoned "six of your officers for practices which he conceives treasonable," and that "all the magistrates have directions to attend at nine o'clock to-morrow morning. I leave it for you to judge whether Captain Abbott should be directed to attend at Sydney, to command the troops in your absence." Johnston sent another verbal message (which reached Bligh about five o'clock), promising to send a written answer in the evening. On his trial in England (in 1811), Johnston thus defended himself:

"On the 26th I received a letter from the Governor announcing his resolution to arrest six officers for treasonable practices, and requiring me, as I was unable to attend myself, to appoint Major Abbott to the command of the regiment. Had these measures been adopted there would have been but two officers to do the duty of the regiment, and the highest and most important duties must have been left to the sergeants. I was ill; Major Abbott was at Parramatta, sixteen miles off; and it could not be expected but that the arrest of six officers, and the dread of what

measures would ensue, would occasion considerable uneasiness. My medical friend had directed me on no account to leave my room; but sensible of the danger of the crisis, and anxious to avert impending evil, I neglected that advice, got myself dressed, and was driven to town by the aid of my family. On my arrival, as I passed through the streets everything denoted terror and consternation. I saw in every direction groups of people with soldiers amongst them, apparently in deep and earnest conversation. I repaired immediately to the barrack, and in order to separate the military from the people made the drum beat to orders. The soldiers immediately repaired to the barrack-yard, where they were drawn up and where they remained. In the mean time an immense number of people, comprising all the respectable inhabitants, except those who were immediately connected with Governor Bligh, rushed into the barrack and surrounded me, repeating with importunate clamour a solicitation that I would immediately place the Governor under arrest. They solemnly assured me, if I did not, an insurrection and massacre would certainly take place, and added that the blood of the colonists would be upon my head."

They told him that "popular fury would burst" upon Bligh and his agents unless Bligh were arrested. They said they feared that Macarthur "would be privately made away with." Johnston (who had reached Sydney about five p.m.), under such persuasions, while at the barracks, issued, as "Lt.-Governor and Major commanding New South Wales Corps," an order "to the keeper of His Majesty's gaol at Sydney," directing him to deliver

"into the custody of Garnham Blaxcell and Nicholas Bayley, Esquires, the body of John Macarthur, Esq., who was committed. . . . it having been represented to me by the officers composing the Court of Criminal Judicature that the bail bond entered into by the said Garnham Blaxcell and Nicholas Bayley remains in full force. Herein fail not, as you will answer the same at your peril."

Thus adjured, by the master of the only legions in Australia, the gaoler yielded. Macarthur was escorted to the barracks.

From the Government House could be seen, across the valley in which Pitt-street has supplanted the Tank Stream of former time, the progress of Macarthur from the gaol to the barracks, where Wynyard Square was afterwards formed.

The Governor had dined when the Provost-Marshal entered with Johnston's order for Macarthur's liberation. He rose hastily and began to arrange his papers in an upper room. Mr. Campbell, Mr. Palmer, and Crossley were at the house. The former when examined in Sydney in 1808 declared that "Crossley was the principal adviser

to the Governor." In 1811, at the trial of Colonel Johnston in England, Mr. Campbell did not deny having so stated, but pleaded that he was in a "very agitated state of mind, and scarcely knew what he said."

Crossley was probably the most determined amongst Bligh's counsellors. Swindler, forger, and perjured, he shrank from nothing which might procure success. For him crime had no terrors. Bligh and Crossley were confounded by the celerity with which, on Johnston's arrival, their victim had been taken from their grasp. That victim, whom Grose had styled "Counsellor," became at once by force of character the guide of Johnston.

Johnston in his defence declared :

"While Macarthur was sent for, the solicitations to arrest the Governor were clamorously renewed; and when Macarthur arrived he observed to me that if I resolved to adopt such a measure I should not do it without a requisition in writing. He drew up a paper to that effect, which as soon as laid on the table was filled with as many signatures as it could contain."

Macarthur wrote it on a gun in the barrack-square. It was thus worded :

"January 26, 1808.

"*SIR,—The present alarming state of this colony, in which every man's property, liberty, and life are endangered, induces us most earnestly to implore you instantly to place Governor Bligh under arrest, and to assume command of the colony. We pledge ourselves at a moment of less agitation to come forward to support the measure with our fortunes and our lives.*"

Amongst the signers of this address were Macarthur, his partner Blaxcell, D'Arcy Wentworth, John and Gregory Blaxland, Nicholas Bayley, Thomas Jamison, Charles Grimes, and others.¹⁵

A few signatures were affixed at once, and Johnston determined to act without delay. Having previously sent

¹⁵ The original MS. is (1878) in the hands of Colonel Johnston's son at Annandale, Sydney. When a few names had been signed, Johnston acted, but signatures were obtained afterwards until more than 150 representative names were procured. The convict-superintendent of labour (who had pulled down the fence on Macarthur's leasehold) at ten o'clock at night after Bligh's deposition, joined the signers of the declaration. He scented the fate of Crossley from afar; and said, as he entered the room to sign, that "self-preservation was the first law of nature, and he was come to tell Colonel Johnston everything that he knew."—(Evidence of Grimes, 1811.) When Macquarie assumed the government the man recanted again, and went to England as a witness on behalf of Bligh.

by an officer a letter calling upon Bligh to resign, he marched upon Government House as rapidly as in 1804 he had chased the rebels. The troops having been formed in the barrack-square, Johnston declared (in his defence):

“We marched to the Government House attended by a vast concourse of people, who were all influenced with indignation against the Governor. On our arrival I learned that the officers I had sent had not then been able to obtain an interview, but that the Governor had concealed himself. This intelligence was truly alarming, for I had everything to fear from the agitation it was likely to produce. I immediately drew up the soldiers in line before the Government House and between it and the people, who were thus made to keep a respectful distance; the troops were halted and made to stand at ease. I then directed a small number to proceed in search of the Governor, while I waited below to protect the family from injury or insult. At length he was found, and brought to the room where I was.”

Mrs. Putland, Bligh's daughter, courageously but vainly struggled to prevent the soldiers from entering the house.

As to the manner in which Bligh was found, there were disputes. His enemies aver that he was found concealed under a bedstead up-stairs. Lieut. Minchin, the officer who took Bligh to Johnston, swore that one of the soldiers who found Bligh said he was so found; and Sergeant Sutherland swore that he was one of two who found him under the bed. Bligh's friends denied this, and Bligh stated that he retired to destroy some papers, was busily engaged when arrested, and that it was “his contemplation how he could possibly get clear of the troops, and get to the Hawkesbury,” where he thought the people would flock to his standard. If he had any hope thus to escape there was no pusillanimity in hiding, and there would have been folly in exposing himself; but a charge of cowardice made against him he repudiated with scorn. He had fought at the Dogger Bank, Gibraltar, and Camperdown, and had, after the battle of Copenhagen, where he “commanded the *Glatton*, been sent for by Lord Nelson to receive his thanks publicly on the quarter-deck. Was it for me, then, to sully my reputation and to disgrace the medal I wear by shrinking from death, which I had braved in every shape?”¹⁶

¹⁶ Bligh wrote (April 1808) to Downing Street that some inhabitants were “privately discontented, and the arch-fiend John Macarthur so influenced their minds as to make them dissatisfied with Government. . . . He has

An impartial posterity may perhaps dismiss the charge, although from Bligh's isolated position he could produce no evidence to rebut that of the soldiers who found him.

Lieut. Minchin (one of the six officers summoned to appear before Bligh at Government House on the morning of 27th Jan.) having thus arrested Bligh on the evening of the 26th, escorted him to Johnston, and asserted afterwards that Bligh extended his hand to the Major, who expressed his regret that "for the preservation of the colony," he was compelled to act upon the request of the inhabitants. Johnston, Minchin, and Dr. Harris declared that Bligh thanked Johnston for the handsome manner in which he had been treated, and the wishes of the people had been carried into execution. The formal letter addressed by Johnston to Bligh was as follows :

"I am called upon to execute a most painful duty. You are charged by the respectable inhabitants of crimes that render you unfit to exercise the supreme authority another moment in this colony, and in that charge all the officers serving under my command have joined. I therefore require you, in His Majesty's sacred name, to resign your authority, and to submit to the arrest which I hereby place you under, by the advice of all my officers, and by the advice of every respectable inhabitant in the town of Sydney.

"GEORGE JOHNSTON, *Acting Lt.-Governor and Major commanding New South Wales Corps.*

"*To William Bligh, Esq., F.R.S.*"

Johnston kept Bligh under arrest, proclaimed martial law, seized official papers, secured the public seal, issued a short but bombastic General Order, thanking the

led them to treason and rebellion to the State . . . he, with a Mr. Nicholas Bayley, seduced Major Johnston and all the officers and privates of the New South Wales Corps from their duty and allegiance. (Macarthur's) very breath is sufficient to contaminate a multitude, he has been a disturber of public society, and a venomous serpent to His Majesty's Governor. (When Johnston acted) "nothing but calamity upon calamity was to be expected, even massacre and secret murder. . . . I had only just time to retire upstairs to prevent giving myself up and to see if anything could be done for the restoration of my authority, but they soon found me in a back room, and a daring set of ruffians under arms, intoxicated by spirituous liquor which was given them for the purpose, and threatening to plunge their bayonets into me if I resisted, seized me." The despatch shows that Bligh laboured under apprehension, if not fear, when arrested; and the terms applied to Macarthur justify the worst suspicions as to what might have been the result if Bligh and Crossley could have wreaked their will upon him.

troops for conduct which "had endeared them to every well-disposed inhabitant," and superseded Atkins as Judge-Advocate, appointing Edward Abbott in his room. Abbott declined to act. Messrs. A. F. Kemp, J. Harris, T. Jamison, C. Grimes, W. Minchin, G. Blaxcell, J. Blaxland, and A. Bell, were appointed magistrates, "and those persons who heretofore performed the duties of that office, are to consider themselves dismissed." Lieut. Lawson was made aide-de-camp; Nicholas Bayley, Secretary and Provost-Marshal (Gore being suspended from the latter office), Palmer, the Commissary, was suspended, and Campbell (the Treasurer, naval officer, and collector of taxes) was dismissed, and "directed to balance his accounts and deliver them to His Honour the Lt.-Governor." The Rev. Mr. Fulton was suspended from the office of chaplain; the officers, civil and military, were ordered to attend Divine Service on the following Sunday, and every well-disposed inhabitant was "requested to be present to join in thanks to Almighty God for His merciful interposition in their favour by relieving them without bloodshed from the awful situation in which they stood before the memorable 26th inst."

Johnston knew the dangerous ground on which he stood, and his friends strove to support him. On the 27th Jan. another paper was prepared. He was thanked for his manly and honourable interposition in rescuing the subscribers from "an order of things that threatened the destruction of all which men can hold dear." He was entreated not to lay down his power to any superior officer who might arrive, before His Majesty's pleasure as to Bligh's supersession might be known, without obtaining from such officer a stipulation to confirm Johnston's wise measures. This address, unlike the former, was headed by names of officers of the New South Wales Corps. Major Abbott, on whom Bligh had partly relied, was the first to sign. The last name was that of the overseer of labour who had so significantly threatened Macarthur at his leasehold a fortnight before, but who now ranged himself with the stronger battalions. Grimes, Macarthur, Macarthur's eldest son, Gregory Blaxland, and D'Arcy Wentworth were amongst the eighty-three signers.

It was resolved to sweep away the imputations recorded against Macarthur, and (2nd Feb.) he was tried before the Criminal Court on the charges prepared by Crossley. Grimes, the Surveyor-General, was Judge-Advocate. The officers composing the Court were those appointed by Bligh. Macarthur was unanimously acquitted. It was pronounced that the warrant under which he was arrested was illegally issued and served, and that even his written statement "delivered to Oates, an unsworn constable," was defensible. On the 4th Feb., Johnston forbade Bligh to hold any communication with the officers of H.M.S. *Porpoise*, then in the harbour. On the 12th Feb., Johnston made Macarthur a magistrate, and Secretary of the colony without salary. Gore and Crossley found that the Secretary "lived not to be griped by meaner persons." Gore was tried and imprisoned for perjury in an affidavit made by him as to the custody of Macarthur on the 25th Jan.; and Crossley was transported for seven years for having acted as an attorney in defiance of the Act of Parliament prohibiting convicted perjurers from appearing as attorneys.

The act of a native may be recorded here. It will be remembered that Pemulwy, dreaded in the days of Phillip and Hunter, was, after years of perilous adventure, shot in the time of King. Macarthur was kind to Pemulwy's son, Tjedboro, who in return was grateful to Macarthur. The day after Bligh's arrest Tjedboro stalked into Sydney with his weapons of war, and as he put down his spears at Macarthur's house said—"They told me you were in gaol." "Well, Tjedboro, what have you come with your spears for?" Tjedboro's eyes flashed as he answered, "To spear the Governor."¹⁷

Bligh's deposition has been minutely represented in these pages, not only because it was in itself a singular episode in the life of the colony, but because it has been misrepresented¹⁸ as an act caused by Bligh's determination to carry out faithfully his instructions to repress a traffic

¹⁷ At a subsequent date, in altercation with a white man, Tjedboro was shot at Parramatta and died of the wound.

¹⁸ It is because of misrepresentations, which, when once made, have been heedlessly repeated, that it has been needful to mass together so much information, some of which is now published for the first time.

which the officers were unlawfully pursuing. This view is refuted by the facts and by the writings and sayings of the principal actors in the drama. A striking commentary on the facts is furnished by a letter (13th Feb. 1808) from Major Abbott (to the late Governor King). The writer was the officer whom Bligh had wished to summon to his side.

"I certainly gave my hearty concurrence to the measure of arresting the Governor, but as there are several things done which I disapproved, I am unwilling to take more blame upon myself than I am deserving of. . . . I should tell you that I was appointed to act as Judge-Advocate in the room of Mr. Atkins, but I declined the office. It was then given to Grimes. It was strongly urged, but I persisted in my refusal. . . . I think it likely several of us may be sent for, and particularly Johnston, who, had he followed the advice I gave him previous to his taking the step, that in that case—arresting the Governor—to send for Colonel Paterson¹⁹ immediately afterwards, and to go hence with the Governor to account for his conduct, it would show that he had not done so to obtain the command. . . . I likewise objected to Macarthur's trial since Governor Bligh's arrest, because the Governor could not appear against him now, and Atkins, the former Judge-Advocate, declined to prosecute. . . .

"Had the Governor not been put under arrest there would have been a mutiny; there is no doubt of it. Never a body of men have behaved themselves more orderly and quiet than the Corps. . . . They were highly incensed at the conduct of the Sydney constables whom Mr. Gore put in, the worst of characters. . . . these constables were really encouraged by Gore to insult the soldiers, and I am sorry to say the Governor connived at it."

The soldiery were, therefore, provoked by Bligh before he summoned their officers to answer for "certain crimes," which Crossley declared, and Atkins submitted, amounted to "usurpation of His Majesty's government," and tended "to rebellion or other outrageous treason."

It is clear that nothing savouring of rebellion entered into the minds of Johnston or of those who acted with him. They deposed Bligh for arbitrary proceedings prompted by an ex-convict of low character. They did so, just as officers of a ship might seize a mad captain who, taking the helm, steers straight to a rocky coast. Technically they mutiny, but in spirit they consult the highest interests and preserve the ship. Johnston saved New South Wales from disaster,

¹⁹ Abbott, however, was the first to sign the address imploring Johnston to make a stipulation, with any senior officer displacing him, that Johnston's acts should be held good.

and subsequently maintained the King's government on a footing consistent with the law on which Bligh in his rashness was trampling. Many arbitrary acts had been done by his predecessors, but none of them had invaded the sanctity of the highest court in the colony. King had given much umbrage, and had, in spite of petitions, sent away ships without allowing them to land their cargoes of spirits, and yet had put down a serious outbreak by means of the Corps, actively led by Johnston himself, which now, under the same commander, deposed Bligh; and though King had his difficulties to contend with amongst the military, he left the colony fully enjoying their respect. The community had borne Bligh's acts without resistance until he laid his hand on the sanctuary of the law. Many of them, ignorant of the Great Charter, or the Bill of Rights, yet knew by English tradition and instinct that no man could be convicted but by the law of the land. That law they saw Bligh invade. Had there been rapid communication with England the colonists and troops might have relied upon appeals to the Home Government. But Bligh acted so rashly that they felt, whether rightly or wrongly, that they could not wait for the tardy process of appeal.

There was a suspicion that Bligh was cowardly, and cowards are proverbially cruel. Acting on the advice of Crossley, who insinuated to a passer-by like Mr. Berry, that Macarthur's life was in jeopardy, what might not Bligh, and the myrmidons appointed by Gore, effect in a short time at that gallows which Bligh had fed so fast that already in a few months it had devoured more lives than in several years under King? He who weighs these things, and will try to put himself, in thought, in the position in which colonists and soldiers stood, in Sydney, in Jan. 1808, must come to the conclusion that Bligh was an offender whom it was incumbent upon the community to remove from the helm when they saw him madly guiding the vessel of the State upon the rocks.

The English Government was in one respect blameable. If it had yielded to King's earnest and repeated entreaties that a professional man might be appointed as Judge or Judge-Advocate, there would not have been an Atkins at

the control of Crossley, instigating a Governor to summon the members of a Court before him for treason. On the whole it may be pronounced that—considering the elements of the population, and the manifest danger of destroying the constituted authorities, Johnston acted wisely and loyally when he left his bed to put down, in the person of Bligh, a form of disorder as deadly as the anarchy which, four years before, he had been instrumental in quelling in the field.

While the general facts are freshly in the memory it is right to refer to evidence regarding them in England when Johnston was tried by court-martial. Bligh's counsel argued that there would have been no mutiny if Johnston had not led the soldiers to it. Johnston averred that, even if by abetting Bligh he could for a moment have averted it, the soldiery, "identified as they were with the people, would before the night was past have joined with them," or have refused to act against them, and deplorable excesses would have supervened. Macarthur himself, Grimes, Dr. Harris, Captain Kemp, Lieut. Minchin, and two sergeants of the corps, deposed that the arrest of the six officers would have made soldiers and inhabitants unite and put in peril the life of the Governor. Sergeant Sutherland was tartly cross-examined by a member of the Court, in order to shake his assertion that if the officers had been confined "the soldiers would have raised and taken them out." "You think they would have gone contrary to orders?—Yes, I think they would. Do you understand the question perfectly, sergeant?—Yes, I do; I understand, sir, that we would not see our officers imprisoned." Sutherland required courage, for some members of the Court displayed antipathy to Johnston, and its terrors were so great that the turbulent Sergeant Whittle, after so many accidents by flood and field "fainted away" under cross-examination, "and was taken out of Court."²⁰

²⁰ "Report of Johnston's Trial," p. 371. Whittle had been active in Bligh's arrest. The soldiers had vainly searched for Bligh, who was secreted in a small room near a staircase. Bligh himself swore—"I then heard a halloo-halloo and a man cry out (which was one Sergeant Whittle)—'Damn my eyes, I will find him, soldiers! Come up-stairs again; I will have another search,' or words to that effect." Sergeant Sutherland swore that after searching for an hour and a-half he had

There were demonstrations of joy in Sydney at the downfall of Bligh and the defeat of Crossley. Bonfires were lighted. Bligh and his friends endeavoured afterwards to prove that a salute was fired in honour of Johnston's usurpation, but on this point as well as on an imputation that Macarthur had, on the night before his trial, dined with the officers who were to sit in the Criminal Court, the contrary evidence was overwhelming. There was a proposition to raise a sum of money to defray the expenses of Macarthur as a representative to lay before His Majesty's Government the circumstances of the colony, but though more than £1000 were subscribed the project was not carried out, and four days after the meeting at which Macarthur's delegation was resolved upon, Johnston appointed him Secretary.

When Bligh's papers fell into the hands of Johnston and his friends, the opprobrious character given by Bligh to Atkins was discovered, and Atkins learned that while he had fancied himself a favourite with Bligh, he had been a sponge in the hand of Crossley. Both Bligh and Johnston desired to call Atkins as a witness in England. The latter succeeded; and the poor creature seems to have given evidence fairly.

But though the inhabitants were generally satisfied with the change from the frenzy of Bligh to the military methods of Johnston and Macarthur, Johnston found that in doing his duty a Governor made enemies. In a despatch (11th April 1808), he told Lord Castlereagh: "The unanimity in which I have felt so much pleasure I quickly discovered was not to be preserved without a sacrifice of His Majesty's interests, and a departure from the regulations that have been made to check the importation of spirituous liquors into the colony." Following King's practice, Johnston forbade the landing of spirits from an American vessel. Bligh had, just before his deposition, allowed the landing of

another examined a room which the steward had said contained nothing but his own bed and some lumber. Bligh swore that one of the soldiers threatened to bayonet him, and that he appealed to a sergeant to keep the man off. Sutherland denied that there was any such violence. Lieut. Minchin averred that the soldiers were very "orderly" in their conduct, and it was to Minchin that Bligh surrendered himself.

7000 gallons from other vessels, and the supply on shore was deemed sufficient. Johnston resisted all solicitations, and sent a colonial schooner to escort the American vessel to sea. Four days afterwards she was taken to Broken Bay to smuggle her cargo. Johnston sent armed boats from H.M.S. *Porpoise*. The American ship was seized in *flagrante delicto*. A Vice-Admiralty Court was assembled, but although the evidence was strong, would not condemn her as lawful prize. The American master protested, and appealed; and Johnston plaintively said: "Your Lordship will be convinced that the condemnation of a ship for smuggling will not easily be accomplished in New South Wales." He succeeded in getting rid of the vessel at last, and gave offence to many on shore by so doing.

His opponents blamed him for preventing public meetings, lest they should be adverse to him; but the charge was aimless. Before and after Johnston's day no meetings were permitted except under sanction of the Governor; and Macquarie, as will be seen, adopted strange measures on the subject. But there is proof that disaffection reached Johnston's ears. A remarkable appeal made by him to officers, military and civil, still exists. It was written exactly three months after Bligh's deposition:—

"Gentlemen,—I have observed the discontent which has for some time prevailed amongst a few officers with the greatest concern; and as I have unquestionable evidence that the discontent has entirely arisen from the confidence I have reposed in Mr. Macarthur, Secretary to the Colony, I have now assembled all of you together who are doing duty at headquarters, and have sent a copy of this letter to the detached posts, that those officers, having anything to allege against that gentleman, may come forward and distinctly state in writing what it is they have to charge him with. If he has committed any offence, it is not my intention to shut my ears against the proofs of it. If anything improper in his conduct can be made to appear, he shall be immediately dismissed from his office; and I hope some of you, gentlemen, will have public spirit sufficient to supply his place, and to perform the laborious duties Mr. Macarthur now discharges without reward or emolument. To preserve the peace of the settlement, and to promote the prosperity and honour of His Majesty's Government, are my only objects, and I am confident those objects cannot be secured but by the annihilation of the party spirit that has unfortunately too much prevailed almost ever since the day when you all urged me to assume the government, and pledged your words of honour to support me in the measure. How far a desire to deprive me of the services of Mr. Macarthur at such a crisis as the present can be considered as an observance of that promise it will rest with those gentlemen who are adverse to him to explain. For my own part, I think no officer will ever

that Mr. Macarthur has not fulfilled his share of that solemn engagement ; that he has not devoted himself with unremitting assiduity to the public affairs ; that he has not exposed himself to reproach and obloquy by his exertions to detect the frauds and oppressions of the adherents of the late Governor, or that he has not faithfully done everything in his power to carry my wishes into effect for the reduction of the expenditure of public money, and to prevent the improper distribution of the public servants and property. But perhaps these are his offences ; if so, let me assure you that he has only obeyed my orders, and that, had he acted differently, I should have been as ready to withdraw my confidence from him, as I knew some of you are desirous that I should.

To Abbott and other officers, Jamison the principal surgeon, D'Arcy Wentworth, with others, the letter was formally addressed. The officers probably knew that if action were needed Johnston would not be trifled with ; and Abbott, and twelve others, of whom D'Arcy Wentworth was one, replied in writing on the day on which Johnston wrote to them :

“The undersigned officers, having assembled by order of His Honour the Lt.-Governor, to give their sentiments on a letter which His Honour laid before them, are unanimously of opinion that they do not feel themselves justified, nor would they presume to call in question the right or propriety of his consulting any person he may think proper, either publicly or privately, and that they shall at all times feel much pleasure in obeying his orders, which is all they consider they have to do as officers serving under him.”

In administering the government it was a prime object with Johnston and his Secretary to make as few drafts as possible on the English Treasury. They found numerous despatches impressing such a duty on previous Governors, and they knew that Bligh had not distinguished himself by obedience. They complied, but it was at the acknowledged cost of much of the live stock in the colony.

Mr. Blaxland, one of those who entreated Johnston to depose Bligh, declared on oath that Johnston afterwards conferred no favours upon him, and that neither Johnston nor Bligh had acted up to the instructions of the Secretary of State in granting lands to him as a settler. Johnston was described by many witnesses as a man of retired habits, and he did not covet the post which, as Acting Lt.-Governor, he had assumed.

Col. Paterson, Lt.-Governor at Port Dalrymple, was Johnston's senior officer in the New South Wales Corps. *To him* Johnston reported (2nd Feb.) what had occurred.

surveying the position he wrote to Paterson that Bligh had been

“principally advised by George Crossley, Messrs. Campbell, Palmer, and Fulton, and it is generally believed that they intended to have established a monopoly of the public stores and revenues of the colony at the expense of the interests of Government, as well as of every individual unconnected with themselves, and in the prosecution of their plans they have gone such lengths by violating private property and infringing personal liberty as to occasion universal terror amongst all classes of people from the highest to most obscure.”

He saw no choice but to maintain the *status quo* (6th Aug.) until relieved by Paterson's arrival or orders from England.

Bligh, though under arrest, was treated with some kind of respect. Taking umbrage when Foveaux declined to reinstate him or to put him in command of H.M.S. *Porpoise*, he sent his gardener to tell Foveaux that henceforth no more vegetables were to be supplied to the Governor *de facto* from the garden of the Governor *de jure*.

He demanded his papers from Foveaux. Foveaux left it to Johnston to determine “how far this request can be complied with.” Johnston declared that he had seized only what he thought necessary in administration of the government, but that, “as you have relieved me in the command, I am ready, as I signified to you on your arrival, to deliver all the papers whenever you shall be pleased to receive them.”

In Aug. 1808, Bligh remonstrated with Paterson (as Lt.-Colonel and Lt.-Governor) against “the mutiny of the corps under your command.” He would enter into no conditions, but declared that all the troops were bound to obey him. Paterson had other sources of information, and replied that it was strange that six months elapsed after Bligh's “critical displacement” before any remonstrance was sent to the Colonel of the corps. As to replacing Bligh, an attempt to do so might cause evils which Paterson's life could not “counterbalance.” “It has been further represented to me that your departure from the colony has alone been protracted by yourself; but I beg to submit to your judgment that your own interests require an immediate presence before those who only now can decide your conduct.” Paterson, like Johnston, considered

found among Bligh's papers, further proved "the extensiveness of the plan upon which the Governor intended to proceed."

Though Johnston acquainted Paterson with what had been done by the New South Wales Corps, he questioned Colonel Paterson's view that that gentleman could leave his distinct appointment at Port Dalrymple and assume the government in Sydney, where Colonel Foveaux, as Lt.-Governor of Norfolk Island, seemed entitled to succeed. For his own part, Johnston would rather err by resigning the command than, by retaining it, expose himself to the suspicion of grasping at power. He sent his despatches by Grimes, the Surveyor-General, in one vessel, and duplicates by Dr. Harris in another. Lord Castlereagh might rely upon the verbal information which Mr. Grimes would afford. Colonel Paterson, when made acquainted with Johnston's despatches, determined (14th May) to wait further information to "correctly guide" his conduct, and requested Johnston to place him "by the earliest possible opportunity in possession of the first intelligence from England."

Johnston, retaining Bligh under arrest at the Government House, administered the government until Colonel Foveaux arrived from England on his way to Norfolk Island, in July 1808. When Foveaux landed, the batteries saluted, and Johnston received him with the utmost respect. Bligh deposed that he, "having a sanguine hope" that Foveaux would reinstate him, sent friends (of whom Commissary Palmer was one) to wait upon Foveaux, but that "Mr. Macarthur and his adherents got to the ship first." Bligh then wrote "positive orders as Commander-in-Chief that Foveaux should put himself at the head of the New South Wales Corps and reinstate" Bligh. Foveaux notified by a General Order (30th July) that (as Bligh had been out of power for six months, and his suspension was submitted to His Majesty's Ministers) he thought it "beyond his authority to judge between Captain Bligh and the officer whom he found in actual command of the colony."

Foveaux may be remembered as the disciplinarian who drummed mutinous soldiers out of his regiment without trial, and was called to account by Paterson. After

surveying the position he wrote to Paterson that Bligh had been

“principally advised by George Crossley, Messrs. Campbell, Palmer, and Fulton, and it is generally believed that they intended to have established a monopoly of the public stores and revenues of the colony at the expense of the interests of Government, as well as of every individual unconnected with themselves, and in the prosecution of their plans they have gone such lengths by violating private property and infringing personal liberty as to occasion universal terror amongst all classes of people from the highest to most obscure.”

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Bligh's arrest a suspension until the commands of the King could be received.

Bligh's friends on shore intrigued on his behalf. Foveaux, by a General Order, sharply reproved (in Aug.) "men who have been prisoners in the colony who have so far forgotten their former condition as to obtrude themselves into the Courts of Justice in the character of counsellors and advocates." Those who thus "interfered" without special permission would be punished "in the most exemplary manner."

In Oct. a General Order announced that an illicit still had been seized on the premises of Martin Mason (one of Bligh's friends at the Hawkesbury), who had formerly been "dismissed on account of misconduct" from the post of assistant-surgeon in the settlement. Foveaux ordered that the still should be destroyed, but as it was represented that the said M. Mason had a large family in indigent circumstances, further penalties were remitted.

In Dec. Foveaux asserted his authority over Mr. George Suttor, who with others promoted a petition to England on Bligh's behalf, and, with regard to it, wrote to Foveaux. Suttor was indicted before the Criminal Court for having directed to the Lt.-Governor a letter "containing certain contumelious expressions with intent to bring into contempt His Honour's authority." Suttor denied the legality of the Court. He welcomed the position of a martyr. His allegiance was due to Governor Bligh alone. The Court was cleared. After a few minutes it was reopened. Suttor was found guilty and sentenced to six months' imprisonment and a fine of one shilling.²²

A few days afterwards (15th Dec.) a *Gazette* notice intimated that the War Office had in May promoted Paterson to be a Colonel, Johnston to be Lt.-Col., Abbott to be Major, and Collins to be Colonel. Collins had in May 1808 written from Hobart Town to thank Johnston for timely supplies of provisions, which he had failed to obtain from Bligh.

²² *Sydney Gazette*, 11th Dec. 1808. In Dr. Lang's account (followed by others) of Mr. Suttor's trial the petition only is alluded to, and no mention is made of the letter to Foveaux for which Mr. Suttor was indicted.

In obedience to Foveaux and Paterson, Lieut. Kent took H.M.S. *Porpoise* to Port Dalrymple, and, satisfied with so honourable a conveyance, in Jan. 1809 Paterson appeared on the scene, and assumed command of the "territories until His Majesty's gracious instructions shall be obtained. It was a duty imposed on him consequent on the suspension of the government of William Bligh, Esquire."²³ Johnston subsided into his former position, and it was announced in the *Gazette* (8th Jan.) that he would be the "sitting magistrate for the ensuing week."

Bligh was indignant at being designated as William Bligh, Esquire, but he had invited Paterson's coolness. When Paterson arrived in the *Porpoise* he received a warning note from Foveaux, who had detected a plot with Bligh's connivance to place Paterson under arrest on reaching Port Jackson. Writing to Lord Castlereagh, Paterson said: "Having in no instance given Commodore Bligh the most trifling cause to contemplate an act of such unjustifiable violence, your Lordship will judge of my indignation." Bligh bore "the most rancorous ill-will to any officer or inhabitant" who could in the remotest manner "interfere with his longing to gratify his insatiably tyrannic disposition," and to advance "his pecuniary interest." It was painful "to contemplate the consequences which must have followed the continuation of his power."

It was Paterson's wish to send Johnston to England and to persuade Bligh to go thither. It was Bligh's aim to reinstate himself by force in Sydney. He thought that if he could obtain command of a man-of-war, he could by threats of bombardment bring the inhabitants of Sydney to his feet. Paterson chartered the *Admiral Gambier* to convey Bligh, but Bligh objected to being sent in a ship which was to carry also Johnston and Macarthur.

Paterson found that Bligh intrigued, even while negotiations were pending, and Bligh bitterly complained that he was removed from Government House to a subaltern's barrack. Lieut. Finucane, the subaltern host, swore however that the barrack was one of the best in Sydney, and that he

²³ *Sydney Gazette*, 15th Jan. 1809.

did "everything he could to accommodate" his guest, who received what he wanted from Government House. Finucane himself did not belong to the New South Wales Corps, but had immigrated in 1808 as secretary to Foveaux at Norfolk Island. Bligh (1st Feb.) appealed to Paterson to remove the restraints upon him. Paterson (4th Feb.) made stipulations with him. It was deemed absolutely essential to send him "immediately to England;" but as Bligh represented that it would be desirable that he should go in H.M.S. *Porpoise*, Paterson, "anxious to contribute as much as possible to the convenience of Governor Bligh," consented to his proceeding to Europe in the *Porpoise* "on the the following conditions, to the strict and unequivocal observance of which Governor Bligh hereby solemnly pledges his honour as an officer and a gentleman, viz.:" He was to embark on the 20th Feb., and put to sea without delay. He was to "proceed to England with the utmost despatch," and "neither touch at nor return to any part of this territory until he shall have received His Majesty's instructions or those of his Ministers." He was to throw no impediments in the way of equipping the *Porpoise*, and not "on any pretence whatever interfere in the government or affairs" of the colony. On these conditions Paterson, to facilitate Bligh's private arrangements, consented to "remove the additional restraints" imposed upon Bligh on the 27th Jan. William Paterson and William Bligh signed the convention in due form (4th Feb. 1809), and Bligh returned from the barracks to Government House.

Lieut. Kent, who had succeeded to the command of the *Porpoise* (on the death of Bligh's son-in-law, Captain Putland), was in an embarrassing situation. After Foveaux's arrival in July 1808 Bligh²⁴ had railed at Kent for not having reinstated "him to his government."

"He told me with extreme violence, if I knew my duty, the moment the guns were on board the *Porpoise* that I should begin and batter the town of Sydney until such time as they delivered him up the government. I replied I did not conceive my duty led me to sacrifice so many innocent lives. He then flew into a most violent rage, and told me that one day or other he would make me repent not knowing my duty."

By giving the command of the *Porpoise* to Bligh, Colonel Paterson subjected Kent to inevitable insults. Before

²⁴ *Evidence of Lieut. W. C. G. Kent at "Trial of Johnston,"* p. 337.

going on board (20th Feb.), Bligh availed himself of the facilities afforded him in "communicating with his friends." Crossley was out of reach, having been transported; but others were accessible, and Bligh circulated through their agency what Paterson described as libellous and defamatory papers.

The ship *Admiral Gambier* was about to convey to England Johnston and other persons required as witnesses. As soon as Bligh's foot was on board the *Porpoise*, he pointed the guns against the *Admiral Gambier*, and prohibited the master from taking Johnston as a passenger. His word plighted to Paterson he cast to the winds, and saw no shame in doing so. He said at Johnston's trial (1811): "I took the *Porpoise* upon the terms they had proposed to me; and the moment I got the command I took care to keep it, and would not suffer any of their terms, or anything which they said, to have the least influence upon my mind."²⁵

The officers and men of the *Porpoise* distinguished with a rough honesty between the lawful and the lawless. Bligh could not carry out his plans. Kent was put under arrest, but the memory of the *Bounty* repelled the ship's company from their angry commander, and he was a commodore without a crew. Neither officers nor men could be brought to wage war against their countrymen on shore. The deceived Paterson cut off communication with the deceiver. Foveaux's departure was deferred in consequence of the "exigency of public affairs at this moment."

As if to show that neither Johnston nor Foveaux had encouraged importation of spirits, Paterson (5th March) published an Order declaring that great inconvenience and injury were "experienced by prudent and industrious settlers from the length of time which has elapsed since they have been able to procure the least quantity of spirits," and that the master of the *Admiral Gambier* had been authorized "to import a supply for the express purpose of being divided in proportionate shares among them at 11s. 6d. per

²⁵ Johnston's comment was that this breach of "solemn pledge might, perhaps, be vindicated, but he could not understand the code of honour from which such a vindication must be drawn."—"Johnston's 'Trial,'" p. 158.

gallon, duties included." As a last resort Bligh (12th March) fulminated a proclamation. He declared "the New South Wales Corps to be in a state of mutiny and rebellion, now under Colonel Paterson's command." He forbade all masters of ships, "at their peril," to take away any "persons connected or supposed to be connected in the rebellion," from the colony

"to any place whatever, either in or out of His Majesty's dominions; particularly any officer of the said corps, or John Macarthur (settler), Nicholas Bayley, Garnham Blaxcell, Richard Atkins, Gregory Blaxland, John Townson, Robert Townson, Robert Fitz, Thomas Jamison, Thomas Hobby, Alexander Riley, D'Arcy Wentworth, James Mileham, Thomas Moore, and Walter Stephen Davidson."

Jamison was already on board the *Admiral Gambier*. Davidson was the nephew of Sir Walter Farquhar, recommended by Lord Camden as a desirable settler. Riley was the settler who had gone with Paterson to Port Dalrymple, and having returned with him in Jan. 1809, had officiated as his secretary. Paterson, indignant at the attempted circulation of Bligh's proclamation, drew tighter the restrictions on shore, and on the 17th March the defeated Bligh sailed away. Paterson defended his position before the public by a counter-proclamation. He set forth the agreement between himself and Bligh. "And whereas the said William Bligh, Esquire, in direct violation of his word of honour as an officer and a gentleman, solemnly pledged thereto, has not departed from this colony at the stipulated time," and has "distributed libellous and defamatory papers," Paterson, determined to exert the full powers vested in him, "to prevent the dreadful consequences meant to result from the designs of the said William Bligh, Esquire, and his accomplices," commanded all His Majesty's "subjects not to hold, countenance, or be privy to any communication" with such dangerous persons. Offenders would be "dealt with as abettors of sedition, and enemies to the peace and prosperity of the colony." On the 18th March, two of the "abettors," Palmer and Hook, were committed by magistrates for delivering amongst vessels in the port, "libellous, seditious, and inflammatory letters." They were allowed bail for £600 each, with two sureties of £300 each. At a later date Mr. Campbell, having refused to "officiate as coroner," when directed by Paterson, was

committed for trial. On the 11th June, refusing to plead before the Criminal Court, he was found guilty and fined "£50 to the King."

Paterson's local measures need not be enlarged upon. He, like Foveaux, reverted to strict control of the emancipist class, and apprised convict attorneys daring to plead without special license that they would be severely punished. A flood at the Hawkesbury caused apprehension in August, and the magistrates recommended "rigorous means to prevent the monopoly of grain."

For some time it was not known whither Bligh had proceeded in the *Porpoise*. Paterson reviewed the troops with approbation. The *Sydney Gazette* reported that Johnston sailed in the *Admiral Gambier*, receiving "military honours, the populace taking leave of this much-esteemed officer with reiterated bursts of acclamation." In April the Governor and the New South Wales Corps attended Divine Service in mourning, "as a tribute of respect to the memory of the late much lamented Governor, Philip G. King, Esquire." In August tidings arrived that the corps had been officially numbered as the 102nd Regiment. Paterson inspected and complimented it, declaring that he would report its condition with satisfaction to His Royal Highness, the Commander-in-Chief. His words were grateful to the corps, for no man knew how its deeds would be scanned in England, either at the War Office or by the Secretary of State. Bligh's partisans hoped for his reinstatement. He had been deposed in Jan. 1808, and in Nov. 1809 no tidings had reached the colony as to what was thought in England. Bligh, meantime, had sailed not to England, but to the Derwent, where Colonel Collins received him politely. When a letter from Paterson with his proclamation denouncing Bligh's breach of faith reached Hobart, Collins became cooler. Bligh was alarmed, and hastily took refuge with his daughter in the *Porpoise*. Collins prevented the despatch of supplies to the ship, and having no respect for an officer who broke his word, upbraided those who were so "infatuated as to consider Captain Bligh the Governor still."

On the last day of the year 1809 a new Governor, Colonel Macquarie, brought news of his own appointment. He

arrived in H.M.S. *Hindustan*, accompanied by another King's ship, the *Dromedary*, with a strong detachment of Macquarie's regiment, the 73rd. He bore the decision of Lord Castlereagh, couched in a despatch (15th May 1809), directed to Governor Bligh, in reply to despatches of April, June, and August 1808. It announced that the mutinous outrage on Bligh had caused the strongest sensation, that Johnston was to be sent home in strict arrest, that the New South Wales Corps was to be relieved by the 73rd Regiment, that the Government was unwilling to believe that Bligh's conduct had been such as justly to create discontent, but that his continuance in office would not be advantageous, and that Colonial Macquarie had been appointed Governor; that Macquarie was ordered to liberate Bligh from arrest, and replace him as Governor; that thereupon Bligh was to recognize Macquarie as his successor, and to return home; that it was intended to bring Johnston to trial for his conduct, and that to enable Bligh to understand the charges made against him, a copy of Johnston's justificatory despatch was enclosed, which would enable Bligh to consider what evidence was necessary to substantiate the charge of mutinous proceedings against Johnston.

Colonel Foveaux met Macquarie within the Heads, and Paterson arrived in the evening from Parramatta, to pay him respect. Not finding Bligh at Sydney, and not conceiving it to be his duty, after he had himself assumed the Government, to vacate it, and reinstate Bligh, Macquarie at once took the reins, and proclaimed his Instructions. His Majesty had "felt the utmost regret and displeasure on account of the late tumultuous proceedings and the mutinous conduct towards his late representative." Bligh was to be reinstated for twenty-four hours, and then to receive Macquarie as his successor, and administer the customary oath. Bligh's absence prevented compliance with these instructions, and Macquarie hoped that harmony would be restored, the higher classes setting an example of subordination, morality, and decorum, the inferior distinguishing themselves by loyalty, sobriety, and industry. By another proclamation Macquarie annulled all appointments and all grants of land made after Bligh's

deposition; and declared all trials which had occurred in the interim void and illegal; but soon afterwards proclaimed an indemnity, for all magistrates, gaolers, and constables, for acts done by them, and prohibited actions against them. He reinstated the officers displaced by Johnston, and ordered the 102nd Regiment to be in readiness to go to England. Bligh was sent for, and returned in the *Porpoise*, being received with military honours. Unaccustomed charms pervaded the society of Sydney, enriched by a new regiment and the officers of three men-of-war. There were festivities on shore and in the ships. Even Bligh was able to chase away the bitterness of his grief, and mingle with the gay. His daughter, Mrs. Putland, who had shown such courage when Bligh was seized, was married at Government House by the Rev. Mr. Marsden to Lt.-Col. (afterwards Sir Maurice) O'Connell, of the 73rd regiment, before Bligh sailed for England in May 1810. Macquarie was compelled, however, to notice a fault in Bligh. He wrote to Downing-street (10th May 1810) that though he had—

“not been able to discover any act of Bligh's which could in any degree form an excuse for the violent and mutinous proceedings pursued against him . . . on the other hand there cannot be a doubt that Governor Bligh's administration was extremely unpopular, particularly among the higher orders of the people, and from my own short experience I must acknowledge that he is a most unsatisfactory man to transact business with, from his want of candour and decision, insomuch that it is impossible to place the smallest reliance on the fulfilment of any engagement he enters into.”

Some writers have doubted whether Johnston was correct in describing the antipathy in which Bligh was held by the inhabitants in 1808: and direct evidence is not easily procured upon the point. Mr. Bigge, a Commissioner of Enquiry (as to the state of the colony under Macquarie), appointed about ten years after the deposition of Bligh, said incidentally, that “it must be acknowledged that the number of persons” friendly to Bligh “was small.” Most of the early settlers asserted strongly that Johnston was right. One significant proof of the prevailing opinion may be culled from the records of the time.

When Macquarie proclaimed that the proceedings against Bligh had been mutinous,—when Johnston was ordered into

strict arrest by the Secretary of State—when all proceedings by the *ad interim* administration were declared null—it is clear that if Bligh had had many friends in Sydney they could with such encouragement have commanded a majority at a public meeting. Yet they failed to do so. Macquarie had ruled for three months. Bligh was honoured by him. The time seemed propitious for eliciting sympathy towards Bligh. His friends, Messrs. Campbell, Palmer, Fulton, Sattor, and two others, requested the Provost-Marshal to convene a meeting in Sydney to refute the charge made by Johnston in his despatch to Lord Castle-reagh, that the arrest was necessary to prevent insurrection of the inhabitants, and to protect Bligh and his friends from violence. A similar meeting was asked for at the Hawkesbury. Both requisitions were duly advertised in the *Sydney Gazette*, where nothing could appear without Macquarie's sanction. The student of the *Gazette* can find no further trace therein. The trial of Johnston furnishes the clue. Gore, the Provost-Marshal, swore that Macquarie permitted the meeting. Bligh's friends in Sydney assembled to denounce Johnston. But though Johnston was absent his friends were alert. They mustered more numerous than Bligh's, although the sun of the arrested Johnston was supposed to have set in gloom. The Provost-Marshal was one of Bligh's friends, and endeavoured to sway the meeting. He asked from the chair whether any present had a design to massacre Bligh. All said "No!" and D'Arcy Wentworth said, "What, man! do you think we are going to put a rope round our own necks?" Gore considered the answer to his question satisfactory, and was proceeding to elicit further responses, when an amendment was moved, "That this meeting, convened for the purpose of addressing William Bligh, Esquire, is calculated to provoke and renew animosities, which must tend to destroy that unanimity and good understanding so essentially necessary to the advancement and improvement of this infant and rising colony." Gore, seeing that the amendment would be carried, refused to put it to the meeting. There was disorder. Some of the majority went to Macquarie to complain of Gore's refusal. Macquarie sent for him. Bligh's friends went away with their own resolutions

and address, determining to procure signatures as they best could. Macquarie seemed "a good deal incensed with Gore, and told him that on such an occasion he ought to act impartially."²⁶ It was arranged that the meeting should be resumed at three o'clock. The minority preferred to procure signatures privately rather than risk public defeat. The majority carried their amendment unanimously; resolving to support Macquarie's labours for harmony, and that their resolutions should be signed by the chairman, and published in the *Sydney Gazette*. Gore had endeavoured to vacate the chair, but was over-ruled, and eventually signed the resolutions of the majority under the same pressure. His evidence at first implied that Bligh's friends were in a majority and carried their resolutions, but when asked by a member of the court if they "carried them fairly and honestly at the time," he admitted that when he was putting the question "there was a tumult at the time between the opposite party and those who made the requisition; but the party who made the requisition declared themselves satisfied with the number of signatures they had obtained, and went away." Captain Kemp swore that he was there, "taking no part," as was Lieut. Lawson, another member of the Criminal Court, whom Bligh had charged with treasonable practice. In his opinion "there was a majority against the address to Bligh—no doubt of it." Bligh's friends did not oppose the resolutions of the majority, and Gore waited on Macquarie to know whether he would allow them to appear as desired in the *Gazette*. "He read them over and said, 'Certainly;' but I was afterwards sent for and told by him that upon reconsidering the last resolutions and the original address, as signed by the persons who made the requisition to me, he thought it would be partial and unfair to publish one and not the other; therefore he directed that none of them should be published, and neither of them were."

The fate of the Sydney meeting was so significant, that the intended meeting at the Hawkesbury was abandoned, and Bligh reproached Gore for not managing better. Yet

²⁶ Gore's evidence. "Johnston's Trial," p. 103.

Gore, as has been seen, had suffered for his attachment to Bligh. It may be mentioned as some indication of public feeling, that Foveaux and Paterson were honoured in Sydney while they remained there, both by the people and by Macquarie. When Paterson sailed in H.M.S. *Dromedary* (May 1810), great numbers assembled to bid him farewell, "ten crowded boats followed his pinnace, cheering all the way as a public demonstration of respect to (one) endeared to all classes of the inhabitants."²⁷ The death of Paterson and of Jamison the surgeon prevented their being summoned as witnesses at Johnston's trial in 1811.

Before Bligh left the colony he or his friends seem to have exerted baneful influence over Macquarie, for it is difficult to suppose that he spontaneously adopted the course he took within a few months of his arrival, and before Bligh sailed for England. As Helots in the community convicts might be seen without contamination, though even that was doubtful. The free inhabitants had drawn a rigid line of exclusion of convicts or freedmen from society. All Governors had done the same. At a distance vice might, in the words of the poet, be shunned as a monster by those who would embrace it when drawn near. On the 30th April 1810 the vain or beguiled Macquarie wrote that he was very much surprised and

"concerned at the extraordinary and illiberal policy I found had been adopted by all the persons who had preceded me in office, respecting those men who had been originally sent out to this country as convicts. . . . Those persons have never been countenanced or received into society. I have nevertheless taken upon myself to adopt a new line of conduct . . . admitted to my table"

(several whom he named, one of whom was Bligh's bailiff, Thomson, who was at the time labouring under the imputation of defrauding the government).²⁸ This man was made a magistrate—the first of his kind—before Macquarie had been a fortnight in office;²⁹ and before Bligh's departure in May, had become Macquarie's private guest, although,

²⁷ *Sydney Gazette*.

²⁸ Among the papers seized by Johnston was a letter from Thomson to Bligh, suggesting that the latter might rapidly accumulate a herd of cattle by exchanging, with the government herd, cows without calves for cows with calves. A repetition of the process from time to time would work marvels, in the opinion of the unjust steward.

²⁹ *House of Commons' Papers*. Bigge's Report, p. 80. 6th May, 1822.

according to the report of a special commissioner (J. T. Bigge) sent from England, "the habits of his domestic life were immoral," and he had, after acquiring property, "carried on the illicit distillation of spirits" at the Hawkesbury.

Lord Liverpool (Secretary of State in 1810) and Earl Bathurst, who succeeded him in 1812, must share the blame of permitting Macquarie's conduct to pass without rebuke. Though they could not divine what Macquarie concealed, he had told them enough to show that the confessedly new course he had adopted would tend to sap the foundations and poison the morals of society. The officers of Macquarie's regiment were fain to receive at their mess the associate of him who was their Colonel as well as Governor.

It is convenient at this stage to follow the fortunes of Bligh, Johnston, Macarthur, and Lieut. Kent to the trials which took place in 1811. The facts elicited at the trial of Johnston have already been narrated, and only the mode of trial need be told. Though Lord Castlereagh had announced an intention to try Johnston for his conduct, there seemed an unwillingness to hazard an exposure of that of Bligh.

Lieut. Kent was thirteen months under close confinement in his ship, and his imprisonment was continued after his arrival in England. Kent and Johnston desired to be brought to trial in order to establish their innocence. Kent's trial did not take place until Johnston had implored Lord Castlereagh's successor, the Earl of Liverpool, to put an end to suspense. Kent was tried at Portsmouth (8th Jan. 1811) by order of the Admiralty. The fervid Macarthur went thither to advise the defendant, and his advice (to prove Bligh's tyrannical conduct) was welcomed.

The charges were—1st. Having sailed from Port Jackson without Bligh's order. 2nd. Having hauled down the prosecutor's broad pendant which he was ordered to keep flying on the *Porpoise*, and again proceeding to sea without Bligh's orders. 3rd. Having "permitted Lieutenant J. Symons to quit His Majesty's service, and carry home despatches from the persons who had usurped the government, and not apprehending *him and bringing him to punishment.*" The

investigation lasted three days. Bligh called only one witness out of many summoned by him. He delivered a paper, "taking it for granted that the Court will not think it right to inquire into the propriety or impropriety of the dispossessing me of the civil government of the territory of New South Wales . . . and the Lords Commissioners of the Admiralty directed me in framing the charges upon the present occasion to confine myself to those points which were in breach of the naval articles of war."

He hoped that if Kent should call witnesses the Court would allow him to call others to rebut. The judgment was that the Court

"having heard . . . is of opinion that the said Lieut. Kent did sail . . . in the two instances above-mentioned without the order (of Bligh); that he did not so sail under the persons asserted . . . to have illegally and by force dispossessed the said William Bligh of the government of New South Wales, and did not improperly strike the broad pendant of the said William Bligh . . . That Kent, under the extreme and extraordinary difficulties he was placed under, showed every disposition to obey any orders which (Bligh) might have thought fit to have given to him; that he was actuated by a sincere wish to perform his duty for the good of His Majesty's service, and that he was justified in the conduct he pursued . . . and that the third charge has not been proved against the said Lieut. Kent, and (the Court) doth on the whole adjudge him to be honourably acquitted of the whole of the above charges."³⁰

The officers of the Court exonerated Kent from blame. His sword was returned as to one deserving distinction rather than disgrace.

Johnston had reported his arrival in England in 1809. Bligh arrived in Oct. 1810.³¹ Johnston appealed (16th Nov.) to Lord Liverpool. He hoped he might not be considered impatient in earnestly soliciting to know whether he was to consider himself "so unfortunate as to remain under the displeasure of Government as he had the inexpressible mortification to see in Governor Macquarie's proclamation, or whether the evidence transmitted to Lord Castlereagh, and the subsequent approval" of the conduct of Johnston, Foveaux, and Paterson, had convinced Lord Liverpool that

³⁰ *The Naval Chronicle* 1811. Vol. xxv. London.

³¹ Bligh desired to prosecute the officers of the Criminal Court. In Nov. 1810 he urged the Judge-Advocate to institute proceedings against,—1st. Kemp, Brabyn, Moore, Laycock, Minchin, and Lawson. 2ndly, Johnston, Dr. Harris, Draffin, Archibald Bell, and Sergeant Whittle. 3rdly, John Blaxland, Edward Macarthur, and Hannibal Macarthur, settlers; T. Jamison, surgeon; and Grimes, Surveyor-General. 4thly, Lt.-Col. Foveaux, "who continued my confinement."

there had been no alternative but the measure taken "to preserve His Majesty's Government from the dishonour of a popular insurrection, and his colony from all the horrors which would inevitably have resulted from the success or failure of such an attempt." He confidently looked for justice under the circumstances of perplexity in which he had been placed by Bligh, who had violated rights of property, arrested persons lawlessly, "threatened magistrates with vengeance," and "overawed, or attempted to overawe, the Supreme Court of Jurisdiction with an accusation of high treason, for no other cause than that they had declined to become servile instruments of his tyranny." An enraged population had clamorously appealed to Johnston for relief from Bligh "and the wretched associates under whose advice he was known to act." He might have participated in Bligh's disgrace, but "to have maintained his authority would have been a vain and fruitless attempt." He was prepared, and "most anxious to exhibit proof of the high crimes and misdemeanors exhibited by Governor Bligh . . . of gross frauds and shameful robberies committed upon the public property entrusted to his care," and, lastly, of heretofore unheard of "and disgraceful cowardice."

Johnston, meanwhile, was with his regiment,⁸² and it seemed at one time as if Bligh's conduct would be abandoned as indefensible. But Johnston pressed for inquiry. He applied (21st Nov.) to the Adjutant-General for "permission to remain in London in order that he might be ready to substantiate the charges he had desired permission to prefer against" Bligh. The Commander of the Forces was "of opinion that the vicinity of the quarters of the 102nd Regiment to London will enable you to attend to the business stated in your letter without interfering with the performance of your regimental duty."

The honourable acquittal of Lt. Kent strengthened the hopes of Johnston's friends, and on the 7th May a court-

⁸² Macarthur wrote to his wife, 5th Dec. 1810: "Colonel Johnston, as you will see, has been ordered to join, and is now (although the proclaimed mutineer) commanding His Majesty's 102nd Regiment. This does not much accord with the opinions which we hear have been circulated. But there is a time for all things. I am continually engaged from morning until night with my lawyers in arranging the plan of a formidable attack upon Mr. Bligh."—Camden Park MSS.

martial was assembled at Chelsea to try a charge exhibited against Lt.-Col. George Johnston for beginning, exciting, causing, and joining in a mutiny, and by military force imprisoning the Governor of New South Wales. General Keppel was President. Sir David Baird and thirteen others formed the Court. The Rt. Hon. Charles Manners Sutton was Judge-Advocate-General. The principal points of the evidence adduced have been already incorporated in these pages.

Johnston suffered from the loss of witnesses. Governor King, whose evidence as to his character would have been sought, had died in 1808. Col. Paterson and Mr. Jamison had died more recently.

Though the Court cannot be suspected of animosity against Johnston, there seemed to be a prevailing sentiment that some condemnation of the deposing of the King's vicegerent must be pronounced. Sir David Baird was pointed in inquiries which indicated that his mind was made up as to the heinousness of Johnston and his advisers. The Judge-Advocate intercepted many questions tending to Johnston's justification, and the decision of the court-martial at Portsmouth was excluded from sight. When Lt. Kent, called by Johnston as a witness, offered to hand in a copy of his own honourable acquittal, the Judge-Advocate interposed. He could not "see the object or the importance of this examination," and the Court acceded to his view. He strove to exclude evidence of Bligh's intemperate and coarse speeches, on the ground that it was irrelevant unless the occasions on which such speeches were used were so important "as necessarily to fix them upon the memory of the person who did make use of them."

When the constitution of the Criminal Court in Sydney was discussed, Johnston's advisers put in a question: "Has not the Judge-Advocate a voice in the Court?" This manifestly touched the propriety of Bligh's conduct in refusing to substitute for Atkins a man who was not an avowed enemy of Macarthur. Mr. Manners Sutton informed the Court that such a question could not be "received by them," and that he, as Judge-Advocate, was "*precluded* from answering it." Nevertheless he fre-

quently enforced his opinion on cognate questions. When Bligh under cross-examination was asked whether he could not with "Atkins' consent have suspended him and appointed another Judge-Advocate *ad interim*," Mr. Manners Sutton declared "this question involves so many things, and really amounts to a matter of opinion founded upon such complicated considerations as it is utterly impossible, I should say, for the witness to answer." There were several important points. One was "whether the Governor can accept the resignation of the Judge-Advocate. For anything I know, he may; but that is also a consideration."

The question was not put, and the fact that a few years before Bligh's deposition his predecessor appointed another Judge-Advocate when the members of the Court had placed the first under arrest was never brought forward at Johnston's trial, although documentary proofs were at the War Office, where Sir Charles Morgan in commenting on the transaction in a despatch to Governor King took no exception to that part of the proceedings of the Court at Sydney.

When Bligh was examined about his relations with Crossley, Mr. Manners Sutton apprehended that there was "considerable delicacy in questioning a Governor as to what passed between him and the persons whom he occasionally consulted." Bligh was responsible for his acts, but not for "the act of advising with another." On this point the fifteen military gentlemen of the Court shrank from their Judge-Advocate. Johnston appealed to them, and finding he had gone too far, Mr. Manners Sutton gave way,

"it being strongly felt by the officer on trial that it was this confidential communication with Mr. Crossley, no matter whether right or wrong, which did excite so great a ferment at that time in New South Wales. I am sure the Court, having heard that stated, there being no legal objection to the questions, will not withhold their permission if it is thought necessary to press them."

Nevertheless an air of courtesy pervaded the Court, which concluded its labours on the 5th June.

It will be remembered that Johnston had sent to Lord Castlereagh a confession made by Bligh's bailiff, and other papers, to prove that Bligh had connived at frauds committed upon the public property. He had also repeated to

Lord Liverpool his desire to substantiate such charges. Macarthur earnestly insisted on pressing them. But the atmosphere of the Court was uncongenial to an attempt of the kind. The Judge-Advocate would have had no difficulty in persuading the Court that imputations of corruption on Bligh's part had no bearing on the charge of mutiny brought against Johnston. Johnston's legal advisers made no attempt to press them, and Macarthur vainly fumed against the conduct of the case. It was on the proof of Bligh's delinquencies that he relied for an acquittal of Johnston. He attributed Kent's triumph to the boldness of his defence.

Macarthur underwent a protracted examination. Mr. Manners Sutton in several lengthy speeches enforced the necessity of economizing the time of the Court by closely confining the witness to the questions put.³³ One of the members of the Court in the course of Macarthur's evidence remarked to the Judge-Advocate: "Perhaps you will consider this is the mainspring."

As Macarthur vainly endeavoured to cause an inquiry into Bligh's alleged peculations, so Bligh failed altogether in proving that the repression of spirit-traffic was an element in producing resistance to his authority.

Amongst Bligh's witnesses were some of indifferent character. Gore, the Provost-Marshal, swore that when he arrived in Sydney with Governor Bligh in 1806, and for some time after, it was not an uncommon thing for persons to be imprisoned without a warrant from the magistrates, and that at his intercession Bligh forbade the practice. Yet then and now existed and exists in Sydney a MS. book, recording the meetings of magistrates, over whom Judge-Advocate Dore presided in 1798. In Sept. 1798 this entry was made: "Jesse Hudson, confined without specific charge or warrant of magistrates, was ordered to be discharged, and the gaoler was peremptorily commanded on no account whatever in future to receive or detain any prisoner in

³³ Macarthur had mentioned in evidence "the notorious George Crossley." Mr. Manners Sutton animadverted upon a hearsay allusion to "what the witness is pleased to call the notorious George Crossley." The "Report of the Trial" was compiled from notes taken, by permission, on Bligh's behalf, by Mr. Bartrum, of Clement's Inn. London: 1811.

custody without some particular charge, or by virtue of a magistrate's warrant."

The sentence of the court-martial appeared in a General Order from the Horse Guards, 2nd July 1811. "The Court having duly and maturely weighed and considered the whole of the evidence adduced on the prosecution, as well as what has been offered in defence, are of opinion that Lt.-Col. Johnston is guilty of the act of mutiny described in the charge, and do therefore sentence him to be cashiered."

By some writers Johnston's act has been called rebellion. The sentence of the Court shows that there was no proof of any such crime. By the General Order this is clearly made known. The sentence of the Court was acquiesced in, but the Prince Regent added :

"The Court, in passing a sentence so inadequate to the enormity of the crime of which the prisoner has been found guilty, have apparently been actuated by a consideration of the novel and extraordinary circumstances which, by the evidence on the face of the proceedings, may have appeared to them to have existed during the administration of Governor Bligh, both as affecting the tranquillity of the colony, and calling for some immediate decision."

Admitting the principle thus adopted by the Court, His Royal Highness declared that "no circumstances whatever can be received in *full* extenuation of an assumption of power, so subversive of every principle of good order and discipline." Johnston was therefore simply cashiered and he returned to the colony.³⁴

Macarthur suffered a severer fate. It has been seen that the Government allowed no one to reside in New South Wales without permission. That permission they withheld from him. He pined, but not in patience, though in vain. The manner of his return may be told. His letters to his distant wife and children were filled to the brim with affection. He had warm friends who interceded for him, and in 1816 there were hopes of success. In July he addressed the Secretary of State, Lord Bathurst. For seven years he

³⁴ Bligh was made Admiral of the Blue immediately after the promulgation of the sentence upon Johnston. Manners Sutton, far from gratifying him, however, by further prosecutions, told Lord Liverpool (4th July) that it was "not necessary for the public service, nor do the ends of justice require, that the proceedings respecting the mutiny at Botany Bay should be carried any further."

had been compelled to abandon the oversight of his affairs, and "to submit to the severe suffering of living separated from his family." "And as I am informed that the same cause which has so long imposed this painful separation still exists with unabated vigour, I am compelled to throw myself upon your Lordship's candour, humanity, and justice, for relief." (Of the accusations under which he laboured he was—) "almost entirely ignorant, but the fearlessness of an upright heart prompts me to declare that I am, and always have been, prepared to submit both my private and public life to the severest scrutiny." He was sensible of the delicacy of the subject, but owed it to himself "and his family to submit in silence no longer."

"Your Lordship has the power to give me the opportunity of stripping these unjust accusations of their borrowed garb, and it is the only favour that I at present presume to ask. Let me, my Lord, be informed upon what evidence the proscription under which I now suffer was issued, and why it was thought right to select me as a solitary victim from an almost entire population." . . . "I shall be able to offer such a justification as will convince your Lordship that I am at least entitled to expect from His Majesty's Government the fullest security that the remainder of my life may be passed in the bosom of my family, free even from the possibility of molestation on account of the part that I felt myself compelled to take in the affair, from the consequences of which I am now on many accounts so anxious to obtain relief. Every act of mine in the unhappy transaction to which I am solicitous to draw your Lordship's attention proceeded from the impulse of a fatal necessity, and to prevent consequences which no man would be more ready to deplore than your Lordship; and if I might be permitted the indulgence of a short interview I cannot fear but that I should produce the most convincing proof of what I affirm."

The draft was shown to the Under-Secretary, Mr. Goulburn, who saw objections to its terms. The prudent friend³⁵ who exhibited it dissuaded Macarthur from sending such a bold, though imploring letter. Another was prepared, which dwelt upon Macarthur's patriotic efforts in promoting pastoral and agricultural pursuits, and trusted that

"it might be reconcilable with Lord Bathurst's strict sense of propriety to direct an act of oblivion to be passed . . . as to all those measures in which I was most reluctantly involved, and thereby enable me, with my two sons,³⁶ to return to the colony to the bosom of my family, where my

³⁵ Mr. George Watson Taylor.

³⁶ James and William. With customary energy their father made use of the time of exile by travelling with them on the continent and studying olive and vine cultivation. Sir William Macarthur was known to more than one generation as the amiable and wise dispenser of the knowledge *he acquired in youth.*

presence is essentially necessary, and to the laudable and beneficial pursuits in which the public good is as much concerned as my private advantage, with security to my person, and relieved from those molestations to the possibility of which I am at present exposed, and which operate as a banishment from everything that is most valuable in life."

The worser English was more pleasing to Mr. Goulburn, who was directed by Lord Bathurst to say, that considering Macarthur's long exile from his family, his exertions to promote the agriculture and prosperity of the colony, and "above all the assurances that his Lordship has received from various quarters that you are fully sensible of the impropriety of conduct which led to your departure from the colony, Lord Bathurst no longer objects to your return. His Lordship will therefore transmit the necessary instructions to the Governor not to offer any molestation to you on account of past transactions, nor to adopt with respect to you any measure other than your future conduct in the colony may appear to him to require."

The temptation was great. To the heart's core Macarthur had been longing to rejoin the devoted wife who, in his absence, tended his affairs, and wrote loving letters about the children from whom he was parted. But above all, Macarthur loved that honour without which, in his wife's presence, he would have hung his head in shame. The "kiss, long as his exile," for which he burned, would have scorched his lip if he had felt that it was obtained by the confession of wrong-doing in that act by which he believed in his heart he had done his part to prevent Bligh from wreaking on the worthier colonists the bad passions of the scoundrel who was as ready to take life from the living, as he had been by forgery to obtain false evidence of the will of the dead. His counsellor, Mr. Taylor, who played the part of Menenius, in this instance yielded to Macarthur's resolve, but did not trust further negotiations to his fiery principal.

Macarthur wrote to Taylor. Taylor told Mr. Goulburn that Macarthur, "in a very gentlemanly manner, has put it to me whether, for any consideration whatever, he can become a party to his own dishonour; and I really think more highly of him for not being disposed to compromise his honour, and catch at a most important object upon *any terms*, to which a man of relaxed principle is too ready to submit." Mr. Taylor suggested that, instead of recording a stigma on himself, Macarthur should merely state that he intended to "devote undivided attention" to the important

pursuits for which the colony was so much his debtor. Lord Bathurst refused. It was honourable in Macarthur not to accept a present benefit by sacrifice of principle, but if he still thought his conduct in the colony proper, he might again act as before.

"Whether there might not be circumstances in the colony to palliate, or to a certain degree to justify, Mr. Macarthur's conduct is another question, but we cannot subscribe to the opinion that the conduct was not improper upon the very ground upon which Mr. Macarthur thinks it out of his power to subscribe to the contrary. I have stated freely to you Lord Bathurst's sentiments on this subject. There is certainly every disposition to comply with Mr. Macarthur's wish, but Lord Bathurst does not think he can go further than he has done."⁸⁷

However torturing the suspense, Macarthur besought his wife (19th Aug. 1816) not to suffer herself

"to be dispirited at the apparent difficulties that obstruct my return. They will, they must be overcome; and be assured that they will terminate in the most reputable manner to me, to you, and to all our dear children. . . . It is clear that Mr. Watson Taylor thinks I am correct in deciding as I have done, not to submit to anything which can cast the smallest stain on my honour. It is also evident that government feel themselves greatly embarrassed, and all my friends are of opinion that they must be sorry for having proposed anything which may provoke public discussion of my conduct, or an examination of the motives that induced them to raise Bligh to the rank of an admiral, and to give him a pension for the faithful discharge of his duty in New South Wales. Many think they will not persevere . . . others think they will. There is, however, no good ground upon which any correct judgment can be reared; because when men act without regard to fixed principle, and make expediency alone the rule of their conduct, it is impossible to say what they may or may not do."

He implored his wife not to let his letters on the subject pass out of her own hands. He asked her for documents which, in case of parliamentary inquiry, would enable him to prove Bligh's delinquencies.

For months the negotiations dragged their slow length along. Macarthur saw Mr. Goulburn, and told his wife⁸⁸ (1st Oct. 1816):

"I believe I succeeded in convincing him that I am not to be tempted by any consideration, whether promising present ease, or threatening future

⁸⁷ Mr. Goulburn, 14th Aug. 1816.

⁸⁸ Camden Park MSS. The reader may be reminded of a greater than Macarthur, who answered the Florentine magistrates when they invited him to apologize, pay a fine, and return to his native city. "If" (Dante replied) "I cannot return without calling myself guilty, I will never return."⁸⁹

evils, to depart from those principles that I have endeavoured to regulate my conduct by. Mr. Goulburn paid me many high compliments, and even proceeded to the length of saying that, if he were in my situation, he should not hesitate to conform to the expectations of Government. I, in return, lamented that it was my misfortune not to be able to think with him, and assured him that I felt a great increase of regret to find myself restrained by the imperious dictates of honour from acknowledging concern for the part I had taken in the arrest of Governor Bligh—an act that I had, and ever must consider, one of the most meritorious in which I had ever been engaged . . .”

Lord Bathurst (14th Oct.) announced that Macarthur's bold defence of his past conduct made it dangerous to permit his return; “which, under such circumstances, might give dangerous encouragement” to others.

Undeterred by this rebuff, Macarthur told his wife (6th Dec. 1816),

“you must not be dismayed or dejected, for I think I have good reason to encourage hopes of a speedy change. . . . Not to keep you, however, in needless suspense, it is extremely probable I shall petition the House of Commons, and bring forward the proofs of Bligh's peculations which have so long slept, and which I am persuaded, as indeed I always was, would, had they been produced in Col. Johnston's trial, have saved him, and secured to the cause, of which, poor man, he was so unfit a champion, a triumph instead of a defeat . . .”

Three days later his negotiations were again broken off. He told his wife: “I have been required to sanction a belief that I regret the part that I took in the arrest of that miscreant Bligh, and I have unequivocally refused to do so.” In Feb. 1817 the sky was brighter.

“All my differences (Macarthur wrote to a friend) with certain great people are finally arranged, and on terms to which I think the most zealous of my friends can take no objection. After a very hard fight it has been agreed that nothing shall be retracted, and no concessions be required, on either side; and that I shall be provided with a passage in one of the transports with sufficient accommodation for James and William (two sons); that a greenhouse shall be erected for my plants, and tonnage be granted for agricultural implements, &c.”

As the exile was allowed to return, one glance at his household hearth may be permitted. He wrote to his wife (18th Feb. 1817):

“After such a dreary period of banishment from the society of my beloved Elizabeth, I find it difficult to confide in my own senses when I reflect that I am seated for the purpose of communicating the happy tidings that all the obstacles which have so long obstructed my return to you and my beloved girls have this day been removed. Such, however, I thank God, is the fact, and I lose not a moment to acquaint you. . . . I will not ask you if these are not joyful tidings, because a little self-

examination at once explains to me what will be your feelings when the doubts, fears, and incertitude, to which you have been so long exposed, are removed."

In another letter he prepared his wife to see him changed, by saying that his "tempest-shattered bark would need repose." When he returned from exile, two natives entered his house while the family were at dinner. Sir William Macarthur, who was present, informed the author of the occurrence, in words whose natural eloquence it would be vain to polish and wrong to condense.

"Wine was put before them. Harry's friend bowed to my father and drank the wine. Harry, after a pause, rose from his chair, and said, 'We have mourned for you as a father, and I have not words to say how much we rejoice in your return. Many are gone who would have rejoiced as much as I do, because we have always found a home and food and shelter with you. Those troubles which drove you away I hope will never come again. Now you are come back I hope you will never go away again, but live in peace, and at last leave your bones among us.'

"I remember thinking (Sir William added) that I had never seen manner more graceful, or heard expressions better turned than Harry's. Some strangers who were present were much astonished at his eloquence, and I regret that I cannot more accurately remember his words."

Long may the turf lie light over the grave at Camden Park, where the restless Macarthur at last left his bones among the diminished remnant of the race whose love he had won.

CHAPTER VII.

GOVERNOR MACQUARIE.

MACQUARIE'S rule began under favourable auspices. The period of suspense after Bligh's deposition was satisfactory to no one. Its termination gladdened all. The new military defenders of the colony were his own regiment. No bitter remains of past struggles would willingly have been kept in remembrance by the community. The general cordiality might have been at least for some years promoted by a prudent Governor. He received loyal addresses, and when sworn in he made what the *Sydney Gazette* called an animated speech at the grand parade. He was laborious and ambitious. He promoted discovery. He erected public buildings, and affixed his name to them. He gave it to natural and artificial objects. He would have been the founder of a new era if the construction of ugly buildings could have conferred such a title. His wife has given her name to a rocky spot called Mrs. Macquarie's Chair, from which the lounge on the picturesque promontories of the Government Domain in Sydney may admire the never-wearying charms of Port Jackson. She planned the drive which winds around the jutting promontory and picturesque domain; and it was her wish that the spot should be preserved for the enjoyment of all. It is to be hoped, and is not improbable, that the inhabitants will never part with this public possession; and thus the simple selection of a site of natural beauty may transmit the remembrance of the wife to a posterity which would otherwise not care for the husband. Her project of love was completed in

June 1816, as is told in carving on the rock. The traveller at Athens gazes on the Pnyx and Mars Hill, rugged now and natural as they were in the days of Pericles, and feels with a thrill of pleasure that the rascal Turks have in these instances committed no desecration; and it may be hoped that Nature's work may be left unmarred in the public pleasure-ground in Sydney.

Macquarie desired to create a new order in society. King had said it was hard to make farmers out of pickpockets, and Macquarie essayed the harder task of making gentlemen out of convicts. He thought their society good enough for himself. His efforts were as futile as they were offensive to the gentlemen of the colony, and were the main cause of an inquiry into his government, and an unfavourable report. He governed, however, for nearly twelve years, and extended the bounds of occupation largely.

It may be convenient to record, in juxtaposition to the census of 1810, the last census made by Macquarie (Oct. 1821). Though individuals had been ruined, the material progress of the colony had not been arrested by floods or by civil convulsions. An official statement made by Governor Macquarie shows a census in March—

	1810.	With V. D. Land -1821.
Population (including the 73rd and 102nd Regiments)	11,590	38,778
Horned cattle... ..	12,442	102,939
Sheep	25,888	290,158
Pigs	9,554	33,906
Horses	1,134	4,564
Acres cleared and in tillage under various crops...	7,615	32,267

Agriculture had not been extended after King's departure, but the genial climate, and winters in which live stock required no housing, and browsed at their leisure on pastures ignorant of snow, had largely increased the flocks and herds of the colonists.

Scarcity was not unknown amidst the gradual increase, and the magistrates regularly held an "assize of bread." In 1814 they fixed the price of thirteen pence and a half-penny for the two-pound loaf. Macquarie commented in

the *Gazette* (Feb. 1813) on the reluctance of settlers to supply grain to the government stores, "in the present alarming season of scarcity." Those indebted to the government were inexcusable. The Governor would show no lenity. He would cause them to be sued. Unless they became more prompt he would be under the "painful necessity to resort to foreign markets." There was one noble exception—Thomas Gilberthorpe, of Pitt Town. This order was to be read in the churches. In the following year an order from the Secretary of State relieved the stores of one drain upon their resources. Till 1814 Lord Bathurst had not been aware that the families of civil servants received rations from the public stores. Macquarie was to stop the practice, "as well as that of allotting to each a government servant, clothed and victualled at the public expense." Issue of fuel to civil servants was discontinued at the same time. In 1815 further "indulgences" were stopped by orders from England.

Macquarie's scheme for building a hospital by granting a monopoly in spirit-traffic was not to be repeated. The annual issue of a proportion of spirits, at a price, to civil and military officers, to superintendents, overseers, clerks, gaolers, constables, &c., and also to licensed publicans, was considered unnecessary, and prohibited. All contracts of government were to be paid for in money only. All barter of spirits for produce was forbidden, and offenders were to receive no indulgence. These directions prove that the Government, though slow to recall or arrest Macquarie in his career, could not long be ignorant of the mischief which his improper favours were calculated to produce.

Sir Joseph Banks, in a letter to Governor King, mentioned that Lord Hobart accepted as a reason for founding new settlements: "If you continually send thieves to one place it must in time be super-saturated. Sydney now, I think, is completely saturated. We must let it rest and purify for a few years, till it begins to be in a condition again to receive."

When Hobart was in distress its needs were met from Sydney. Bills drawn by Governor King supplied its early wants, whether of food, stores, or money, though, at

intervals, kangaroo flesh was issued; and after the flood of 1806 seed wheat cost sometimes three or four pounds sterling per bushel, as in the older colony. Hobart had no control over the settlement at Port Dalrymple, where Paterson presided, and, with King's consent, named the river Tamar, and the town Launceston, in honour of Governor King, a native of the ancient capital of Cornwall. There, also, difficulties were met by grants from Sydney. During Bligh's government many of the settlers at Norfolk Island were removed to Hobart, chiefly in 1808.¹

Collins, having declined to recognise Bligh as Governor-in-Chief, when called upon to do so in 1809, Macquarie would have proceeded against Collins if the "fell sergeant death" had not anticipated him. Macquarie² had lost no time in suggesting that Collins ought to be recalled, and that Foveaux should be appointed in his room, but Collins died before Bligh sailed to England in 1810. Macquarie visited Hobart in 1811, and reciprocated compliments with the inhabitants. He marked out and named many streets. Lt.-Col. Giels (73rd) became Acting Governor in 1812, and, after encouraging agriculture for a time, gave way to a newly-appointed Governor (Colonel Davey), who arrived at Hobart in Feb. 1813. He had served at Trafalgar in the Marine Corps. He was rough, but generous. He was not prone to repress evil tendencies in those around him, for he is reported to have "shared in common a taste for spirituous liquors." But trade prospered, agriculture was extended, wheat was exported to Sydney, and whale-fishing grew into importance. Until 1814 Van Diemen's Land depended solely on New South Wales for the administration of justice in civil cases. Besides the Criminal Court of Judicature established under the Statute 27 Geo. III., cap. 2, there was the Governor's Court—a Civil Court presided over by the Judge-Advocate, and two nominees of the Governor. These courts were the Judicature in the parent colony.

Bates, the Deputy Judge-Advocate, arrived in Van Diemen's Land in 1806; but Collins thought Bates'

¹ In Oct. 1810 Macquarie recommended that Norfolk Island should be "totally evacuated."

² *Despatch*, Macquarie. 1810.

commission applicable only to Port Phillip; and Bates opened no court, civil or criminal. The Van Diemen's Land Courts existed under the same letters patent as those extant in New South Wales. The Criminal Court and the Civil Court of the continent might sit in the island, but never sat there. Litigants were compelled to seek justice in Sydney or go without it. Doubts were raised as to the power to establish courts in Van Diemen's Land at all. When the statute (27 Geo. III., cap. 2) was passed to enable the Crown to constitute a Court of Criminal Judicature at Sydney, Bass's Straits were unknown, and the power seemed limited to "the eastern coast of New South Wales or some one or other of the islands adjacent." Van Diemen's Land was not on the east coast, and was adjacent to the south coast. Necessity overruled doubt. A community in which a man could not be executed, could not be supposed to exist. Under a new Charter of Justice issued in 1814 provision was made for a Lt.-Governor's Court and a Deputy Judge-Advocate in the island; and Macquarie sent Abbott (late of the New South Wales Corps) to act in that capacity. He was empowered with two assessors chosen by the Governor to decide causes not exceeding £50, and until he arrived in 1815 there had been "no authority for the trial or determination of civil causes in the settlement."³ He opened his court in 1816. The limited jurisdiction was found inadequate. A voyage to Sydney was costly, and consumed time. Means of communication were rare. The scope of Abbott's court was, by common consent, extended. The colonists broke up their claims, and took several securities not exceeding £50. Though actions were thus multiplied they were decided on the spot. There was no appeal from Abbott's court, and he prided himself upon administering law according to what was right without care about technicality. He listened, however, with complacence, to professional men. We are told that his decisions generally commanded respect. He permitted convict attorneys to appear before him "merely in virtue of the authority given to them by their employers." "As late as November 1821 no free professional person had arrived at Hobart Town to

³ Bigge's Report. Judicial Establishments. House of Commons Papers. Feb. 1823.

practise."⁴ Towards the close of Collins' career in 1810 he endeavoured to establish a newspaper, but it did not prosper. In Davey's time (1814) it was temporarily revived, but sank again, and was only fledged for lasting life in 1816, with the title of the *Hobart Town Gazette and Southern Reporter*.

Nevertheless there were stirring events in the little community. Bushrangers—runaway convicts who had become robbers—exercised a reign of terror in the sparsely inhabited districts. The columns of the *Sydney Gazette* furnish a picture of Van Diemen's Land. Macquarie, in May 1812, subjected the Port Dalrymple settlement to that at Hobart Town. In May 1814 it was announced that the late Actg. Dep. Surveyor of Lands at Port Dalrymple, and another man, late Actg. Dep. Commissary of Stores and Provisions at the same place, had "unlawfully absconded into the woods," "and put themselves at the head of divers profligate and disorderly persons, convicts, and others." Twenty-seven were named. Amongst them was Michael Howe, afterwards a notorious ruffian.⁵ All were required to

⁴ Bigge's Report. Judicial Establishments. House of Commons Papers. Feb. 1823.

⁵ It would be unprofitable to record the exploits of bushrangers generally, but as much has been written about Howe, a few lines may be necessary. He had been a sailor. Having been convicted of highway robbery, he was transported to Hobart in 1812. He joined the band spoken of in the text. His thieveries were numerous. He was assisted in some of his escapes by an aboriginal girl who accompanied him. A scouting party, led by an owner of a schooner, attacked Howe and his numerous comrades. Five of the assailants were killed. Soldiers were sent to garrison the home-stand of the unsuccessful owner of the schooner. When the bushrangers in their turn attacked, they were beaten off with loss. Their leader, Whitehead, was shot; and Howe, in pursuance of a compact, cut off his comrade's head to prevent its falling into the hands of the Government. Howe became the captain of the band, and called himself the "Governor of the Ranges." He took the life of any member of the gang who offended him. A convict, Worrall, who yearned for the free pardon offered for the capture of Howe, was zealous in aiding the soldiers. In a race for life, the black girl, following Howe closely and guiding his flight to intricate fastnesses, could not keep up with him. The rascal urged her to speed, but her strength was exhausted. He shot her, and escaped in a ravine. She was not killed, but her affection for him was quenched. She aided his pursuers. At last Howe was alone. He was once captured, but slipped from the cords which bound him, killed one of his captors, and, wounding the other mortally, escaped. But Colonel Sorell's measures were effective. William Pugh, an intelligent and daring soldier, concealed himself with

return peaceably. If they would do so all but wilful murderers would be pardoned. If they should refuse, they would be treated as outlaws. Some surrendered (including Michael Howe, who after three months absconded again), some were pardoned,⁶ and immediately resumed their habits of plunder. Colonel Davey proclaimed martial law in May 1815 in spite of remonstrance from Abbott.

It was nominally in force during five months. Macquarie disallowed the proclamation as exceeding the powers of a Lt.-Governor. But Macquarie was not able to enforce under Davey measures for crushing the evil which, in the measured language of a Commissioner of Enquiry, became "a systematic, continued or combined effort of desperate convicts to defy the attempts of the local government or to subsist by plunder."⁷ Davey was removed.⁸ Some of the inhabitants of the distracted island had vainly presented an address (Sept. 1815) in favour of maintaining martial law. When the new Lt.-Gov., Colonel Sorell, arrived, bushranging was still rampant in the land, and one of the most notorious was Peter Geary, a deserter from the 73rd Regt. Sorell called the inhabitants together to devise the means of coping with the difficulty. They agreed (5th July 1817) to subscribe funds. Sorell offered rewards which breathed new life among the constabulary. For Geary one hundred guineas were offered. Soldiers joined in the pursuit. Many outlaws were taken, and a stop was speedily put to the dangers which, under Davey's rule, had terrified the peaceable and made insolent the bad.

A detachment of the 46th Regt. was the principal instrument in reducing the island to order. Under Sergeant McCarthy eight of the 46th encountered eleven bush-

Worrall in a hut to which a third man enticed Howe in 1818. After fruitless exchange of shots and desperate pursuit, Pugh and Worrall dashed out Howe's brains with the butt ends of their firelocks. Sorell entreated Macquarie to give Pugh "the greatest favour he could," and urged that Worrall should receive a free pardon and a passage to England.

⁶ Commissioner Bigge's Report (May 1822). House of Commons Papers, p. 109.

⁷ Bigge's Report, p. 102.

⁸ Despatch—Macquarie to Earl Bathurst, 3rd April 1817—thanks him "for so readily and promptly attending to my suggestion for the removal of Lt.-Governor Davey," who neglected his duty and Macquarie's orders, and was shamefully extravagant with public property.

rangers under Geary. The robber fell mortally⁹ wounded. Two of his companions were wounded and captured. Colonel Davey was a witness of these events. He dwelt in the island for some time as a settler before he retired to England. Sorell instituted "musters," similar to those in New South Wales. Convicts were thus kept under watch, and a check was established upon the issue of passes to them. But Colonel Sorell was not successful in raising the moral tone of the community. Mr. Bigge reported that it was lower in Van Diemen's Land than in New South Wales.

Exploration of the interior and of the coast of the little island was prosecuted during Macquarie's control. Flocks and herds increased. Wheat and even meat were exported to Sydney (1816—20), and in 1821 the muster showed a population of 7400; 15,000 cultivated acres; 35,000 cattle; 170,000 sheep; 550 horses; and 5000 pigs. Macquarie visited his dependency in 1821. He made a vice-regal progress, conferred names on places and pardons on convicts, and published a glowing account of the island and of his proceedings.

On the gloomy picture of the condition of the natives he did not descant. It was in keeping with the events of 1804. When the settlement was reduced to straits for food, kangaroo hunting led many whites into the bush, and more than one isolated hunter fell a victim to the revenge of the blacks for the massacre of 1804. The number of natives killed is not recorded in any human annals. Yet between 1805 and 1810, we learn that one huntsman, Germain, was continually with them in safety, and that he declared that till they were excited by ill-treatment "there was no harm in them." In vain Lord Hobart urged the Governor to use them kindly. Convicts let loose to forage for themselves, and armed with muskets, cared little for the Governor when roaming out of sight in the primæval forest. Collins endeavoured to imitate Phillip by securing a native. The prisoner escaped with his fetters. Collins notified that those who fired on the natives wantonly, or murdered them "in cold blood," should suffer the last penalties of the law.

⁹ There was a coroner's inquest on Geary's body. The verdict was—"Homicide in furtherance of public justice."—Wentworth's "New South Wales," p. 143. 1819.

His notice was vain. Two whites were missing in 1810. One was thus described in the *Derwent Star* (Jan. 1810):—

“The natives who have been rendered desperate by the cruelties they have experienced from our people, have now begun to distress us by attacking our cattle. . . . No account having been received of William Russell and George Getley, there can be no doubt of the miserable end they have been put to. This unfortunate man, Russell, is a striking instance of divine agency which has overtaken him at last, and punished him by the hands of those very people who have suffered so much from him; he being well known to have exercised his barbarous disposition in murdering or torturing any who unfortunately came within his reach.”

Colonel Davey endeavoured to win the confidence of the natives. Through the agency of a native woman living with a white man, between thirty and forty of them visited the settlement. In spite of the Governor's known desires, some worthless Europeans maltreated them, and they escaped. Davey declared that “he could not have believed that British subjects would have so ignominiously stained the honour of their country and themselves, as to have acted in the manner they did toward the aborigines.” Sorell swelled the sad testimony. In 1819 he reminded his subjects that the natives were “unsuspicious and peaceable, manifesting no disposition to injure” in certain remote places, “and they are known to be equally inoffensive in other places where the stock-keepers treat them with mildness and forbearance.” One instance will suffice as a record of the atrocities committed. Formal inquiry¹⁰ established the fact that about the time of Governor Davey, a man, while capturing a native woman, killed her husband, slung the bleeding head upon her neck, and drove her thus before him to be retained by force.

From such scenes it is a relief to turn to the progress of discovery in New South Wales. When Macquarie assumed the government in 1810, the colony consisted only of the county of Cumberland, with an outpost at the mouth of the Hunter, reached by sea. Westward, the Blue Mountains, whose rugged watershed fed the Nepean, the Cox, the Grose, and other tributaries of the Hawkesbury, had

¹⁰ Report of a Committee appointed by Governor Arthur in 1830. “In exemplification of (the ‘dreadful and unnecessary barbarity’ practised) the Committee cannot but mention one fact, which from its atrocity would have appeared to them perfectly incredible, had it not been confirmed by testimony which they cannot doubt.”

hitherto barred all progress. The colony was cooped in by a mountain barrier on the west, and by broken sandstone ridges on the north and south. The Hunter river was known, but it was resorted to only as a penal settlement, and as a place where coal and cedar might be procured. In 1817, Captain Wallis, commandant at Newcastle, permitted well-behaved convicts to go to Wallis plains and to the river Paterson, and assist in raising food for themselves and others. The whole free population of the district, viz., the store-keeper, the assistant-surgeon, and the pilot's son, were allowed to take up lands at the same places. But in 1813 the gloom which had so long shrouded the western interior was dispelled.¹¹ Gregory Blaxland, William Charles Wentworth, then only twenty years old, and Lt. Lawson, with four servants, four horses, and five dogs, started on the 11th May with six weeks' provisions, from the South Creek near Penrith, to solve the mystery which for a quarter of a century had baffled explorers. The *Sydney Gazette* recorded their departure with hope, but hardly with confidence. They crossed the Hawkesbury at Emu Island, and by toilsome journeys literally cut their way by slow stages through the tangled underwood and amongst the rocky precipices and broken mountains and gorges. When they found patches of grass they cut it and carried it on as food for their horses. They endeavoured to keep on the dividing ranges between the river Grose and the Western river. Leaving two men to guard the horses, on the fourth day the remainder of the party "cut their way for about five miles." On the fifth day they cut their way two miles further; finding no food for horses. On Sunday they rested, but "found reason to regret the suspension of their proceedings, as it gave the men leisure to ruminate on their danger." On the following day (17th) they loaded the horses with as much coarse rushy grass as they could carry, and the whole party moved on in the path already cut. They camped on a ridge, having to fetch water for themselves up the side of a precipice six hundred feet high. The horses were without water. On the 18th the explorers cut their way for a mile and a half, being compelled to

¹¹ "A Journal of a Tour of Discovery across the Blue Mountains in the year 1813." Gregory Blaxland. Reprinted in Sydney, 1870.

remove large stones to enable them to pass along a ridge which had deep precipices at its sides. On the 19th they "began to ascend the second ridge of the mountains," and obtained a view of the settlements they had left behind them. Mount Banks bore N.W., Grose Head N.E., Prospect Hill E. by S.; the seven Hills E.N.E.; Windsor N.E. by E. "At a little distance from the spot at which they began the ascent they found a pyramidal heap of stones, the work evidently of some European. This pile they concluded to be the one erected by Mr. Bass, to mark the end of his journey," but it was afterwards attributed to Caley, and it became known as "Caley's Repulse." Congratulating themselves on having penetrated further than any other European, they proceeded by daily journeys of from three to five miles, and on the 28th they "contrived to get their horses down the mountain by cutting a small trench with a hoe, which kept them from slipping, where they again tasted fresh grass for the first time since they left the forest land on the other side of the mountain." They had passed the mountain barrier and left Mount York behind them. On Monday the 31st May, computing that they had travelled "fifty miles through the mountain," and being then in fine "forest or grass land," they "conceived that they had sufficiently accomplished the design of their undertaking, and on the following day they bent their steps homewards." On the 6th June they "reached their homes, all in good health." The *Sydney Gazette* triumphantly recorded their "return from their trackless journey without the slightest injury," after discovering "a prodigious extent of fine level country."

In Nov. 1813 Macquarie despatched Mr. G. W. Evans, an Assistant-Surveyor, with five men, and two months' provisions, to follow the marked path of the volunteers. Following their track to the end, Evans continued his journey for twenty-one days more, and described the country he saw as "equal to every demand which this colony may have for extension of tillage and pasture lands for a century to come." He returned after an absence of seven weeks. In a Government Order (12th Feb. 1814) Macquarie, "in consideration of the importance of these discoveries, and calculating upon the effect they may have on the future

prosperity of the colony," announced his intention to grant to Evans a pecuniary reward, and one thousand acres of land in Van Diemen's land whither he was to proceed as Deputy-Surveyor. In the same Order, the Governor was

"happy to embrace this opportunity of conveying his acknowledgments to Gregory Blaxland and William Charles Wentworth, Esqs., and Lieut. William Lawson, of the Royal Veteran Company, for their enterprising and arduous exertions on the tour of discovery which they voluntarily performed, being the first Europeans who accomplished the passage over the Blue Mountains. The Governor, desirous to confer on these gentlemen substantial marks of his sense of their meritorious exertions, means to present each of them with a grant of 1000 acres of land in this newly-discovered country."

Macquarie visited the new territory, and conferred pardons upon convicts who had the honour of assisting to convey supplies for the use of his suite. Convict labour was devoted to making a road across the Blue Mountains. It was opened in April 1815. Macquarie fixed upon Bathurst as the site of a town. Many colonists sent sheep and cattle to the park-like forests and plains on the watershed of the interior. But whither did those western waters flow? A band of eight convicts thought their course must be to the east coast, and in October 1815, started from Windsor on their way to New Guinea. Skulking near the main road, and avoiding exposure at Bathurst, they followed downwards the Macquarie river. Reduced to utmost want they were sustained by the kind offices of the natives, who fed them, and in response to signs, guided them to Bathurst. Emaciated almost to death, most of them reached the settlement, but for some time barely clung to life. Such account as they could give of their wanderings was obtained by the Government, and it whetted public curiosity. Macquarie determined that the rivers Lachlan and Macquarie, named after himself, should be traced; and in 1817, Oxley, the Surveyor-General, started from Bathurst with a well-equipped party, containing Mr. Allan Cunningham the botanist, and Mr. Parr as mineralogist. They followed the course of the Lachlan until they found themselves on the boundless level surface through which the river (which to their surprise was rising though they had had no rain) lazily meandered in ana-branches amongst *which it was difficult to ascertain the main stream.* The

rising waters endangered the lives of the party. Oxley turned aside, steering for the south-west, in hope of reaching Cape Northumberland. He had run risk from flood. He was to endure thirst. The country between the Lachlan and the Murrumbidgee was parched; water was scarce; and some of the horses perished. He was but a few miles from the Murrumbidgee, and had he then persevered he would have reached it with far less difficulty than he encountered in turning back to the Lachlan. But he had to save the lives of his party, and could not surmise that within a few miles of him on the south, ran a larger river than the deceptive Lachlan whose marshes had defied him on the north. He turned back, and regaining the Lachlan, followed its course downwards, until the spreading of its waters made him resolve to close his explorations altogether. He denounced the country as "useless for the purposes of civilized men;" inferred, and not unjustly, that the Lachlan itself, unfed by affluents, must either be dry or become "a chain of ponds" in summer, and recorded his opinion that the low sandy hills on the south-western coast line were the "only barriers which prevent the ocean from extending over a country which was probably once under its dominion." His last effort was to take three men for a final attempt to solve the mystery of the Lachlan waters. Returning from a point in latitude 33.57.30, longitude 144.31.15, he diverged from the Lachlan to the north-east, and after cutting his way successfully through a belt of mallee scrub (*eucalyptus dumosa*) struck upon the Macquarie river, near a place he called Wellington Valley, and returned to Bathurst through a country which he described as beautiful and fertile. His narrative, though discouraging as to the Lachlan, was tempting as regarded the Macquarie. He was sent again in May 1818 to explore that river. Like the Lachlan it deceived him. He concluded that both rivers ran into "an inland sea or lake, gradually filling up by immense depositions from the higher lands left by the waters which flow into it. It is most singular that the high lands on this continent seem to be confined to the sea-coast, or not to extend to any great distance from it."

Unable to follow where the river could not preserve a

marked channel, Oxley determined to steer to the eastern coast. The Castlereagh arrested him for a week, but he reached the Arbutnot Range, and ascended Mount Exmouth on the 8th August. Passing on to what he called Hardwick Range, he surmounted all difficulties, and reaching a beautiful and rich pastoral land on his way, called it Liverpool Plains.

On his Lachlan journey he had seen the Myall tree, which Allan Cunningham had called the *Acacia pendula*. At Liverpool Plains he saw it in its most graceful forms, and most redundant growth. Crossing the Peel river, he ascended the western slope of the cordillera, attained the table-land of New England where it divides the waters of the Namoi from those of the Macleay, and reached suddenly one of the most startling sights which could confront a traveller. As he passed over an undulating country, the land terminated. An abyss was before him. The waters of various streams found their way by broken waterfalls, and reached the bottom of a gorge from one to two thousand feet in depth. The sides of the ravine were precipitous rock. Lesser clefts branched here and there to make extrication more difficult. He had reached the edge of the New England Falls. Descent was impossible. He determined to skirt the gigantic precipice till some practicable place could be found which would enable him to reach the sea. Foiled as he was by this sheer wall of rock, and gazing downwards into the distant depths, where the streams tumbled foaming among the boulders at the foot of each mountain side, Oxley could yet admire it. "It would be impossible," he said, "to form any idea of the wild magnificence of the scenery without the aid of Salvator's pencil."

After vain efforts to descend towards the sea, he found a way to the south of the falls, where he named Mount Seaview, whence he descried the coast-line. The ascent and descent were difficult. None but those who have been in a primæval mountain forest can understand how, in the absence of all path or track, the growing timber, the fallen trees, the tangled underwood, the precipices, ravines, and crags, thwart the progress of an exploring party. Oxley *overcame* all difficulties, and by a tributary of a river (he

named the Hastings) reached and named Port Macquarie, twelve weeks after leaving the Macquarie river. Even then his journey to Sydney was full of hazard. Horses died of exhaustion; the Manning river was only crossed by means of a stranded boat seen on the shore twelve miles off, and by great exertion carried by men to the river. Oxley reached Newcastle on the Hunter with an advance party, and obtained provisions to relieve his companions.

Early in Macquarie's reign a man born for exploration appeared, and succeeded in all his attempts. Hamilton Hume (the son of a commissariat officer, who after being wrecked in the *Guardian* with Riou, reached Sydney in the *Lady Juliana*), was born at Parramatta in 1797. The ease with which he could move from place to place in a mountainous and thickly wooded country,—seeming intuitively to divine the most practicable course,—was wonderful in the eyes of those who accompanied him. When seventeen years old, he, with a brother and a black boy, went beyond the Cowpastures, threaded his way through Bargo Brush, and discovered the country about Bong Bong and Berrima. Two years afterwards he led Mr. Throsby to that neighbourhood, and afterwards discovered Goulburn Plains on the Wollondilly, and Lake Bathurst. For this exploit Macquarie granted him three hundred acres of land.¹² Thus in a few years were the bounds of the colony extended, and new regions made known, and Macquarie was in imagination the master of the ceremonies, presenting a fertile continent to his country. Exploration by sea was continued during his rule. Captain Phillip Parker King, son of the late Governor King, was selected

¹² The settlement made at Goulburn Plains was remarkable for being one of the few at which there was no feud between the black and white races. The first settlers were circumspect and kindly to the natives, who responded amicably. One stockman indeed detained by force a native woman. The tribe remonstrated, and told the man they would kill him rather than allow him to keep their countrywoman from them. The man was confident against them, but they kept their word. An inquiry was instituted, but when the facts were known, no steps were taken by the authorities to avenge the stockman's death. No other victim fell on either side subsequently.

Familiar with the district, the author knows these facts on the authority of W. P. Faithfull, Esq., one of the first who went thither; who long resided in it with the esteem of all; and was one of its earliest representatives in the Legislature.

as the commander, and in 1817 sailed in the *Mermoid*, of eighty-four tons burden. His instructions were to continue the work of Flinders (whose book and maps had been published in 1814) from Arnhem Bay on the west of the Gulf of Carpentaria, by the north-west Cape, and on the west coast. After taking in wood and water at King George's Sound, he commenced his actual survey at the North-West Cape. Exmouth Bay, Nichol Bay, Port Essington, Van Diemen's Gulf, were surveyed, and the Alligator river was ascended in a boat for nearly forty miles. King saw many Malay proas. He was kind and cautious in dealing with the natives, but could not always prevent the use of fire-arms by his men. In 1818 he surveyed Macquarie Harbour in Van Diemen's Land, and Port Macquarie (on the east coast of New South Wales), which Oxley had discovered. In 1819 he sailed through Torres Straits; and, though reduced to one anchor, continued his coast survey. At longitude $125^{\circ} 41'$ he bore up for Timor, having in his two voyages added more than a thousand miles to the coast-line surveyed by his countrymen. In 1820, Macquarie being still Governor, King sailed again in the *Mermoid*; but after reaching his previous point, was compelled by the leakiness of the *Mermoid* to return. Macquarie fitted out the *Bathurst* for him, and again King sought the north-west coast,¹³ resorting to the Mauritius for provisions, and returning by King George's Sound and Swan River to continue his survey. His labours were concluded in 1822, when Macquarie no longer reigned in Sydney.

The legal functionary whom Governor King had so often and so earnestly asked for, was, by force of events, extorted from the government after the deposition of Bligh. Macquarie took with him a new Advocate-General, Mr. Ellis Bent (who was in 1811 made Judge and Commissary of the Vice-Admiralty Court of the territory). It soon appeared necessary to erect a Court which no Governor could hope to

¹³ In passing Clark's Island, off Princess Charlotte Bay, on the east coast (latitude 14° S.), Allan Cunningham saw paintings by the natives on rocky cliffs, and within a large cave, which impressed him and King as works of art deserving particular observation. They seemed of a higher order than those seen by Flinders in the Gulf of Carpentaria. They represented animals, fish, creeping things and vegetable substances. They were executed with several colours.

deal with as Bligh had attempted to treat the highest Court in the colony in 1808. The quarrels of civil litigants, it was resolved, should be separated from the administration of the high Criminal Court. A new commission and letters patent (4th Feb. 1814) effected a separation of the civil and criminal judicatures, formerly united under the presidency of the Judge-Advocate. A Civil Court, called the Governor's Court, was composed of the Judge-Advocate of the colony and two inhabitants appointed by the Governor. Another, called the Lt.-Governor's Court, was created in Van Diemen's Land under the presidency of a Deputy Judge-Advocate.

A Supreme Court was established in Sydney. The Judge was to be appointed by the Crown. Two magistrates appointed by the Governor were to aid the Judge. Over all was the High Court of Appeal, presided over by the Governor himself, with the Judge-Advocate as assessor. No change was made in the Criminal Court, where the Judge-Advocate presided. Mr. Ellis Bent, after painstaking compilation of rules of practice, died, universally regretted, without being able to open the Governor's Court. A *locum tenens* opened it for the first time in January 1816, and a new Judge-Advocate, Wylde, arrived in October of that year to preside over it. Mr. Wylde (afterwards Sir John Wylde, and Chief Justice at the Cape of Good Hope) had the rare and not felicitous fortune of presiding in the Court in which his father was a subordinate official as Clerk of the Peace.

The first Judge sent to the new "Supreme Court of Civil Judicature" was Jeffery Hart Bent, a brother of Ellis Bent.

Macquarie quarrelled with Judge Bent at a very early date. Bent questioned the legality of a certain road toll, of which the surplus, after repairs, was paid to a Police Fund. Macquarie told the Secretary of State that a letter from Bent contained "false assertions and malignant insinuations." Macquarie having determined to associate with freedmen, and to force their society upon others, was enraged because Bent would not suffer convict attorneys to practise before him. George Crossley was one of those who desired the privilege. The irate Governor wrote of Bent—he holds no Court, "nor is it his intention to hold one until the point in regard to the re-admission of attorneys

sent here as prisoners shall be determined agreeably to his own wishes in the negative." Macquarie went so far as to express his "decided opinion" that Bent ought to admit Crossley.¹⁴

Lord Bathurst was discreet enough to agree with Bent rather than with Macquarie.¹⁵ But the latter acted vigorously on the spot. He informed Lord Bathurst¹⁶ that he had issued a General Order (11th Dec. 1816), notifying Bent's "removal and recall from his official situation, and declaring his disqualification and incapacity to act from thenceforth as Judge of the Supreme Court or a magistrate of this colony." . . . It was a "severe measure"—"I did it with extreme reluctance. . . . In one letter particularly Mr. Bent declares in speaking of himself and me that 'our local rank places but a shadow of distinction between us,' and, with a view of drawing a malignant contrast of his own, he adds that his irritability of temper has never led him into acts either of illegality or oppression," Lord Bathurst sanctioned the removal of the angry Judge by the angry Governor.

Bent's successor, Mr. Barron Field,¹⁷ the author of more than one law-book, had arrived in Sydney when Macquarie thus justified himself. Of Wylde, the Judge-Advocate, and Field, Macquarie said, "I have every reason to hope and believe they will in their respective situations prove a great blessing and acquisition to this colony." Of a solicitor who had not been a convict he wrote: "This worthless and unprincipled reptile under the pupilage of Mr. Bent shows himself a ready agent to undermine and blast, if possible, my honour and public character."

Without any consultation with the Judge, or apprising him of the nature of the case, Macquarie appointed a freedman as one of the magistrates, who, with Field, were to constitute the Supreme Court. Field, unconscious of the fact, could not remonstrate, but he afterwards expressed

¹⁴ House of Commons Paper. Appendix to Report of Gaol Committee, 1819.

¹⁵ Bigge's Report (22nd May 1822), p. 96.

¹⁶ Despatch to Secretary of State, 3rd April 1817.

¹⁷ He wrote "Narratives of Voyage and Travel;" and in 1822 read a paper on the Aborigines of New Holland and Van Diemen's Land, before a *Philosophical Society of Australia*.

to Mr. Bigge his indignation at the "want of candour" displayed by the Governor, who thus plotted to force the convict element into positions of importance.

Macquarie's general policy must be treated separately. It is sufficient to point out here that his deception of the new Judge at the outset renders it probable that at this early period Macquarie's association with the criminal class had blunted his own moral sense.

There was a feeling abroad that the powers of a Governor, who might be as rash as Bligh or vain as Macquarie, ought to be guided, if not controlled, by a council of advice. A Committee of the House of Commons had in 1812 recommended the creation of such a council. It might be deemed dangerous to place a Governor in a position of weakness; but at least his council would be able to protest against evil measures and transmit their protest to the Secretary of State. Lord Bathurst did not adopt the recommendation, and in June 1813 Macquarie poured forth his "great satisfaction." "So far from being an assistance, if unhappily tried, it would, in my opinion, most assuredly be productive of all the evils and inconveniences your Lordship so justly observes as likely to result from it. I, therefore, indulge a fond hope that the measure will never be resorted to in this colony."¹⁸ Assuredly, it would have been hazardous to create a council of advice, unless under restrictions which would have prevented Macquarie from placing upon it any of the convict class whom he delighted to honour; and it was hardly to be expected that the Secretary of State of those days would knowingly permit any of that class to take part in making laws after being condemned for breaking those which were in force.

Macquarie's industry was undeniable. For maintenance of order in his capital, he divided it in 1810 into five districts, each containing a watch-house. He named new streets,¹⁹ and changed the names of old ones. After a few

¹⁸ Macquarie to Lord Bathurst, 28th June 1813.

¹⁹ George-street was then named, having been theretofore called variously High-street, Spring Row, and Sergeant-Major's Row; Macquarie-street and King-street were christened for the first time; Hyde-park, then named, had been alternately called the Common, Exercising-ground, Cricket-ground, and Racecourse.

months he promulgated fresh regulations, dividing Sydney into eight sections; appointed fifty constables; defined their duties; called on all householders to report within twenty-four hours all persons in their houses at any time; and made D'Arcy Wentworth Superintendent of Police in Sydney and its vicinity.

In 1806 patrols had been established by Governor King in Sydney and Parramatta, with power to "imprison idlers," to pass officers, masters, supercargoes, and others enumerated, on their "making themselves known," and to detain "persons answering 'officer' who were not entitled to that appellation;" but the troubled times which had intervened, and the growth of the community, had made more systematic measures necessary, and Macquarie, with ampler military force, addressed himself to the task. He denounced the total disregard with which many of the lower classes treated the Sabbath, and their notorious profanation of it. Reluctantly, in May 1810, he resorted to coercive measures "to put a stop to the growing evil," and empowered constables to take up persons who could "not give a satisfactory account of themselves."

He resorted to a singular experiment in building a hospital. In a colony where Governor after Governor had striven to repress the vice of drunkenness with varying success; where on Governor King's retirement Bligh had been specially enjoined to adhere to King's custom of allowing no spirits to be landed without his written permission—Macquarie bargained with three persons, Wentworth, Blaxcell, and Riley, that if they would build a hospital, according to a plan submitted, they should have a monopoly of the sale of spirits for a term of years. The monopolists paid their workmen partly with goods and spirits. They built public-houses in the neighbourhood of the hospital. They would not let the public participate in the trade which debased the community and enriched themselves. D'Arcy Wentworth was the principal surgeon²⁰ of the colony at this time, and became Superintendent of

²⁰ When Jamison died in England Lord Liverpool was requested by Lord Wentworth Fitzwilliam (Jan. 1811) to appoint D. Wentworth to the vacant office "if found not incapable of the duty—as the reward of long service."

Police, Treasurer of the Police Fund, and an active promoter of the Bank of New South Wales. It will be remembered that he had pledged himself on the faith of a gentleman, in 1800, not "to enter into any future speculations contrary to His Majesty's instructions." He speculated in drunkenness with the aid of Macquarie in 1811. In a letter (23rd April 1811) to Mrs. King, the widow of the Governor, Marsden thus alluded to the transaction :—

"Messrs. Wentworth, Blaxcell, and Riley have got the contract for building the hospital at Sydney, and they have the sole privilege of buying spirits. . . . This contract will continue more than three years. I consider it a very great evil to the settlement. The affairs of this country have taken quite a new turn, and a very unexpected one;—a new class of magistrates with all the new productions that such a union was likely to produce. I have retired behind the scene, and live very quiet, remote from the din of politics. I have nothing to attend to but my own duty, which makes me more happy than I ever was since I came to this colony."

Macquarie laid the first stone of his hospital in Oct. 1811. He completed the King's Wharf in 1813. When Commissioner Bigge was conducting his inquiry Macquarie alleged as one of his reasons for keeping so many convicts employed on works and buildings that the settlers could not take them as assigned servants, but Bigge found ample evidence to the contrary. It is as satisfactory to find that Lord Liverpool was displeased with Macquarie's spirit-monopoly contract, as it is astonishing to notice that Macquarie expressed (Nov. 1812) his surprise that the contract had met with "disapprobation." He promised to avoid making similar arrangements without previous communication. He explained that when the project was first mooted, Wentworth²¹ had nothing to do with it, but at the request of Riley and Blaxcell joined them. He was forbidden to repeat such experiments. The

²¹ Bigge said: "Mr. Wentworth who has had considerable experience on this subject (admits), that the desire of obtaining spirituous liquors is the principal incentive to crime among the convicts, and that the greatest and only chance of their improvement is to be found in the absolute privation of them." Macquarie extended his favours to the uttermost. When instructed that the importation of spirits must be free, he, "in consideration of certain statements made by the contractors" for the hospital, extended their monopoly from 1813 to Oct. 1814.—Bigge's Report (on Judicial Establishments), p. 64.

traffic which Governor King had crushed in 1800, when he obtained the pledges of D'Arcy Wentworth and others, "on their faith as gentlemen," that they would "not enter into any future speculations or purchases, contrary to His Majesty's Instructions," was, by Macquarie's formal act, revived in favour of D'Arcy Wentworth himself.

Earl Bathurst after a short time revived the prohibition.

In 1816 Macquarie published a General Order stating that he was specially commanded by Lord Bathurst "to notify to all persons holding situations under this government that they are not to be permitted, on any account whatever, to carry on, or be concerned in, mercantile or commercial transactions; and that in the event of any officers under this government either commencing or continuing any kind of mercantile occupations after the promulgation of this notice they shall be dismissed from their said situations."

Macquarie in a published letter (1820) declared that, "If at present any of the officers of the government carry on trade, it is by underhand means." . . . "It would be very greatly for the benefit of this settlement if the civil servants were removed occasionally *bodily* to some other colony as the military are. . . . Persons long domesticated in a country naturally colonize, and form themselves into combinations destructive of social order. . . ." The social order which Macquarie desired was the aggrandizement of the emancipated convicts, and it jarred upon the feelings of those who, whether civil servants or settlers, were "naturally" (in his language) bent upon "colonizing" of a different order from that which he aimed at.

In June 1813 it was resolved to build a new Court-house. The Governor recommended the subject to the public, and offered £500 on the part of the government. A meeting of the principal inhabitants was held at the Judge-Advocate's Office. It was determined to collect subscriptions. Macquarie privately gave £60, the Lt.-Governor gave £50, the Judge and D'Arcy Wentworth gave £40 each, and Marsden gave £30. In August nearly £2000 had been subscribed, and in September tenders were invited. Fines and forfeitures for misdemeanours were appropriated for the Court-house Fund, of which D'Arcy Wentworth was treasurer.

Thus did the early builders create Sydney. In one instance Macquarie abstained from providing a building urgently required. In 1815 Mr. Marsden vehemently urged that the female factory at Parramatta should be replaced by a fitting building. There were one hundred and fifty women and seventy children. There was no room that could be called a bed-room for them. There were two workshops. In these, after the labours of the day, about thirty women slept as they could on the floor. No bedstead, no candle, was in the establishment. About "one hundred and twenty women are at large in the night to sleep where they can." There were thirteen public-houses in Parramatta, while five at the utmost would suffice for public accommodation. Marsden besought Macquarie to provide at least lodgings for the women.

"When I am called upon in the hour of sickness and want to visit them in the general hospital, or in the wretched hovels where they lodge, my mind is often oppressed beyond measure at the sight of their sufferings. As their minister I must answer ere long at the bar of Divine Justice for my duty to these objects of vice and woe; I see how they live and how they die, and often feel inexpressible anguish of spirit, in the moment of their approaching dissolution, on my own and their account, and follow them to the grave with awful forebodings lest I should be found at last to have neglected any part of my public duty as their minister and their magistrate, and by so doing contributed to their eternal ruin. So powerful are these reflections sometimes that I envy the situation of the most menial servant who is free from this solemn and sacred responsibility, namely, the care of immortal souls. . . . I humbly conceive it is incompatible with the character and wish of the British nation that her own exiles should be exposed to such privations and dangerous temptations, when she is daily feeding the hungry, and clothing the naked, and receiving into her friendly, and I may add pious, bosom, strangers, whether savage or civilized, of every nation under heaven."

Macquarie replied civilly, but did nothing, and Marsden, after waiting eighteen months without any prospect of obtaining relief for his clients, sent copies of his letter and of Macquarie's reply to the Secretary of State. Both documents were in 1819 laid before a Committee of the House of Commons with Macquarie's explanations. Marsden was not without support in England. Mr. Henry Grey Bennett read in his place in Parliament a letter from Marsden showing that in spite of all remonstrances Macquarie would do nothing to ameliorate the condition of the female

convicts;²³ that in the hospital the grossest debauchery prevailed, and that Marsden's protests were set at nought.

Mr. Bennett himself published (1890) a letter to Lord Sidmouth, on the condition of the colonies "as set forth in the evidence" taken before the Committee in 1819. At that date Mr. Bigge had gone to Sydney as a Commissioner to inquire into the state of the colony. Mr. Bennett expected "much from his talents and integrity," but some of the existing evils were so great that "the Colonial Office should not delay a moment in correcting" them. Mr. Bigge condemned the apathy of Macquarie with regard to the Parramatta Hospital and Factory, and pointed out that while neglecting to improve them the Governor had been erecting costly stables for his own use in Sydney. Macquarie's trusted architect was a convict.

The Governor's friends were indignant with Marsden for exposing the evils prevalent at Parramatta. Mr. J. T. Campbell, the Governor's Secretary, attacked Marsden anonymously in the *Sydney Gazette*, of which Campbell was the official censor. Suspecting Campbell to be the libeller, Marsden caused him to be prosecuted criminally. After lengthy proceedings,²³ the Court (six military officers) found Campbell guilty of permitting the publication, which it was his duty to prevent. Campbell's position was subsequently made worse by proof that he had written the libel, and that he consented nevertheless to the publication of an Order in which the Governor was made to "assign reasons of inadvertence for an act that was afterwards proved to have been wilful."²⁴ Marsden's solicitor thereupon solicited a respite of judgment on the ground that

²³ A singular Order appears in the *Sydney Gazette* in 1814. A muster had been held. Macquarie announced that, "as it appears that a considerable number of female convicts are living in Sydney without any control of servitude, probably availing themselves of former government indulgences, but without having received tickets of leave or any other regular authority for so doing; such persons are hereby required to make proper application for that purpose, and those who produce such testimonials of their good character as may appear deserving of consideration" would receive tickets of leave.

²⁴ A summary will be found in Commissioner Bigge's Report on the *Judicial Establishments of the Colony*.

²⁵ Bigge.

Marsden was actuated by no vindictive feelings. The defendant was discharged as regarded the criminal aspect of the case, a civil trial was instituted in the Supreme Court for damages, and in spite of the influences brought to bear by Macquarie, Marsden obtained a verdict against Campbell for two hundred pounds.

There was one institution which combined in its favour the kindly offices of those who disagreed upon other matters. Of the Female Orphan Institution, established with such care by King, Macquarie was patron. Mrs. Macquarie was one of the patronesses. Marsden was treasurer. Writing to Mrs. King (in 1811), Marsden said: "The Orphan School still goes on. We have had some trouble with the men in power, but I believe that everything now relative to the school is well. We have some very fine girls in the school, and some have been married and do well. This school will be yet the greatest blessing to this colony."

A Male Orphan School was founded by Macquarie in 1819.

With his aid the first bank in the colony (the Bank of New South Wales) was formed in 1816. With characteristic bias he strove to ensure the presence of the convict class in the directory. One of them, conditionally pardoned at the time, was associated with the committee for drawing up the rules. His original offence was felony. Judge Wylde was one of the promoters, and conscious that an infusion of felonious element in controlling such an institution would be injurious, took an early opportunity of proposing a resolution that no person should be eligible as a director who should not be absolutely and unconditionally free. Macquarie was indignant at the adoption of such a resolution, and soothed the feelings of his friend by granting him an absolute pardon, but it did not provide him with the coveted post of director. The Governor's Secretary became the President of the Board of Management, and D'Arcy Wentworth added a seat at the board to the numerous offices he had previously held. Wylde was a member, maugre the opposition of Macquarie.

In 1819, a Savings Bank was formed, and it does not appear that Macquarie ventured to place emancipists in the

governing body, which was to control the deposits of the poor. Half-crown deposits were received, and interest at the rate of seven and a-half per cent. was given. To inspire confidence in the management, Mr. Justice Field, the Lt.-Gov. (Colonel Erskine), Judge-Advocate Wylde, and Mr. Jamieson, were made the first trustees.

The circulating medium was scanty, and to increase its quantity and raise its purchasing power, in 1813, the centre of the Spanish dollar, then principally current, was struck out. The circular piece so taken out was called a "dump," and was taken as worth fifteen pence. The remainder, called a "holy dollar," was taken at the value of five shillings. Thus, in the colony, a part was made equal to the whole, and the mutilated coin was rendered worthless for exportation. Promissory notes were not to be issued for less than two shillings and sixpence.

Financial troubles were the subject of more than one proclamation. In 1813, "divers victuallers, publicans and others, irregularly and privately combined" to form themselves into a Commercial Society, and (Macquarie said) altered the then "subsisting rate of exchange between the bills drawn for the public service, and the promissory notes issued by different individuals, known by the name of currency," and introduced great confusion. There was reason to believe that they conspired not to take the notes of "persons however respectable other than themselves, or on their plan." It was necessary therefore to define how meetings might be held. There should be no meeting exceeding six persons without a requisition from at least seven householders, and convention by the Provost-Marshal. All other meetings of more than six persons would be unlawful assemblies. A magistrate might order the dispersion of such assemblies, and if they continued for one hour after such order, the offenders would be "deemed guilty of unlawful combination and conspiracy, and on conviction be imprisoned and kept to hard labour for the space of two years." The Provost-Marshal was to submit requisitions to the Governor, and not without his approval to convene meetings, at which he was to preside. The printer who *inserted* an advertisement without the Governor's authority was to be fined £50 for each offence. Licensed victuallers

calling unlawful meetings in their houses would thereby forfeit their licenses. If any person (after 8th Dec. 1813) should agree, or confederate, or entice, or persuade others "to refuse to take in payment the promissory note of any person or persons whatsoever, such person shall be deemed guilty of an unlawful combination and confederacy." Macquarie had again to intervene by proclamation. After the 18th Dec. it was to be unlawful to make notes "directly or indirectly expressing the rate of exchange or relative value between the sum payable by the same note and sterling money, or any government or public bills or notes whatsoever." To assist in negotiating such notes was made unlawful, and offenders were to "forfeit and pay, to any person informing of the same, treble the nominal sum secured or made payable by unlawful notes, with costs."

The export of wool proved its importance during Macquarie's term of office. The imposition of an import duty in England would have strangled it, if the product of the colony had been of coarse or inferior nature. The cost of freight amounted to four pence halfpenny per lb. in 1818, while land carriage, commission, and other charges raised the expense to nearly tenpence on every pound of wool taken to London. Only the finest quality could leave a profit to the grower. For one bale, John Macarthur obtained in London (Aug. 1821) as much as ten shillings and fourpence per lb., but for the bulk which reached England not more than two shillings per lb. was received. Wool sent by those who devoted no attention to its quality was sold at prices ranging from two shillings to one shilling.

Living in comparative retirement, Macarthur groaned in spirit during Macquarie's reign. Writing to England (1818) he deplored the obstacles to proper control of convicts. Of wool-growing he said: "My feeble attempt to introduce Merino sheep still creeps on almost unheeded, and altogether unassisted. Few of the settlers can be induced to take the trouble requisite to improve their flocks."

Mr. Bigge asked for Macarthur's opinions on the state of the colony, and management of convicts. Macarthur (1820) advocated the growth of exportable articles: wool, tobacco, bark, hemp, flax, oil. Convicts should be employed in *pastoral* and agricultural pursuits. Solitude,

reflection, and the absence of temptation were better than the "herding together in towns amidst a mass of disorders and vices." Much good might be effected by the introduction of respectable persons worthy to be entrusted with authority over convict servants. The regulations which placed "the good and bad servant, the honest man and the thief, upon the same footing, and authorized him not only to claim but to insist upon the same indulgences," operated perniciously.

Very shortly after the close of Macquarie's government, the Society of Arts in London presented to Macarthur by the hand of the Duke of Sussex two gold medals "for importing into Great Britain wool, the produce of his flocks, equal to the finest Saxony."

Macquarie's treatment of the natives did not redeem the government from the shame attached to it after the departure of Phillip.

He issued a proclamation (Dec. 1813) enjoining all persons to abstain from atrocities in New Zealand, Tahiti, and elsewhere. No vessel was to be allowed to clear from any port "without entering into a bond of £1000" to be of good behaviour. Trespass on lands and burial-grounds was forbidden. No native was to be shipped without his own consent. No female native was to be shipped without the Governor's permission.

Up to this period Macquarie had officially been courteous to Marsden. In April 1813 he issued an order—"to be read by the several chaplains during the time of Divine Service," returning (Macquarie's) most sincere "thanks to (Marsden) for his able, firm, and unwearied exertions as a magistrate." In Dec. 1813, at Marsden's suggestion,²⁵ a Society was formed for the protection of the South Sea Islanders against outrage. Macquarie was its patron; Marsden its secretary. When an "Institution for the Civilization and Care of the Aborigines or Black Natives of New South Wales," was afterwards formed by Macquarie during Marsden's first visit to New Zealand, Marsden was not included among the managers, and did not visit the school.

²⁵ Bigge's Report (Judicial, &c.), p. 27.

In June 1814 Macquarie notified his regret at unhappy conflicts at Bringelly, Airds, Appin, and the mountains; . . . "the first personal attacks were made on the part of the settlers and of their servants." He had strong assurances from natives, "that unless they be shot at or wantonly attacked (as in the case which occurred lately at Appin, wherein a native woman and two children were in the dead hour of night, and whilst sleeping, inhumanly put to death), they will conduct themselves in the same peaceable manner as they had done previous to the present conflict." The Governor would protect and decide between all. The Order was to be read in the churches.

Macquarie's appeal was vain. If he had acted as it was in his power to act he might have given effect to his wishes. In 1814 John Macarthur was kept in exile from Australia by the desire of the government, and in 1817 Macquarie himself sent away a Roman Catholic priest because he could not produce a written permission to immigrate to the colony. The deportation of those who butchered children at Appin would have been a less startling exercise of power than the imprisonment and deportation of the priest. Macquarie did not conceal the facts from the Secretary of State. He wrote (May 1814), that in consequence of "an aggression" in which one soldier and three other Europeans were killed—

"I despatched a small military party to the disturbed district, on whose approach the natives retired without being attacked or suffering in any degree for their temerity. In the course of this business I have caused inquiry to be made into the motives that might have produced it, and from thence I have learned that some idle and ill-disposed Europeans had taken liberties with their women, and had also treacherously attacked a woman and her two children whilst sleeping, and this unprovoked cruelty produced that retaliation whereby persons perfectly innocent of the crime lost their lives. Having had their revenge in the way they always seek for it, I am not at all apprehensive of their making any further attacks on the settlers, unless provoked as before by insults and cruelties."

In a later despatch (Oct. 1814) he enlarged upon the good qualities of the natives. They had never been cannibals, and he was anxious to establish an institution for their benefit.

While Marsden was on the sea (bearing a proclamation from Macquarie denouncing all wrongs done to the Maoris

in New Zealand; declaring Mr. Kendal a resident magistrate at the Bay of Islands; and investing Ruatara, Hongi, and Korokoro with power and authority to aid Kendal Macquarie (Dec. 1814) announced in the *Gazette* his intention to form a school for the aborigines. He wished to hold public conference with the tribes, and requested them to meet him at the market-place at Parramatta. All constables were directed to acquaint the natives, who assembled in large numbers. It was determined to found a school, and children were handed over for tuition. The meeting at Parramatta became annual, and blankets were in after years distributed to the failing remnants of the tribes. Even after the meeting at Parramatta there remained a few Hofers among the natives, who would not trust the Napoleon of the South, and Macquarie outlawed them, offering £10 for their capture "or destruction." Like a more ancient persecutor, he could say: "*Nil opus captivis, solam internecionem gentis finem bello fore.*"

Not long after Macquarie's conference there were hostilities. One instance will show their nature. A score of the evicted lords of the soil descended upon a farm at Bringelly, and carried off maize and other property. Seven white men crossed the Nepean on the following day to obtain vengeance. They had scarcely crossed the river when the natives darted from ambush, and disarmed every man before a shot could be fired. Two white men escaped unwounded. On the following day more farms were plundered; the occupants flying at the approach of the marauders. A farmer's wife, who was in a barn, took refuge in a loft. A servant assisted in barring out the assailants, who were beginning to tear off the roof (composed of sheets of bark), when the servant recognized one of them, and entreated them to show mercy. The prayer was granted. The blacks said, "they would not kill them this time"; and, as they departed, said "good-bye" to the astonished whites.

In March 1816 Macquarie reported that the mountain tribes had killed five white men. He would employ the military. In June he informed Lord Bathurst that he had sent military detachments "either to apprehend or destroy" the natives at the Nepean, the Hawkesbury, and the Grose.

The band of Captain Wallis had killed fourteen and captured five. Macquarie had invited the hunted creatures to become "settlers." In April 1817 he reported that, the bolder spirits being extinguished, hostilities had ceased. The terrified remnant sued for peace. At the annual meeting at Parramatta (Dec. 1816) 179 assembled, and some surrendered their children to be educated. Macquarie proclaimed that no native should appear armed within a mile of any town or village, and that they should not assemble in a larger number than six. He offered to introduce a passport system amongst them, and to give them land. If they would become farmers on small lots of land carved out of their old inheritance he would give them provisions for six months, seed, implements, a suit of clothes, and a blanket. His military detachments meanwhile obtained cheap glory. The killing of the fourteen blacks, reported to Lord Bathurst, was described as a battle. Many captives were lodged in prison. Many of their countrymen were shot in places not reported as battle-fields. On the branches of trees, in lagoons, in the swirling of rivers, many a black carcass was left to the kites and crows.

Under Macquarie the evacuation of Norfolk Island was completed. In June 1813 he informed Lord Bathurst that he had ordered the slaughtering of all the live stock on the island, to hasten its abandonment, which he reported as completed on the 28th Feb. 1814.

In Feb. 1816, while Macquarie was in the interior, the Rev. Benjamin Vale, military chaplain, caused an American vessel discharging cargo at Sydney to be seized as a prize under the Navigation Act. Macquarie removed the arrest from the vessel. A solicitor, whom Macquarie afterwards denounced as "an unprincipled reptile under the pupilage of Judge Bent," had aided the military chaplain. Macquarie told Lord Bathurst (March 1816), that the conduct of the chaplain and the lawyer was "highly disrespectful, insolent, and insubordinate." The former endeavoured to "vindicate the measure." "I ordered him into a military arrest, his commission as military chaplain rendering him amenable to martial law. I ordered a court-martial": 1. For the subversive act of seizure. 2. For insolent, disrespectful, and insubordinate conduct to the Governor.

3. For disgraceful and ungentlemanly conduct in making the seizure personally. 4. For equally disgraceful conduct in authorizing his agent (the lawyer) to write improper and inflammatory language to Lt.-Col. Molle, during Macquarie's absence. Macquarie ordered the stoppage of the solicitor's salary, for his "insolent, offensive, and insulting conduct in the late false, unwarrantable, and vain attempt to seize the vessel" in contempt of the Governor's authority. The lawyer averred that at the time of the seizure he knew "nothing of the Governor's having given permission for the vessel to be entered at the port." Lord Bathurst told Macquarie that his conduct was illegal, but Macquarie endeavoured to justify himself, and pending further instructions did not comply with the order to restore the solicitor to his position. Harsh language was not rare in Macquarie's mouth. In 1819, under his own hand, he addressed the government printer thus:—

"Understanding you have in your service a man who came to this colony last from the Cape of Good Hope without the sanction of His Majesty's Government, but who from motives of humanity I permitted to become a settler; and it having come to my knowledge that the said ——— did affix his signature to a scandalous, rebellious, and libellous paper, directed to the House of Commons, against my person and government . . . now it being my determination that no such infamous incendiary shall be employed in any department under government in this colony, I hereby command and direct you at your peril to retain the said ——— in your employ after one month from the date hereof."²⁶

Macquarie was dissatisfied with his brother officers. It was time, he thought, to alter the Criminal Court, and he asked that the 73rd Regiment might be removed.

Before the 46th Regiment left the colony, Colonel Molle had, as Lt.-Govr., asked for a court-martial to try certain charges against D'Arcy Wentworth, the principal surgeon. Macquarie, though he described the charges as "frivolous and ridiculous," ordered a court-martial, but the Judge-Advocate thought a court-martial had no jurisdiction over a civil officer like Wentworth, and the objection was sustained in England. Macquarie did not find reason to commend the "Royal Veteran Company of New South Wales," which he formed in 1810, when the 102nd (the old

²⁶ The above letter was published in England by Mr. H. G. Bennett, M.P., in a letter to Lord Bathurst, 1820. Mr. Bigge was then engaged in his inquiry in the colony.

New South Wales Corps) were relieved. In 1817 he recommended that they "should be disbanded altogether." They were "ineffective, old," and expensive. They received grants of land in various places. The settlement of some of them on the Mulwaree Ponds, in Argyle, caused the name "Veterans' Flats" to be given to the site. The name survived long after the Veterans had disappeared, and their holdings had been merged with adjacent possessions near the town of Goulburn. Though Macquarie recommended the disbandment in 1817, it was not carried out until 1823. Free passages to England were offered, but only three or four were accepted. Some veterans remained where they had spent a quarter of a century as soldiers.

Macquarie (Dec. 1817) reported the arrival of an immigrating priest, one O'Flynn; who told Macquarie that he had Earl Bathurst's permission:

"—but as he could not produce any written document from your Lordship or any other of His Majesty's Ministers, I concluded that if he had solicited he had been refused your sanction, and thence considering him an impostor I declined giving him permission to remain in the colony, but, on the contrary, have instructed him to quit it in the same ship (*Duke of Wellington*) in which he came, being persuaded he would do a great deal of mischief among the lower order of Roman Catholics were he allowed to remain."

On the 18th May Macquarie reported that he yielded to O'Flynn's entreaty for permission to remain till an expected ship might bring the desired credentials. But they did not arrive. O'Flynn was told to go back with the ship which had brought him. He "retired to some skulking-place in the country where he could not be found, and from whence he did not return until after the ship had sailed." He then promised to sail in the next ship to China or elsewhere, and Macquarie "being reluctant to resort to compulsory measures trusted to his honour." . . . I found he was "tampering with the soldiers of the 48th Regiment. I directed him by letter to hold himself in readiness to embark in the ship *David Shaw*." (The answer being unsatisfactory, there were) "no other means left for me to get rid of this meddling, ignorant, dangerous character than by securing his person, if possible." On the 15th May, O'Flynn was secured and put in "jail, where I mean

he shall remain until the ship shall be under weigh, at which time he will be embarked for England." Macquarie enclosed two of O'Flynn's letters which displayed ignorance; and said, if there were to be Roman Catholic priests, they should be educated people. O'Flynn, moreover, was seditious. In the colony there was some consternation. Marsden, in a letter to England (May 1818), said "the Roman Catholics are much enraged." Questions were asked in Parliament. Mr. Goulburn admitted that O'Flynn had applied to the Colonial Office, but averred that his letter was so ill-written as to create doubt; that the Roman Catholic authorities disowned the man, and that Macquarie had acted rightly in sending him away; but that measures would be taken to supply the wants of the Roman Catholics in the colony. Accordingly two Roman Catholic Priests were accredited to the colony. After a time subscriptions were collected in Sydney for the building of a Roman Catholic cathedral. Macquarie laid the foundation-stone (Nov. 1821) and hoped that the encouragement given to the Roman Catholics would induce them to continue, "as he had ever found them, loyal and faithful subjects of the Crown."

In 1815, a Wesleyan minister, Mr. Leigh, arrived in Sydney, and was soon joined by another, Mr. Carvasso. Macquarie discouraged Leigh at first, but Marsden took him by the hand, and on one occasion offered him, out of his private property, land sufficient for sites for a chapel and minister's house at Windsor. Marsden, having accompanied Governor King to England in 1807, had interviews with Lord Castlereagh. He urged that, to promote morality, convicts' wives should be sent from England at the public expense. He did not prevail. Already the wealth of emancipists attracted attention, and transportation was beginning to be looked upon as a means of reaching a better land. To enhance the comforts of criminals was but to increase the premium on crime. From Marsden's point of view his object was good, and his representations had the effect of causing the soldiers' wives to be sent with them. He urged that practical mechanics and manufacturers should be sent out also; and in Warwickshire and Yorkshire found the experts required. He saw George III.,

and (through Sir J. Banks) was allowed to procure pure Merino sheep from the Royal flock. He asked for two, and five were given. But his general and secular labours did not engross all his time. He personally sought and found two fellow-labourers for his Master's vineyard; the Revds. W. Cowper and R. Cartwright. He selected three schoolmasters, who were sent to the colony. He had interviews with the London Missionary Society and the Church Missionary Society, and impressed upon them his opinion that arts and civilization should go hand in hand with religion to the races which were to be converted. He laid before them his plans for carrying the Gospel to the South Seas and New Zealand. The Church Missionary Society selected Mr. William Hall and Mr. John King as missionaries to New Zealand. Both were laymen, but no clergyman could be found for the post. How, by meeting the high-born but woe-begone Ruatara on board the vessel which bore him to Australia, Marsden became the successful apostle of New Zealand, belongs to the history of that country. It is sufficient to say here, that Marsden's house was from that time until his death the home of every Maori who wanted advice, or was in any other need or affliction.

Having glanced at the religious condition of the colony, and the efforts of the first ministers of the Church of England, the Wesleyans, and the Roman Catholics, it is requisite to record one voluntary work, carried on apart by a few poor convicts, which cast light upon the gloom of the time, and gathered a devout congregation, whose orisons, like those of the cottar of Burns, shed a halo round the humble, and perhaps were heard as the acceptable "language of the soul." A number of prisoners were employed in sawing, and in splitting rails and shingles, at Pennant Hills, then a part of the forest remote from all sound of the holy bell which knolls to church. By their own exertions during leisure hours they built a decent wooden chapel there, for which the government supplied the nails, and permitted the workmen to appropriate the requisite timber. The overseer, a freedman named Kelly, and another carpenter, whose name is unfortunately not recorded, were

the architects.²⁷ A freedman named Home, who had been a schoolmaster at Parramatta, performed divine service regularly to an earnest audience in the temple thus made by the contrite for the worship of Him who is no respecter of persons. We are told that Home ever held fast to the doctrines which in this remarkable manner he was called upon to preach; and dull must he be who is not touched by the yearnings after righteousness displayed by his fellow-creatures in the lonely Australian forest.

For many reasons Macquarie's treatment of the free settlers, and of the convict class, deserves attention. With the petulance of the vain he irritated the first on all occasions; with the weakness of a small mind he made unworthy favourites amongst the second. He brought about his own recall by his demeanour towards the convicts, though his removal was based partly on other grounds. At first, all convicts except those employed as domestic servants were made to work for the government. The houses, the wharves, the streets, the roads, the barracks, and the gaol, had to be provided at once by Phillip. When civil and military officers were allowed to have grants of land, Grose supplied them with convict servants, and these servants were still "on the stores," as it was called, or provided with rations by the government. The convicts preferred assignment to a settler to service under government. Their overseers were convicts or ex-convicts, and were deemed more harsh and unfeeling than overseers who had always been freemen. When a convict-ship arrived there was much striving to procure the services of expert artificers as assigned servants. The freed class usually procured the assignment to themselves of their relatives who might arrive in bonds. A notable thief might sometimes find himself assigned to his own wife, or to his mistress who had followed his fortunes, and applied for him as an assigned servant. Masters of assigned servants in process of time endeavoured to make money directly by their services. They were not content with the profits on farm produce. They sold the boots, the chairs, and other articles manufactured by their skilled servants. But the number of servants to be assigned was

²⁷ Bigge's Report, p. 26.

limited in some degree by King, and Macquarie's passion for public works demanded so many workmen that he could not supply the settlers. His plea that the settlers could not take them Bigge found to be incorrect. At one time lots were drawn by applicants, but the system settled down into assignment by the superintendent of convicts, who was, of course, directly amenable to Macquarie. Favouritism prevailed. It is creditable to the shrewdness of King and his advisers, among whom Marsden was conspicuous, that the quantity which they fixed upon as a day's labour for convicts, in various employments, was so well adjusted that it was adhered to till the end of Macquarie's government. It left a margin of time which a hard-working man could profitably employ, and many men were paid for extra work done for their masters, or, by permission of their masters, for others. An ex-convict to whom a convict had been assigned, found it more profitable sometimes to hire out his skilled servant than to employ him at home. This source of gain to himself and his master was lost to the convict retained in government control. Convicts concealed their accomplishments, in order to be assigned to private masters. Convict overseers vied with the impostors in sharpness, and even when a skilled workman had evaded the watch, he was, if detected in his handiwork, taken back and put into the government "gang," by which term roadway and other large parties of convicts were known. The clank of the fetters of the "ironed-gang" passing on the road, jarred strangely on the unaccustomed ear of the immigrant. The corruption which was engendered by the system was notorious, and the demoralization of some masters was inevitable. A Parliamentary Committee (1812) denounced the assignment of convicts to masters who traded in their skill, many of the masters being "overseers and themselves convicts." "The selection of the assigned convicts being left principally to the overseer, it is made with reference to the means of payment possessed by them, and not to their characters or conduct." Hence skilful guilt purchased advantages which clumsy criminals could only hope to obtain by long servitude. Convict overseers connived at the evasion of task-work by those who could buy indulgence.

One motive with convicts who concealed their skill was the fear of being kept in bonds. To retain a good workman a settler of low moral tone, or a government overseer, would pick a quarrel with him, and the punishment inflicted always put off the time at which under the regulations the indulgence of a ticket-of-leave or a conditional pardon would be granted. The Parliamentary Committee (1812) declared that the convicts were "well aware that any skill that they may acquire or display in the service of government will be the cause of their further detention in it." The applications for assignment of convicts were in the first instance made direct to the Governor. Macquarie, in this matter, as well as respecting spirits landed from vessels, ordered that applications should be made to subordinate officials.

From the gangs in which the convicts were collected, thieves, burglars, and sharpers went out marauding. At a later date (1835) Judge Burton declared (in a Charge) that they poured in and out like bees; "with this difference, the one works by day, the other by night; the one goes forth to industry, the other to plunder." Macquarie and his friends vainly pleaded that the colony had prospered under his care. Emancipated crime had certainly thriven. The wit of Sydney Smith impaled the folly that made crime the stepping-stone to wealth and station. Culprits stood —

Orantes primi transmittere cursum,
Tendebantque manus, ripæ ulterioris amore.

Circumstances might have done something towards this end, but Macquarie did more. He endeavoured to make Australia a convict paradise; he reiterated that the colony was created for the benefit of convicts; he scorned the assumption of virtue by the unconvicted. He recognized no man's right to be in the colony unless he had, or ought to have been, convicted, and he strove to compel the free to receive the freed into their society. "My principle (he wrote) is that when once a man is free, his former state should no longer be remembered, or allowed to act against him." The class of which he was gaoler occupied his thoughts. Others were intruders in their domain. He *was surprised* at "the extraordinary and illiberal policy *adopted* by all the persons who had preceded him" in office.

The man whom he delighted to honour, and who was made a magistrate before Macquarie had been a fortnight in the colony, was, at the time, accused of conniving at frauds upon the government. The anomalies of the case were rendered more startling by the fact that (Feb. 1810) Macquarie notified his reprobation of immorality, and his intention to encourage only the decorous and moral. Yet from Jan. 1810, until his death, Bligh's ex-bailiff was an intimate associate with Macquarie. Bligh himself could hardly have recommended such conduct. When questioned at Johnston's trial in 1811 as to his conduct towards Thomson he swore: "When he had the impudence to address me on other subjects beside the little trust which was confided to him, I reprimanded him for it in the severest manner."

To be the companion of Thomson,²⁸ and to wade through degradation in defence of his companionship, seemed to gratify Macquarie. Thomson died in 1810, and Macquarie indulged two passions by erecting a memorial, and declaring that by having made Thomson a magistrate he had "restored him to that rank in society which he had lost." But the vanity of the man led him to think that he could create a new world; and, having coined a foolish theory, he wore out his life in defending it when it had miserably failed, and he himself had become soured. Another emancipist whom he made a magistrate was notably immoral, and was induced to resign after many years at Macquarie's request. A few extracts from the Governor's despatches should be cited. He declared (April 1810) that he had taken upon himself to "adopt a new line of policy," and had admitted several of the convict class to his table. He told Lord Bathurst (1813) that "free people should consider they are coming to a convict country, and if they are too proud or too delicate in their feelings to associate with the population of the country they should consider it in time, and bend their course to some other country." He

²⁸ The man though shrewd was illiterate. He was transported when sixteen years old: became a stonemason's labourer, retail dealer, builder of small vessels, illicit distiller, farmer, and superintendent of convicts working in his district for the government. Most of the facts about him are in Commissioner Bigge's Report.

endeavoured to persuade Lord Bathurst that anarchy was in the minds of the free. He admitted "that the only measure of mine" opposed is the reception of convicts "into my society;" but inconsequentially declared in the same despatch that his policy had encountered opposition, adding—

"Although the principal leaders who headed the faction which occasioned so much mischief and anarchy in this country (previous to my arrival) have left it, yet the seeds of it were so deeply sown that a considerable part of that factious spirit still exists. . . . I must also inform your Lordship that free settlers in general (not excepting the Messrs. Blaxland) who are sent out from England, are by far the most discontented persons in this country. . . . The best description of settlers are emancipated convicts, or persons become free by servitude who have been convicts."

The Secretary of State ought to have foreseen the probable consequences of the new "policy" propounded with so much ostentation. By not arresting it on the threshold he made himself in part an accomplice. When in after times he administered rebuke, evils had grown so great that censure of Macquarie effected little until the necessity of appointing a Commission of Inquiry brought about a total change.

Macquarie was at least disingenuous in his despatches. He had, indeed, in explaining his general intentions, said enough to rouse Lord Bathurst's suspicions, but it was unjust to recommend for high office ex-convicts, to whose condition he called no attention. On two occasions he thus sinned. An assigned servant was employed by Surveyor-General Grimes in a trusty capacity; and, though he had no scientific knowledge except in practical mensuration, he was, during the absence of Grimes in England, allowed to manage the department. When Grimes resigned office Macquarie, who had admitted the assistant "to his table," appointed him Acting-Surveyor-General, and was disconcerted when the Earl of Liverpool appointed Oxley, an old companion of Flinders, as the new Surveyor-General. Macquarie at once appointed his *protégé* Deputy Surveyor-General and Inspector of Roads and Bridges, and subsequently devised a scheme for promoting him to the coveted *office held* by Oxley, who was on the point of starting to *explore the interior*. Oxley might be lost. Macquarie

urged that his *protégé* should be made Deputy Surveyor-General, "with the immediate right of succession to the principal situation in the event of its becoming vacant by whatever cause." The despatch was silent as to the civil condition of the nominee. But the Australian wastes were not fatal to Oxley, and Macquarie's plot was futile.

In 1818, Macquarie endeavoured to entrap Lord Bathurst. Macquarie advocated a retiring allowance to D'Arcy Wentworth, who desired to give up the office of principal surgeon. In succession, he recommended, without hinting that he was an emancipated convict, "a man of very eminent medical talents, an excellent scholar, and possessed of universal knowledge . . . at present only assistant-surgeon in the medical establishment." There was an obstacle, in the person of a "first and senior assistant," but he was defective in medical knowledge, and had bad eyesight. "These are my sole motives for passing over Mr. Mileham." That his nominee was one of the convict class, with whom he intimately associated, and with whom he had striven to compel military officers to associate, Macquarie did not say. But Lord Bathurst had learned to distrust Macquarie, and he appointed Dr. James Bowman to the post. The disappointed candidate wrote a violent letter to Bowman, and Macquarie endeavoured to console his friend by making him a magistrate. The chagrin of Macquarie and the grief of his friend were aggravated by the attempted remedy, for Lord Bathurst directed the removal of the new magistrate from the commission of the peace. But if Macquarie could not coerce Lord Bathurst, he might pull down the pride of dwellers in the colony. It was true, Mr. Bigge reported, that "the civil and military officers were in the habit of exacting from emancipated convicts the same species of respect as they had yielded in their former state of servitude." The exception in the case of Mr. Bellasis, transported for shooting an opponent in a duel, only proved the rule, for the crime was one of which all persons in civil and military life in those days ran the risk; and society could not condemn itself. When Governor King, deserted by the army officers, made Bellasis his right-hand man, they exhibited no coolness towards the instrument which foiled their efforts to subject King to

their will. But Macquarie's designs were repulsive to men of honour. As Colonel of the 73rd, he was able to cause his emancipated friends to be entertained at the regimental mess; but when the 46th Regiment arrived, Colonel Molle and his brother officers were not so compliant. Long and acrimonious correspondence reached the Secretary of State; but the 46th left the colony without abatement of their determination. When the Rev. S. Marsden prosecuted the Governor's Secretary for libel, the officers of the 46th wrote to congratulate him on his success. Marsden's reply (Oct. 1818) reveals the importance ascribed in the colony to the stand taken by the 46th. They did for society in Sydney what their active comrades did for the safety of life in Van Diemen's Land.

(He could) "never forget the public service you rendered to this colony from the time you landed to the day of your departure, by your firmness and gentlemanly conduct as British officers, and by your good and prudent example as members of the community. . . . When you first arrived in New South Wales every barrier against licentiousness was broken down. There were a few, and but a few, who resolved to stand their ground and preserve that line of conduct which the wisest and best men consider essential as marking the distinction between the good and the evil. Had you not arrived in New South Wales and acted the honourable part you did, the few who were marked out for future conquest would not have been able to have stood out longer, but must have either yielded to superior force, or have withdrawn from the colony. Some would not have had strength of mind sufficient to have carried on a perpetual warfare against such unequal force, and thus would not have been able to meet the expense of continued resistance. You just arrived in time to turn the wavering balance, and to inspire the desponding with hopes."

Many regiments bear on their banners mottoes telling of their past services, but it may be questioned whether the escutcheon of the 46th could be more nobly adorned than by the memory of their conduct in New South Wales, which smells sweet across the lapse of the century.

The 48th Regiment arrived, and Macquarie found Colonel Erskine more pliant than Colonel Molle, but as a body the officers were actuated by the same sense of honour as encountered him on the 46th. Erskine agreed to join Macquarie in forcing an emancipated *protégé* upon society. The man was welcome at Government House; but all was nought so long as the hated free settlers, and civil and military officers, were not compelled to meet him elsewhere. A

Brigade-Major, of lax domestic relations, accompanied the *protégé* in calling on the officers of the 48th. All the officers, except the Colonel and two Majors, denied admittance to their would-be visitor. Erskine, nevertheless, at Macquarie's instigation, invited him to the regimental mess. The nature of the issue was fully understood. It was not a question of preserving a decorous forbearance on casually meeting an improper character. The man's character, whether good or bad, was almost immaterial. It was to be decided whether Macquarie could break down all barriers and debase the free element of the population to the level of the convicts, now pouring in at the rate of a thousand a year in a colony where he was doing his utmost to discourage free immigration. To the honour of the junior officers they gallantly braved the *vultus instantis tyranni*, and abruptly quitted the table. Erskine promulgated an order "that no officer should quit the table until after the first thirds were drank." To obey a regimental order was a duty which involved no private complicity. Macquarie, dissatisfied with the officers, warned them on parade (1818) not to follow the example of the 46th, and on the same day the *protégé*, uninvited by the officers, appeared at the mess as Erskine's guest. The officers did not abruptly depart, nor display rudeness; but they so comported themselves that the cause of dispute appeared amongst them no more. Macquarie learned that his high-handed tyranny evoked a spirit of resistance. As the man whom the officers thus repelled was the same whom the Governor endeavoured to smuggle into the position of principal surgeon on D'Arcy Wentworth's retirement, it may be imagined that the indignation of the defeated plotter was unbounded. Many of the facts are to be found in Mr. Bigge's report laid before Parliament; and the impetuous William C. Wentworth (son of D'Arcy Wentworth) was unwise enough to give them further circulation by a violent diatribe in favour of Macquarie's creature and his father's friend.

Another convict, transported for life in 1798 (who like Crossley was an attorney, and had been employed as a clerk in the Secretary's office) was suffered by Macquarie to copy his despatches; and to become a sort of poet-laureate, paying compliments to Macquarie, as the man "to whom a

grateful people fondly bend." He was allowed publicly to read his fulsome odes at the Governor's *levees*, and to receive the thanks of Macquarie's parasites.²⁹ These and similar instances were reported on by Mr. Bigge, and must have been corrected by the Imperial Government if no graver complications had demanded redress.

"In referring to the principle (said Mr. Bigge) by which Governor Macquarie has been guided in introducing these individuals to the society of Government House, and in attempting and encouraging others to adopt it, I can only add the humble testimony of my approbation to that which has been so unequivocally expressed by the Committee of Parliament, that reported on the state of transportation in 1812, and that which was expressed in more qualified terms by your Lordship in your despatch to Governor Macquarie, 3rd Feb. 1814."

Michael Crossley was early distinguished by the favour of Macquarie. He was one of those for whom the Governor specially applied to Judge Bent for permission to practise as an attorney. Bent declined on the ground that it was contrary to law. When his assessors added their entreaties he regretted that

"any gentleman had been found who differed from him on a point of pure professional feeling and practice, and to say that those persons whom they confess it is a disgrace to admit to their tables or to suffer any part of their families to associate with, are fit and proper persons to be admitted to the situation of attorney. I do now solemnly declare that I will not admit as attorneys of this Court nor administer the oath to persons who have been transported here as felons."

Though the admission of ex-felons as legal practitioners was not approved by Lord Bathurst, he found other grounds for the dismissal of the Judge. It was prophesied at the time that Macquarie's victory boded ill for the morals of the community, and Macquarie remained in the colony long enough to see cause to regret his patronage of Crossley, who was (23rd Aug. 1821) fined £50 for wilful and corrupt perjury. Such disappointments appear to have soured Macquarie's mind. At the close of his career he became severe even towards the class he had patronized; and among whom it could not be denied that crime had increased. In March 1821, twenty-five men were sentenced to death in Sydney, and the hanging of nineteen of them proved his change of opinion, or his temper's loss. Soon afterwards, when he was in Hobart Town, ten men out of twenty-five were ordered for execution.

²⁹ *Vide supra*, p. 23A.

The acerbity which Macquarie displayed in his letters led him into excesses which not even his friends could excuse. Since the framing of Magna Charta by the great Stephen Langton, it had ever been the boast of his English countrymen that only by law could even the king deal with his subjects. "*Nec super eos per vim, vel per arma, ibimus nisi per legem regni nostri, vel per judicium parium suorum.*" But Macquarie would be greater than a king. He had in 1812 built a wall to separate the government pleasure-ground from the open space outside. There was a wicket through which the public were admitted near a lodge occupied by a constable. Like the primitive limit of Rome, the wall was so low that profane persons could easily pass over it, and numerous breaches were made by continual trespass. In April 1816, Macquarie placed two men in ambush to apprehend trespassers. Six men and two women were seized. One of the latter was a servant, and had her mistress's child with her. All were arrested. The servant was permitted to take the child home, and when the mistress refused to let the servant be carried off, the chief constable threatened the mistress. All the alleged trespassers were lodged in gaol. The gaoler reported their condition to Macquarie. One of the men was a free immigrant; two were freedmen; and three were convicts. Macquarie ordered that the free men and one convict should, without trial, receive twenty-five lashes; that the other two convicts should receive thirty lashes, and that the women should be imprisoned in a cell for forty-eight hours. Conscious of the wrong directed, the gaoler showed the order to D'Arcy Wentworth, the Superintendent of Police, who declared afterwards that he had a strong desire to suppress the order, but it was executed; and there was an immediate ferment in Sydney. A petition for Macquarie's recall was prepared. Many of the class emancipated by the direct favour of Macquarie joined in the protest against his arbitrary audacity. He, in return, refused licenses to publicans in whose houses the petition had been seen, and refused, with opprobrious epithets, a grant of land to a freedman who had signed it. But he could not undo or justify his act. The free-man and the freedmen who had been flogged, sailed to England. The facts were proved *before the Select Committee of the House*

of Commons on Prisons in 1819, and publicly denounced by H. G. Bennett, M.P., in his letter to Lord Bathurst in 1820.

Macquarie (replying to Mr. Bennett's letter to Lord Sidmouth in 1819, and) generally justifying himself in a letter written in Sydney in 1820, and published in London in 1821—admitted that one of the men, William Blake, had never been a convict, and that two others, Henshall and Reid, had become free; but he denounced them as “far from respectable,” and thought them “very fit subjects to be made an example of.” He did not order the punishment “hastily,” or in “passion or anger,” but

“coolly and deliberately. . . . In vindication of myself for having ordered these profligate men, though at the time free, to be corporally punished, I can only say that I did at the time consider, and now still remain of the same opinion, that I was legally authorized, in my capacity as Governor-in-Chief and first magistrate of this territory, on such positive and clear proof of their guilt (Macquarie had spoken to the apprehending constables), to direct them to be punished in this summary manner, without any regular trial or examination before a Court. . . . Even granting that it was according to the strict letter of the law *legally wrong*, which I do not by any means allow, still I maintain that ordering such punishment was *morally right*; and on this ground I am neither ashamed nor sorry for the act.” (But for) “Mr. Justice Bent and a few other factious discontented men of lower ranks in the colony, all of whom joined in making a subscription to defray the expenses, and the pious advice of the Rev. Mr. Marsden and other equally amiable counsellors, these poor men never would have thought of quitting this country to seek redress in England.”²⁰

He declared that the punishment inflicted (19th April 1816) “was so slightly laid on that it was hardly felt by those who received it.” Macquarie's defence, after four years' reflection, proves that if he had ever valued the liberties of his country his perceptions had been corroded by the unhappy course of his government. That a Governor could suppose in haste, or argue at leisure, that “without any regular trial or examination” he was entitled

²⁰ Macquarie's language in the colony was less measured than in his letter to Lord Sidmouth. One of the colonists who had signed the petition to England applied to the local government on a matter of business. By Macquarie's command he was told (Nov. 1816): “Your conduct in having signed a petition lately sent from this country by a few despicable, factious, and malignant individuals, and well known to contain the most false, libellous, and seditious matter, is an instance of such unprincipled *depravity*, that His Excellency can never think you deserving of any *indulgence* whatever from this government.”

to order freemen to be flogged—was proof of his unfitness, but his offence was not known in England for some time after its perpetration. In days of tardy communication the consequences of his illegal acts recoiled slowly upon Macquarie.³¹

One of his favourites was engaged in mercantile enterprise, and deemed his profits encroached upon by the competition of an American resident named De Mestre. The East India Company's charter prevented an English subject from importing tea direct from China, and it reached him circuitously from Bengal. The American was under no such restraint. But Macquarie had declared that the colony was a field for profit of the convict class. The ex-convict brought an action against the American (under a Statute of Charles II.) for trading in the colonies. The American applied to the Court for twelve months' time to plead, in order to produce proof of the conviction of his antagonist, alleging at the same time that he had a good defence in the action, which (he averred) was prompted only by malice. Judge Field granted the application,³² and the proceedings against the American ignominiously perished; as did similar proceedings taken at a later date against a Frenchman. The Court declared that before they applied the highly penal statute of 12 Charles II. cap. 18, in "favour of tradesmen who were themselves only the creatures of remission of sentence, they ought to be fully satisfied that they had power to try a *qui tam* action, a public penal action, two-thirds of the fruits of which are to go to the King and the Governor, under a charter, the object of which is to make sufficient provision for the recovery of debts and determining of private causes between party and party in New South Wales." There was no reason, the Judge said, to believe that the Governor had authorized the action, and therefore he gave time to procure a certified

³¹ Mr. Goulburn's subsequent apology for Macquarie was inane. He said that a Select Committee of the House of Commons had, in 1812, reported in such terms as to show that such punishments were extant, and that "as no observation was made on that report, it was natural for Governor Macquarie to conclude that there was no objection to the practice."

³² He relied upon a case, Bullock against Dodds, tried before the King's Bench, in 1819, as to the effect of attainder.

copy of the plaintiff's conviction of felony. There was no desire to prevent any convict from suing as between party and party, and official records proved that "one-third of the plaintiffs in the Supreme Court had been convicts." The plaintiff against De Mestre was one of those whom Judge Bent had refused to permit to practise in the Courts. He had moreover special antipathy against Judge Field, and unsuccessfully prosecuted the Judge for slander. The Judge took the benefit of the Act which foiled his assailant in the prosecution of the American. The Governor's Court determined to give Field time to produce the record of conviction. The prosecutor was infuriated. He felt for the order to which he belonged, and the order felt with him. Its position was critical. Its right to property was imperilled by incapacity to sue. When the classic commentator, who might be read for his style as well as for his legal lore, published his great work on the Laws of England, it was distinctly laid down that "a pardon must be under the Great Seal." A warrant under the privy seal, or sign manual, was not "a complete irrevocable pardon." After Blackstone's death an Act was passed (30 George III. cap. 47) which enabled the Crown to authorize the Governor of a colony to remit sentences absolutely or conditionally. But such remission had only the virtue incident to the sign manual; and to make the pardon complete it was necessary that names of the pardoned convicts should be inserted in the next general pardon which might pass the Great Seal. There was one of the freed class in Sydney who had become reputed owner of nearly 20,000 acres in New South Wales. He felt warm interest in his possessions; and ex-convicts whom Macquarie had "admitted to his table" were equally fervid. Modestly disposed freedmen did not share the presumption of Macquarie's friends who strove to force themselves upon an unwilling society; but were anxious for indisputable title to the fruits of their industry. It was little consolation to them to be told that by the Act 54 Geo. III. cap. 145, corruption of blood and forfeiture of real property were abolished (1814), except in cases of treason or murder. Many of them had acquired property *before* that Act provided unretrospective relief. The man whom Macquarie had striven to thrust upon the society of

the officers, and whom he wished to mislead Earl Bathurst to appoint as principal surgeon; the other whom he wished in like manner to foist upon the Survey Department; the owner of thousands of acres obtained by questionable arts from intoxicated settlers; another doubly convicted offender who for robbing the King's stores had been transported to Norfolk Island, but by thrift had become rich, and had been made by Macquarie principal superintendent of convicts (1814); these and others, styling themselves "emancipated colonists," petitioned for leave to hold a meeting to discuss their grievances and fears. Commissioner Bigge was in the colony, and the Governor consulted him as to the propriety of allowing the meeting to be held. Bigge advised that the resolutions to be proposed should be submitted in anticipation to the Governor, and that the emancipist who had prosecuted Judge Field should pledge himself not to allude to his quarrel with the Judge. Macquarie obtained the pledge; and, with Bigge, revised the resolutions. Judge Field and Judge-Advocate Wylde, on the point of sailing to Van Diemen's Land to hold a Circuit Court, wrote to Macquarie. They pointed out that if the Governor had consulted them they could have demonstrated that none of the civil privileges of the persons styling themselves "emancipated colonists" had been affected by any rules they had laid down, and that as they were about to leave the colony for some time they took leave to inform the Governor of their objections to the meeting, not with a view to oppose what his Excellency might approve, but to absolve themselves from responsibility for consequences arising from the convening of such a meeting while the Courts were closed. The letter was forwarded to Bigge (for his information) by the Judges themselves. Neither Macquarie nor Bigge apprehended mischievous consequences from the meeting. The former said the emancipated convicts were labouring under a serious grievance. Judge Field replied. All the correspondence was sent to the Secretary of State. The meeting, convened by the Provost-Marshal, was held (23rd Jan. 1821). The convict friend of Macquarie, whom he had risked so much to compel the officers of the 48th Regiment to receive at their table, was in the chair. The convict

attorney whom he had pressed Judge Bent to admit to practise, and who had ineffectually prosecuted Judge Field for slander, was the principal speaker. Macquarie received a tropical shower of compliments. The aggrieved attorney-merchant was deputed (with the chairman of the meeting) to carry complaints to England. He did not return; but in 1823 Sir James Macintosh presented a petition to the House of Commons from him praying that he might be heard by counsel at the bar of the House against two provisions in the New South Wales Judicature Bill then before the House. The prayer of the petition was not granted.

The admirers of William Charles Wentworth might have hoped that the success of Sir J. Mackintosh's resolution would bring their young champion into the foreground. After his exploration in the Blue Mountains he had gone to England, but not before in his youthful ardour he had satirized Colonel Molle in a manner which D'Arcy Wentworth had to explain for his absent son when the circumstances came to his own knowledge.³³ Unfortunately the domestic associations of the father were not such as to allow the son to take an unbiased view of the struggle between the emancipist and the free. In the household of Thomas Jefferson, who boasted of his love of freedom, there were slaves of his own blood; and though D'Arcy Wentworth was an official called upon to administer the law, and to maintain a standard of morality, he associated, and his

³³ The alleged lampoon was thrown into the barracks. Mr. Surgeon Foster, in the name of the officers, advertised that a reward of £200 would be given for information leading to the conviction of the author or authors of a paper "containing a false, malicious, and scurrilous attack on Colonel Molle, both as Lt. Governor and commanding officer." A report was circulated that an officer of the 46th was the author, and the officers were greatly exasperated. — Bigge's Reports, 1822-3.

Macquarie had early noticed the capacity of young Wentworth. He made him, in 1811, Deputy Provost-Marshal, when he was only eighteen years old, and, as the Provost-Marshal was in England, the duties of the office devolved entirely upon the deputy. Wentworth was ever complimentary to Macquarie. He was one of a committee of twelve persons appointed by a public meeting to prepare an address of congratulation to him, and a dinner to commemorate his assumption of the government was given in January 1814. The company was heterogeneous. Mr. Gore, who was imprisoned by the deponents of Bligh, was in the chair; others who were active in deposing Bligh were in prominent positions.

son was necessarily familiar, with members of the class whom Macquarie delighted to honour. They scorned to be excluded from any position. They demanded trial by jury, and inveighed against the power of the Governor to deport a British subject. W. C. Wentworth³⁴ in 1819 denounced with almost savage fury, but classic force, the things which seemed evil in the sight of the first of Australian patriots, then about twenty-five years old. Crude his book might be, but it was a new power, and would have commanded attention, even if it had not been published while the appointment of Mr. Bigge was under consideration. The book was not all of one vein; amidst fulminations against the tyranny of Bligh, praise of Macquarie, and longings for free institutions in Australia, he thus apostrophized the mother country:

“Generous Britain, not more renowned in arts and arms than in mercy and benevolence, may thy supremacy be coeval with thy humanity! Or if that be impossible; if thou be doomed to undergo that declension and decay from which no human institutions, no works of man, appear to be exempt, may the records of thy philanthropy hold the world in subject awe and admiration long after the dominion of thy power shall have passed away! May they soften the hearts of future nations, and be a shining sun that shall illuminate both hemispheres, and chase from every region of the earth the black reign of barbarism and cruelty for ever!”

The various remedies which he proposed for existing evils embraced the constitution, the administration of justice, and the fiscal condition of the colony. They were not adopted. The representations of Mr. Bigge were to prevail.

The grievance of the half-pardoned convicts was specially redressed. Mr. Bigge reported that they had just reason to ask relief. The judgment of the King's Bench in 1819—which declared that by attainder all personal property and rights of action in respect of property accruing to the person attainted either before or after attainder were vested in the Crown, and that attainder might be well pleaded in bar to an action on a bill of exchange endorsed to the plaintiff after his attainder—was put forward by Bigge as proving the necessity of some change in New South Wales, where so large a proportion of the community consisted of persons who had been attainted. The English Government dealt with

³⁴ “A Statistical, Historical, and Political Description of the Colony of New South Wales, &c.” By W. C. Wentworth, Esq., a native of the colony. London: G. and W. B. Whittaker. 1819.

the subject. By the Act 5 Geo. IV. cap. 84, passed in 1824, it was provided (sec. 26) that while conditionally or incompletely pardoned felons resided where they were lawfully entitled to reside, they might "maintain any action or suit for recovery of any property—real, personal, or mixed—acquired" after conviction. They might do so not only in the colony, but throughout the King's dominions. If the defendant should plead or allege the plaintiff's or complainant's conviction of felony, and the plaintiff could prove a remission of sentence by the Governor—"and is residing in some place consistent therewith and with the provisions of this Act, a verdict shall pass, and judgment shall be given for the plaintiff or complainant." The difficulty so prominent in the colony had been felt in the mother country also. The 27th section enacted that in England, Wales, or Ireland such a verdict should carry "treble costs."³⁵

Marsden had offended Macquarie by refusing to associate himself on the magisterial bench with the ex-convicts whom Macquarie placed there. Mr. Bigge summed up the cause of difference between the chaplain and the Governor as based on the characteristic firmness with which Marsden refused to lend himself to Macquarie's schemes to mingle the convicted with the free. Macquarie was not content with alleging that convicts were fit to be his own associates. He would make others sit with them. Within three months of his arrival, without any previous communication with Marsden, he appointed (by a published Order) Bligh's ex-bailiff, Thomson, and another freedman, as co-trustees of a turnpike road with Marsden. Marsden declined the office, and assigned as a reason the notorious immorality of the lives of Macquarie's nominated freedmen. Macquarie declared that he would consider Marsden's refusal an act of hostility to his government, and personally disrespectful. The sturdy churchman still refused. His mind was fixed to accept no appointment which would degrade his office

³⁵ In Dr. Lang's "History" he speaks of Barron Field's judgment in favour of De Mestre's application as a denial of common justice, and an "outrage upon the common sense of mankind." He does not allude to Bigge's Report, to the leading case before the King's Bench in 1819 (*Bullock v. Dodds*), or to the law passed in 1824. If he had seen them he could hardly have commented thus on Field's conduct.

by undue association with the convict class in the community. Macquarie told him it was well for him that his appointment was civil, or he might have been tried by court-martial. D'Arcy Wentworth had no scruples, and was appointed co-trustee with Macquarie's friends.

When men and women were unlawfully dealt with by Macquarie's order (for crossing the wall of the public pleasure-ground), Marsden was applied to by "the public flogger" to attest a deposition as to the facts. Macquarie thereupon sent for Marsden, and upbraided him in the presence of witnesses. Marsden said that as the Governor had ordered the punishment he did not suppose he cared if all the world knew that he had done so. Macquarie retorted: "I do not care; but I care for your signature being put to the deposition. In doing so you have been guilty of mutiny, sedition, and other high crimes." Marsden replied that he had not drawn up the statement. He merely attested it. The Governor read a reprimand, and desired the chaplain not to set foot again in Government House except on duty. Marsden desired to retire from office as a magistrate, but was not permitted to do so. At a later date, thinking his position lowered by the release of several prisoners sentenced by himself and another magistrate at Parramatta, Marsden sent a written resignation, which was not noticed, but was followed by a copy of a public Order dispensing with his services as a magistrate. Marsden applied for leave of absence. A letter to him assigned as a reason for refusal that his absence would be fraught with injury to the colony. To Lord Bathurst Macquarie explained (May 1818) that he thought Marsden's "object was to co-operate in malicious attacks" upon Macquarie's measures.

Before leaving the colony Macquarie winged a shaft at Marsden which rankled long. In a letter to Lord Sidmouth, he accused him of severity as a magistrate, and of trafficking in spirits. The last charge was easily refuted. Marsden had never purchased any spirits for sale. He had, like other persons, exchanged wine and spirits for other commodities, and this had been done by previous Governors as well as by Macquarie. The first charge being vaguer was more elusory; but by common consent was

worthy of credit. Mr. Bigge reported that the sentences inflicted by Marsden were more severe than those of other magistrates. Bigge did not impute the exceptional severity to harshness of disposition, but to the "habitual contemplation of the depravity of the people brought before him," and a sense that "any other punishment than that which was severely and corporally felt by them" was inefficacious. When making the charges Macquarie had miscalculated his own stay in the colony. His letter was printed in England, and copies were sent to Sydney. Bigge had departed. Marsden awaited the arrival of Brisbane, Macquarie's successor, and then asked for the explanation from Macquarie which—"it was not in my power to call upon him for so long as he continued to administer the government." Macquarie did not heed him. Marsden, prepared to take legal steps, wrote to Brisbane, who induced him to desist. "At that period (Marsden wrote) there were strong reasons of a public nature existing in the colony, which induced me to relinquish my intended prosecution of Governor Macquarie, contrary to my own judgment." The militant chaplain wrote nevertheless to England to ask his friends to institute a suit there. Macquarie, meanwhile, published a statement which Marsden eventually answered. He also wrote a pamphlet to vindicate himself against a greater than Macquarie—William C. Wentworth—who, in a third edition of his 'Australasia,' attacked Marsden and defended Macquarie, with cultured but coarse vehemence.

"Crafty — rancorous — vindictive — turbulent and ambitious priest—canting hypocrite,"³⁶ were among the epithets hurled at the already venerable and venerated head of the chaplain; and Wentworth complained that Wilberforce had been duped, when in glowing terms he extolled Marsden as a moral hero whose name was dear to the friends of virtue and humanity. Marsden did not shrink from a contest with the youthful giant. He inquired, through his solicitor, if Wentworth was the author of the work to which his name was attached. Wentworth

³⁶ Long years afterwards Joseph Hume borrowed the term 'turbulent priest' to apply it to the devoted Christian, G. A. Selwyn, the Bishop of New Zealand. The phrase was not original, and the application was untrue.

laconically answered: "I decline furnishing the information which the Rev. Samuel Marsden has sought through you." The confident Marsden resorted to the tribunal of the press. He published in London, "An Answer to certain calumnies in the late Governor Macquarie's pamphlet, and the third edition of Mr. Wentworth's account of 'Australasia.'"⁸⁷ He included in it a testimonial from representatives of the London Missionary Society, vindicating him from certain charges which Wentworth, on erroneous information, had made respecting Marsden's conduct towards a Mr. Crook, connected with the Society. The charges were described as "untrue and infamous." The charge made by Macquarie as to Marsden's severity was to be made the ground of serious occurrences during Brisbane's government, and for that reason it was necessary to allude to it.

While Macquarie was intoxicated with vanity, and arrogating to himself the power to flog a free Englishman without even a form of trial, his follies were not fully known in England. But the man Blake went thither to show his stripes. *Civis Romanus sum*. "I am a poor labourer; but have you, gentlemen in England, no sympathy for my wrongs?" Both in and out of Parliament men denounced the demoralizing policy of the Governor. Wilberforce was no mean champion of Marsden. The fiery Brougham resented the invasion of liberty, which without a trial subjected free men to the lash. The lame defence of Mr. Goulburn was puffed aside. There could be no serious opposition to inquiry. General reasons would have demanded interference, but the outrage upon William Blake in 1816 must be deemed a prime cause of the appointment of Mr. J. T. Bigge to conduct an inquiry as to the government of New South Wales. Macquarie's friendship⁸⁸ for the convicts was also borne in mind. Lord Castlereagh himself, in moving for a Committee on the

⁸⁷ London. J. Hatchard and Son, Piccadilly. 1826.

⁸⁸ In his letter to Lord Sidmouth, Macquarie wrote (1820): "If the free settlers are not well disposed towards the population of the country which they have selected . . . as the place of their abode, they do not deserve a settlement here; and it appears to me a duty of the first magnitude in every man's office who accepts of a civil appointment in this colony, to come here with the full determination of holding out every encourage-

State of Gaols, &c. (1st March 1819), gave utterance to the thought of many minds when he spoke of the

“cessation of that salutary terror with which transportation from this country was formerly accompanied.” “It would be necessary to inquire, even in justice to Botany Bay, whether the period had not arrived when it might be relieved from being the resort of such characters as had hitherto been sent to it, and might be permitted without interruption to follow the general law of nature by a more rapid approximation to that state of prosperity to which it was to be hoped every part of the world was destined to arrive.”

These words were the knell of Macquarie's encouragement of the convict as against the free. The petitions of the emancipists to Parliament were hardly judicious. They assumed the tone of injured men. They vied with Macquarie in exalting their order. The preliminary proceeding was the appointment of the Commissioner of Inquiry. Mr. Bigge's Reports were laid before Parliament in 1822 and 1823. He recommended the discontinuance of large gangs of convicts in the towns; that free settlers should be encouraged by grants of land; and that convicts should be assigned as servants to them in the country districts. The better to classify the convicts, the formation of out-stations on the coast, at Moreton Bay, Port Curtis, and Port Bowen, was suggested. In the main the government adopted, or tried to adopt, their Commissioner's advice, which was embodied in able and painstaking reports.

Three reports (ordered by Parliament to be printed) embraced the whole condition of the colony. Mr. Brougham, in 1819, had denounced the system under which duties had been collected. Wentworth's book had condemned it as illegal, and declared that on an appeal from the magistrates even the Civil Courts of the colony would be compelled to pronounce it so. In reply to Brougham Mr. Goulburn admitted that on a late occasion several persons had refused to pay the duty; that Lord Bathurst had referred the matter to the law officers; and that “only within the last fortnight” those functionaries had delivered their opinion that the duties were illegal.

The Act 59 Geo. III. cap. 114, was immediately passed

ment to the reformation of the people, by associating with those who have proved themselves worthy of regard, in the same manner as if they had ever been free.” The misfortune was that Macquarie deemed “worthy of regard” those whom others deemed unworthy.

Speaking generally, this Act laid the foundation of a new order of things. Law was substituted for caprice. In the last resort a Governor was still uncontrolled on the spot, but the forms imposed upon him in making Orders brought about a graver and more methodical mode of action than could exist under former Governors. The military gave place finally to the civil authority. Another change, not made in terms by the new Act, was enforced by the instructions to Governors. The pampering of the convict class was to be discontinued. Convictions for forgery, mutiny, and rebellion were no longer to be passports to the favour of the representative of the Crown. Officers in the army were no more to be coerced into social relations with the convict associates of a Governor. Macquarie's ill-appointed magistrates had disappeared from the commission of the peace. The English Government, which had expended four millions sterling in founding the colony, was indeed entitled to a voice in its affairs, and especially in dealing with the class for whose control they had spent so much. When a Governor, an officer in the army, yielded to the fascinations of graduates in crime, it was high time to redeem the colony, and to enable it to hold up an innocent head before the world. Free settlers were to be encouraged. Grants of land were to be made, and convicts were to be assigned to them in proportion to the land held. Commerce was to be promoted, and English import duties on colonial products were to be lightened or abolished. Such were the conclusions arrived at by the English government. Before giving them legislative shape Macquarie was recalled, and Major-General Sir Thomas Brisbane was appointed in his stead.

Like his predecessors, Macquarie had contended by Proclamations and Orders against numerous difficulties. A few lines will give some idea of the multifarious objects of his care, and of the life of the colony.

Some murderers had been executed. Marsden's magisterial activity had led to their apprehension. Macquarie, in an Order, to be read during Divine Service at Sydney, Parramatta, and Windsor, thanked the chaplain for his "able, firm, and unwearied exertions as a magistrate."

at law the Chief Justice was to be aided by two assessors; but the parties might require a jury of twelve men. The juror was to be a freeholder of not less than 50 acres, or a householder in a dwelling of not less than £300 value in the colony.

The eighth clause enabled the Crown to cause trial by jury to be "further introduced and applied." Appeals were granted in cases exceeding £500. Courts of Quarter Sessions (sec. 19), were provided for, and the Governor was empowered to institute a Court of Requests for cases under £10, to be tried by a Commissioner, to be appointed by the Governor, subject to approval of the Crown. The Council which Macquarie had dreaded was created. The 24th clause enabled the Crown to appoint a legislative body—not more than seven nor less than five in number. The members were entitled to enter on the minutes their dissent from any project of law; but if one or more members agreed with him, the Governor could (entering his reason on the minutes) put the law in operation pending the pleasure of the Crown. In case of rebellion, or actual insurrection, the Governor could make and promulgate Orders in face of the dissent of the whole of the Council. By the 26th clause the Crown had power, with advice of the Privy Council, to make and establish any law or ordinance which the whole, or a major part, of the Governor's Council had dissented from. By the 27th no tax or duty could be imposed except for local purposes, and the purpose was to be distinctly set forth in the enactment. By the 28th the power to levy duties given by 59 Geo. III. cap. 114 was made perpetual. By the 29th it was required that the Chief Justice should certify that any projected law was not repugnant to general law before the Governor could lay it before his Council. The Governor could only fill vacancies in his Council *ad interim*. The 34th dealt with pardons under the great seal. Errors had occurred. Some Governors had not duly sent the names of pardoned persons for confirmation in England. All instruments of pardon by Governors were now made of the same effect as if they had been under the great seal, and the signification of His Majesty's pleasure sufficed to make valid a pardon *by the Governor*. Retransportation was provided for.

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Like his predecessors, Macquarie had contended by Proclamations and Orders against numerous difficulties. A few lines will give some idea of the multifarious objects of his care, and of the life of the colony.

Some murderers had been executed. Marsden's magisterial activity had led to their apprehension. Macquarie, in an Order, to be read during Divine Service at Sydney, Parramatta, and Windsor, thanked the chaplain for his "able, firm, and unwearied exertions as a magistrate."

The increase of population during Macquarie's long rule, and the various duties of the Governor, furnished a strange mixture of notifications in his 'Gazette.' They were published to tell the inhabitants that if they did not repair the streets opposite their places he would tax them and do the work, but hoped it would be unnecessary to protect the tank-stream from pollution; to prevent forestalling; to prohibit any one from the "high offence of buying any corn or other victuals in any market and selling it again in the same market or within four miles thereof;" to advise "more decent clothing" of some persons he had seen during a late "extensive tour of inspection;" to regulate the landing, the duty on, and the sale of spirits; to establish tolls, pounds, and markets; to widen the streets, and invite people to remove back their enclosures, "houses in the way being re-erected at the public expense;" to compel the yoking and ringing of pigs; to destroy "degenerate and useless dogs; to guard the Government Domain from damage to soil or shrubs "on pain of prosecution for felony;" to cause registration of carts and waggons; to prevent giving wheat to "dogs, pigs, or cattle until the next harvest shall be secured;" to prevent grantees from selling their land within five years of the deed of the date of grant; to warn persons to whom cattle were allotted from the government herds that they should not sell them within three years, and to caution intending purchasers that the cattle were—for that period—"considered the *real* property of the Crown;" to announce that cattle not distinctly marked, joining the government herds, would be considered government property; to exhort sufferers from floods at the Hawkesbury to remove their habitations to the high grounds which his Excellency's "solicitude for their welfare had marked out for their secure retreat;" to promulgate his observations after his tours, in one of which he said of the site of George Town in Van Diemen's Land, that of that "enchanted situation an adequate description cannot be given;" to publish the General Order of the court-martial on Colonel Johnston "for the information and guidance of the troops serving in this colony;" to tell *the disobedient* that if they did not present their receipts

for grain and food delivered to the government by a certain day they would be "paid in copper coin for the receipts so overheld;" to point out that the gallery of the church was extended, and that he "confidently hoped all excuse for not attending Divine worship was done away;" to regret that an officer of very high rank in the civil service (from "motives of delicacy" unnamed) had refused to pay the toll authorized by a Proclamation of 1811, and to declare that all except those exempted by Macquarie must pay; to offer a free pardon for the discovery of the authors of the malicious libel (or Pipe) which was thrown into the barracks, and which maligned the 46th Regiment.

For these and many other purposes Macquarie used the columns of the *Sydney Gazette*, over which his secretary was censor. After his long reign, and the failure of his plan to cultivate virtue by honouring vice, Macquarie would perhaps have retired gladly from his thankless office. But under the circumstances, removal was a sore blow to him.³⁷ He remained in the colony after Sir Thomas Brisbane had (1st Dec. 1821) assumed the government, and he fondly contemplated the public buildings he had erected. His fare-well to his favourites must have been strange.

³⁷ John Macarthur wrote to his son in London (1820): "You talk of the present Governor coming home. Take my word, he will never come unless ordered. . . . In our present state his distinguished convict friends are the majority, and their voices preponderate in every public question. . . . What labours has the new Governor, whoever he may be, to perform! I maintain it would be easier to found five colonies than to reform this. He must have unlimited authority, with power to cleanse the Augean stable."

CHAPTER VIII.

GOVERNOR BRISBANE.

WHEN Governor Brisbane arrived (Nov. 1821) the old form of government existed, although its days were doomed. Under such circumstances he abstained from active innovations. He was fond of science and promoted exploration. He collected astronomical books and instruments, and engaged Messrs. C. Rumker and James Dunlop to act as astronomers in the colony. Many observations were made by himself, and in 1835 a catalogue (of 7385 stars) made from observations at Parramatta gave to the world the results of labours during the period, 1822 to 1826. His observatory was built, and a series of observations was commenced in May 1822. The colony to which he went was no longer cramped in by rocky fastnesses of the Blue Mountains, but extended to the inviting slopes of the cordillera and the plains beyond them. On the Macquarie, and beyond the sources of the Hunter river, to Liverpool Plains on the Nammoj watershed, herds of cattle began to roam. But Sir Thomas Brisbane desired to distinguish his reign by further discoveries to the south. He consulted Mr. Alexander Berry, of Shoalhaven, who recommended him to enlist the services of Mr. Hamilton Hume, the intrepid youth who had pierced through the forests of Bargo Brush and Sutton Forest, and discovered Goulburn and Breadalbane Plains. The Governor wished to land a party at Western Port, and let them find their way to Sydney *overland*. Hume dissented from this plan, but *volunteered* to explore overland from Lake George

to Western Port. After much delay a party was formed. Mr. Hovell who, as a sailor, was thought useful in taking observations, obtained leave to accompany Hume; and both of them had to find their own servants and horses, the government providing a tent, two tarpaulins, six pack-saddles, some clothing and ammunition. A glance at the map will show the nature of the country which lay before them, if they should attempt to steer straight to Western Port. On the 19th Oct. 1824 they arrived at the Murrumbidgee river. After crossing the deep gorge through which the Murrumbidgee runs near Yass, other rivers similarly winding under the base of steep mountains would have to be encountered; on the left Mount Kosciusko and kindred heights; on the right other mountain masses nearly as high; the backbone of the cordillera being contorted in many windings and twistings, and no straight course being practicable for man or beast. In such a country, observations, however correctly taken, could not have enabled the travellers to adhere to a given course; but it was soon found that Hovell could take no observations, his instruments being, he said, defective. It was well that Hume was able to guide the party without any observations but those which his eyes could make. Hovell endeavoured to induce the men to turn back; and as Hume had three men, and Hovell three, Hume could exercise no control over half of the party. As they journeyed they came in sight of the Snowy Mountains, and Hume bore westward to his right to skirt the mountain system which he deemed impassable by his party. Hovell proceeded straightforward, and his men were compelled to accompany him. Fortunately his heart failed him, and one of his men succeeded in discovering Hume's track (an easy matter when the native grasses, tall and unbrowsed upon, showed at a glance that travellers had bent them down in passing) and followed it to Hume's camp. The Hume or Murray river was named and crossed; the Mitta Mitta was reached. Hovell advised the men to go no further. The tarpaulin was all but worn out; how could they return when their only method of crossing these swollen rivers was by its means? Hume persisted, declaring that if the tarpaulin failed he would kill a bullock and make a boat of its hide rather than fail to reach

Bass Straits. Similar discouragements were overborne by Hume, although near Mount Disappointment he had to yield so far as to consent to turn back unless in two or three days the prospect should improve. He was rewarded.

On the 13th Dec. 1824, he descried the open land to the west of Port Phillip. The scrub through which he had been cutting his way with axes had disappeared. Open forest and downs were between him and the sea. He reached Corio, where Geelong now stands, and there learned the names of places from the natives. The name of the bay was Geelong. On the 18th Dec. he started homewards, crossing "Iramoo" downs between the Werribee and Saltwater rivers, shortening his homeward path in many places, and cheering the men by telling them when they would intersect their former tracks, and never telling them wrongly.¹ On the return journey Hume saw a tribe of natives on the Hume, visited their camp, and was well received by them. Some of the names conferred by Hume are still extant: viz. the Ovens river; the Goulburn river, and Mount Disappointment. He called a mountain Mount Wentworth, but it has since been known as Mount Macedon, a name given to it by Sir Thomas Mitchell for the absurd reason that it would consort well with Port Phillip, named after Governor Phillip. The Hume river was long known by that name, but when Sturt saw its junction with the

¹ The details of the journey have often been published, and have been the subject of controversy between the respective friends of Hume and Hovell. When they were at Port Phillip Hovell thought they were at Western Port, but Hume contended that they were at Port Phillip. That he did not conceal his opinion on the point is proved by the fact that when in 1828-9 (before any other observer had revisited Port Phillip) he accompanied Captain Sturt to the Darling river, he repeated his contention. Captain Sturt accordingly wrote (and his book was printed before any other visitor had been to Port Phillip): "It is uncertain whether they made Port Phillip or Western Port. Mr. Hume, whose practical experience will yield to that of no man, entertained a conviction that it was to the former they descended from the neighbouring ranges; but Mr. Hovell, I believe, supports a contrary opinion."²⁵ This record is decisive as to Hume's opinion. There was much discussion, which elicited from survivors of the expedition a consensus of opinion that to Hume only its success was due, and letters to that purport were published in 1872 after a pamphlet by the author of this work on the 'Discovery, Survey, and Settlement of Port Phillip,' had called attention to the subject, and received grateful recognition from Hume, who was not at the time personally known to him.

Murrumbidge he (unknowing that it was the Hume) called it the Murray, and Sturt's nomenclature was followed.

The new country thus discovered could not be occupied at once. The nearer interior could absorb all and more than all the multiplying flocks and herds of the colony. Some extension was needed, however. A strictly penal settlement was required. In 1821 Port Macquarie was temporarily occupied as the home of the doubly convicted or re-transported; and in 1823 Surveyor-General Oxley sailed in the cutter 'Mermaid' to survey Port Curtis and Moreton Bay, with a view to the formation of convict establishments, in pursuance of Mr. Bigge's recommendations, which had been approved in England.² On the way he landed at Port Macquarie, where Captain Allman (48th Regt.), an old Peninsular officer, was commandant. The natives were well treated by Allman. Strict discipline and neatness characterized the little settlement. Mr. Uniacke, who described Oxley's journey, reported that—"whenever (as frequently happens) any of the prisoners attempt to escape into the woods they are instantly pursued by some of the (natives employed as) black police, who possess a wonderful facility in tracing them, and being furnished with arms they seldom fail to bring them back alive or dead." Oxley examined the country at Port Curtis and thought it unfit for a penal settlement.

The expedition (sent in pursuance of Bigge's recommendation) resulted in the formation of a penal settlement at Moreton Bay, where Lt. Miller was the first Commandant for a brief period. His successor, Captain Bishop, remained but a short time. The third Commandant, Captain Logan, had the reputation of being a strict disciplinarian. He

² About the same period Newcastle at the Hunter river was abandoned as a penal settlement in accordance with Mr. Bigge's advice (P.P. 19th June 1822, p. 165). The convicts were sent in the first instance to Port Macquarie, but eventually were removed further from the free settlements to Moreton Bay, it being a portion of Bigge's plan that they should be remote from the free population, but on the coast where supplies could be landed easily and whence escape was difficult. Brisbane threw the Hunter river port open to trade. The Australian Agricultural Company obtained the privilege of working the coal-mines close to the shore, and free settlers spread rapidly over the district. But though it ceased to be a penal settlement, convicts were employed in ironed gangs there as in many other places.

ruled from 1825 until October 1830, when he was killed by the natives, who were said to have been instigated by the convicts, although Logan was accused of cruelty to the natives himself. Governors Brisbane and Darling had visited Moreton Bay. Captain Logan's remains were taken to Sydney and interred with military honours at Garden Island. Other military commandants succeeded until it was determined to abolish the penal settlement, and establish a free one, settlers (Patrick Leslie and others) having taken their flocks overland in 1839, to Darling Downs, about a hundred miles from Brisbane.

After turning back from Port Curtis, Oxley sailed southwards and anchored off Moreton Bay. A party of natives was seen approaching. The foremost man was less dark than his companions. He hailed the Europeans in English. He was wild with delight; and on that day but little could be gathered from him. Oxley, however, gave presents to his friendly entertainers. The man was Thomas Pamphlet, one of four men who had sailed from Sydney some months before in a small craft bound to Illawarra. Driven they knew not whither, they thought themselves at the south of Sydney, and after twenty-four days, suffering from thirst, of which one man died, they ran their boat on shore and found water. Their boat was dashed to pieces. They marched northwards with the hope of finding Sydney. They fell in with natives who treated them kindly. "Their behaviour to me and my companions had been so invariably kind and generous that, notwithstanding the delight I felt at the idea of once more returning to my home, I did not leave them without sincere regret." From Pamphlet Oxley learned that a river was near. He explored it for some days, and was satisfied that "it afforded every reasonable ground for expecting that the most beneficial consequences would result to the colony by the formation of a settlement on its banks." He named it the Brisbane, and Governor Brisbane at once occupied the place with a penal settlement. There was apprehension at this time with regard to the pretensions of the French. The re-occupation of Norfolk Island under an order from Lord Bathurst³ might be looked upon as aidant to Bigge's

³ Despatch 22nd July 1824.

recommendations for control of convicts. But a despatch (17th Jan. 1824) requesting the Admiralty to send a ship of war "without delay" to take formal possession in the name of the King of all Australian territory on the north-west coast and the adjacent islands, can bear no such construction. The Admiralty sent Captain J. J. Gordon Bremer in H.M.S. *Tamar* to perform the task. He selected (1824) a site which he called Fort Dundas, at Melville Island. The settlement was maintained until March 1829. In 1826 Major Lockyer occupied King George's Sound with soldiers sent from Sydney. Another settlement, formed by Captain Stirling, R.N. (of H.M.S. *Success*) in 1827, in Raffles Bay, on a peninsula to the east of Melville Island, was also abandoned in 1829, the expectation of commerce with the visiting Malays having been disappointed, and the assertion of sovereignty over the territory being deemed sufficient.⁴ The overland expedition which Brisbane planned, and which Hume successfully conducted,—being of the first importance—has been first described. There had been some suspicion that the French had covetous designs in the South. Brisbane availed himself of the services of Allan Cunningham, Botanical Collector for the Royal Gardens at Kew. Cunningham was indebted to Sir J. Banks for his appointment. He was with Oxley on the Lachlan river in 1817. He was the companion of Captain P. P. King, R.N., in the voyages undertaken in the *Mermaid* and the *Bathurst*. He conducted scientific expeditions himself in 1822 and 1823. He determined to explore the country between Bathurst and the Plains (Liverpool), which Oxley had discovered in 1818. Travelling eastward he was rejoiced, after skirting the cordillera where the affluents of the Hunter river are divided from those of the Nammoy, to pierce the rugged mountains at the gap which he called Pandora's Pass.

Increasing knowledge of natural pastures stirred settlers to send their flocks and herds to the newly-found lands.

⁴ A vulgar error has ascribed to Lord John Russell the safeguarding of Australia; but, after what was done in the first decade of the century, Lord Liverpool, for whom Canning was Foreign Secretary, deserves the credit. Governor Darling, as will be seen, deserved praise, for his guardianship, in the time of Lord Liverpool.

The encouragement afforded by the government to free settlers contrasted strongly with the animosity displayed towards them by Macquarie.

Macquarie had been jealous with regard to the occupation of the interior. He allowed no one to depasture stock in the "new country" without special authority from himself. He did not perceive what was afterwards clear to Gibbon Wakefield, that, so long as the government might retain the freehold for sale at a fitting price, it was beneficial to all that the annual grasses should be converted into a means of prosperity. But he could not watch his ever-widening frontier; and a class of men, many of them labourers who had been convicts, strayed across it, and, in secluded gullies, built huts, planted gardens, and kept a few cattle, whose numbers were unnaturally increased by theft. Nor were cattle the only objects of rapine. These lawless occupiers were called "squatters." In the course of about twenty years the term was transferred to all those who lawfully occupied Crown lands under temporary licenses, which were readily granted by Sir T. Brisbane to the free settlers who migrated to the colony after the departure of Macquarie and the publication of Bigge's Reports.

Brisbane made no effort to prevent injustice and brutality towards the natives. Settlers who were disposed to treat them kindly could do so. Those otherwise inclined did as they listed. In June 1824, Brisbane told the Secretary of State that he proposed to raise a troop of cavalry at Bathurst to coerce the natives who had been committing outrages. He did not say that the convict servants of the settlers had provoked them. But he did say that seven of those servants had been slain.

In Aug. he proclaimed martial law "in all the country westward of Mount York." Accordingly, in all that country the natives were shot like wild beasts. The thing was not done in a corner. The *Sydney Gazette* (30th Sept.) published an account of the killing of sixteen blacks by an overseer and two stockmen. Five hundred acres of land were offered for the capture of "Saturday."⁵ After four

⁵ In after years there were statements which professed to report circumstantially the manner of Saturday's capture and death. In the 1st edition of this work those statements were quoted. The Hon. W. H.

months of authorized atrocity martial law was revoked by proclamation, and the shepherds who had fled in terror to Bathurst returned to their avocations.

At Liverpool Plains, whither some settlers had proceeded, an affray took place, provoked by some of the whites, but resulting in a general attack by the natives, in which many of them were shot. Fearful that by some other channel the government might learn the nature of the encounter, one of the principals reported his version of it; and to the discredit of Brisbane a letter was written regretting that the affray had taken place, and adding that there was no occasion to inform the government of such an occurrence when unfortunately it took place.

However good might be the intention of a proprietor he could not control the men whom he sent with his flocks and herds. Many of his servants were criminals of the worst class. Their lust, their fear, their hatred, and revenge, made them indiscriminate in offending the natives, who, with their wooden weapons, avenged themselves when they found opportunity.

A letter from Bathurst, published in the *Australian* newspaper in Sydney (Oct. 1826), proves that the government received warning of the nature of the strife in which they took part.

"The natives lament very much the death of their women and children that were killed by our people. . . . I here take the liberty of giving my opinion of the cause of the disturbances that took place, unfortunately, between us and the aborigines, and I do attribute the loss on both sides to the impudent and cruel conduct of some of our people. . . . Settlers should never be allowed to arm their servants and go after them. It is only defensive measures that can be justified against them."

One of Brisbane's measures had a more lasting result than was contemplated at the time. The corps of mounted

Suttor, of New South Wales, has kindly furnished the author with a copy of a letter published by his grandfather in 1829, which establishes the facts that Saturday was not captured—that his name was Windradine in his tribe—that he surrendered after Governor Brisbane had offered the reward for his capture—that he "was introduced to Brisbane at Parramatta," where he excited a great deal of curiosity—that the kindness shown to him, when he lived "in the Domain" there, disarmed him of all hostility to the whites, and that, at a comparatively early age, he died of a wound in the knee, received in tribal warfare, in March 1829; and "wrapped in his mantle," after the manner of his forefathers, with his weapons of war beside him, he who was "once the terror" of the country was laid to rest.

police, established to repress the natives, became one of the most valuable, as it was one of the most efficient, bodies ever known. The officers were officers of the line, and were made magistrates of the territory. The men were volunteers admitted into the corps from infantry serving in the colony. None but the active and hardy cared to embrace the new mode of life. None but those who bore good characters in their regiments were accepted. They were in fact picked men from the British army. Their discipline aided their courage, and they were a terror to ill-doers. Their deeds of daring in the capture of bushrangers would form a narrative as stirring as any romance. Like the knights of old, they scorned the odds arrayed against them; but working as they did amongst a community prone to harbour criminals, their intelligence and cautiousness were sharpened, and they joined to military discipline the activity and wariness of guerilla warfare. They knew every by-path and mountain track. Some were excellent riders, and all were sufficiently expert on horseback in the days when the convict bushranger was himself inexpert. Everywhere they were welcome amongst the free settlers, and amongst that class of emancipists which retained no sympathy with crime. A military traveller recorded his admiration of them. They were subject to military discipline and law. While serving in the corps they were retained as supernumeraries on the regimental roll. On the removal of their regiments they were transferred to the relieving detachment. Their dress was a light dragoon uniform. They carried sabre, carbine, and pistols. Commencing their career in 1825 with two officers and thirteen troopers, they consisted, in 1839, of nine officers, one serjeant-major, and 156 non-commissioned officers and men. Governor Darling added considerably to their numbers in 1830, to repress bushranging. In an evil hour, after they had done the state good service for a quarter of a century, a political manœuvrer, in order to incommode the government, persuaded the Legislative Assembly to take steps which led to their disbandment, and within a few years the colony suffered from the almost unchecked outrages committed by a new generation of bushrangers.

Sir Thomas Brisbane freely granted to reputable persons licenses to depasture live stock on Crown lands. The licenses were revocable at six months' notice; but though incidentally they asserted the control of the government over waste lands, their main purpose was to determine who might, and who might not, be privileged to establish a home removed from the eye of administrators of the law.

The confirmation of Macarthur's predictions as to the quality of wool which Australia could yield without aid from artificial food or shelter for sheep, and the knowledge that Macquarie's disfavour would no longer repress free settlers desirous to lay the foundation of family prosperity, stimulated immigration, and promoted the formation of a large association—the Australian Agricultural Company.

Members of Parliament, directors of the Bank of England, and others, took shares. The proposed capital was one million sterling. To promote the outlay of so much money in the colony the government promised a grant of a million acres of land. The land selected was at Port Stephens and its vicinity, and at Liverpool Plains.⁶

The Company imported valuable stock, and improved the agricultural methods of the colony. But convict labour is not cheap labour, and a large company is always the prey of some of its servants, or the scapegoat of their mistakes. It cannot be said that the shareholders derived large interest from their capital. They made arrangements with the Colonial Government, and took over the coal-works at Newcastle; and the Home Government gave them a monopoly of the right to raise coal in the colony for thirty-one years. The right was eventually waived (1847), but was not abused in the meantime. Men of high character were selected as managers, and exercised their trust in no sordid manner. Amongst them were Sir Edward Parry, the Arctic explorer, and Admiral P. P. King.

The charter of the Company was dated Nov. 1824, and Lord Bathurst instructed the Governor on the subject in May 1825. He had, in 1823, directed him to grant ten

⁶ At Port Stephens, Gloucester, &c., 437,102 acres; at the Peel river, &c., 313,298; and at Warrah, 249,600; besides 1960 granted at Newcastle in excess of the promised million.

thousand acres to Mr. Potter Macqueen, with a reservation of an additional quantity of like extent to be given on the occupation of the block first granted.

Brisbane made himself unpopular with some persons by abruptly discontinuing the practice of receiving into the public stores wheat and maize at fixed prices. His predecessors had adhered to it in order to encourage the growth of grain, and to enable them to meet the exigencies of a settlement once reduced almost to the point of starvation, and frequently to low diet.

Maugre the practice, prices fluctuated alarmingly. After the great flood of 1806 it is recorded that seven pounds sterling were paid for a bushel of seed wheat.

Macquarie, in 1813, ordered that the shameful waste of grain in the previous year should not be repeated, and that no wheat should "be applied to the feeding of dogs, pigs, or cattle of any description." "Man only should use it in time of scarcity."

Though the harvest was reaped within six months of the date of this Order, Macquarie again (Feb. 1814) upbraided the settlers for not supplying the King's stores "in the present alarming season of scarcity." He would show no lenity to any debtors who held back. Brisbane announced that he would receive (not all that might be brought but) the quantity absolutely required by the government. To supply troops, gangs of convicts, and various establishments, much was needed; but the settlers had more on hand, and the Governor was blamed by many who were incapable of reflecting whether he was in fault.

Brisbane arrived in the colony before the English Government had received any report from Commissioner Bigge. The Act 4 Geo. IV. cap. 96, which was passed in July 1823, to provide for the Government of New South Wales and Van Diemen's Land, has been described already. Its operation was equivalent to a revolution. Lord Bathurst wrote long despatches to explain the Act and Bigge's Reports on which it was founded. Colonel George Arthur was to succeed Sorell in Van Diemen's Land. The Chief Justice of New South Wales was to be Francis Forbes, who had filled a *similar* office in Newfoundland. Barron Field, who was *superseded* by the new order of things, sailed to England.

(Feb. 1824) a month before Forbes arrived in the colony. Saxe-Bannister was Attorney-General. Forbes landed "under a salute" (8th March 1824). He proclaimed his intention to open the Court on the 17th May 1824, and held it accordingly, under the new Charter of Justice.

After the disposing of the causes, Judge-Advocate Wylde animadverted with asperity upon passages in Bigge's Report which alluded to Wylde, and had, amongst other matters, recommended the appointment of an Attorney-General to prepare indictments and to prosecute. Such an arrangement would enable the Judge "to abstain, as Mr. Judge-Advocate Wylde has latterly done, from all preliminary cognizance or investigation in criminal cases . . ."

His diatribe deserves mention because Wylde assumed a position utterly at variance with the contention of Bligh in 1808 about the functions of Atkins, and with arguments put forth on Bligh's behalf at the court-martial on Johnston in 1811.

"The Judge-Advocate, therefore, is only one of the seven jurors who compose, and have committed to them as a Court of Record, the whole jurisdiction as to law and fact, determining both, it is known, by the opinions of a majority of its members. The Judge-Advocate has in truth no especial or other power *than any other juror (sic)* of the Court."

One short-lived consequence of the Constitution Act of 1823 deserves attention, although unnoticed by many writers. Juries were created under it, by an interpretation of questionable value put upon it by Forbes. The decision involved the formation of grand juries, and the dilemma in which one of their findings placed the Governor and the Chief Justice, forms a singular episode during Brisbane's government.

Although it involves anticipation of later events, an important point connected with trial by jury deserves special mention here. By the 4th section of the Act 4 Geo. IV. cap. 96, all criminal trials were held before a military jury. The sixth section left civil cases to be dealt with by the Chief Justice and two assessors, or if the litigants so desired, before a jury of twelve. The 19th section enabled Courts

⁷ Reading Wylde's words one wanders back to 1808, and wonders whether, if Governor King's earnest request for a legal adviser had been complied with, Bligh would have escaped deposition, and the colony much trouble.

of Quarter Sessions to be held, but was silent as to impanelling juries thereat. As Sir J. Mackintosh had been defeated in an attempt in Parliament to substitute common for military juries in the Supreme Court it was plain that in the inferior Courts the Parliament had not desired to substitute them. But as the 19th clause provided no specific machinery, Forbes resolved to torture its silence into consent. He made known his opinion, that under these circumstances civil juries could be impanelled for purposes of the Quarter Sessions. The magistrates recoiled from a position which would confound the emancipist class with the free in criminal trials, and vainly protested to the Governor. The dispute occupied some time, but (Oct. 1824) Forbes decided to issue a mandamus to command the magistrates to hold sessions and summon a jury. He urged that although magistrates' commissions sprang from the Crown, their duties were prescribed by common law, and the statute being silent as to Quarter Sessions practice, the principles of common law ought to be resorted to. His friends argued that he was consulted in drafting the Bill, and ought to know what was intended to be included in it; but his decision was an evident straining of the letter to coerce the spirit in order to suit his own views. The 8th section of the Act, which provided that the King might further extend the system of trial by civil jury, clearly proved (even if Sir J. Mackintosh's amendment had not been rejected), the manner in which Parliament intended to legislate. The Chief Justice was not the King, and if he had any hand in framing the 8th section he did his work clumsily there, if he provided that the authority of the King was needed to do what he was himself prepared afterwards to do as Chief Justice.

The magistrates were called upon (14th Oct. 1824) to show cause (the King *v.* the Magistrates of Sydney) why they should not issue their precepts, &c., and proceed to take cognizance of crimes and misdemeanours according to the law and practice of England, and trying the same by jury.⁸

⁸ Through the kindness of the late H. F. Gurner, Esq., of Victoria, whose valuable collection of colonial publications and MSS. was celebrated, and whose liberality in imparting their contents was unbounded, the author has been able to quote from the MS. notes of Forbes, of which Mr. Gurner had a copy.

The Solicitor-General, after hinting that the rule was merely sought to get the opinion of the "Court upon a most important clause of the Judicature Act," argued on behalf of the magistrates that there was an essential difference between the Courts of the colony founded by special enactment, and those existing on the ancient foundations in England. The law expressly directed (for the Supreme Court) trial by a judge and seven officers of the army and navy, while it gave the King power to introduce trial by jury at a convenient season. As trial by ordinary jury was not entrusted to the Supreme Court, how could it be contended that Parliament desired to entrust the Courts of Sessions with power to establish such trial? In sessions, and out of sessions, magistrates exercised divers powers by law, sufficient both for administration and for proof that the formation of juries was not essential. The Attorney-General replied for the Crown, that unless the Court of Sessions could convene juries, free persons could not be tried at all; and that the English practice must be resorted to unless expressly restrained. Who was to determine the meaning of the qualification in the 19th section of the Act, that it was the Governor's function to appoint Courts of General and Quarter Sessions, with "power and authority to take cognizance of all matters . . . so far as the circumstances and condition of the said colony shall require and admit?" The Court must do so. It meant no more than that they could not deal with laws inapplicable to the colony, excise, poor laws, &c. The Chief Justice, whose friend Sir J. Mackintosh had failed to mould the Act in the House of Commons, was, in his own court, master of the situation. The application for the rule was "a convenient way of raising the question." He quoted text-books on Courts generally, and on Prerogative. At any rate there were "*no express negative words* restraining trial by jury." The argument of policy was "at best weak against law." "The policy in this case is not only doubtful, but in my opinion the weight is in favour of trial by jury." He granted the mandamus.

If Sir J. Mackintosh could have foreseen the facility with which a defeated draftsman could, as Chief Justice, engraft new principles upon an Act, he might have spared himself some labour in Parliament.

The success of Forbes seemed at first complete, but he did not hasten the permanent establishment of the civil juries he longed for. The colonists were alarmed. A trick of interpretation ought not (they said) to revolutionize the constitution, and pervert the administration of justice by subjecting it to the voices of ex-felons. Another interpretation foiled the Chief Justice. The 19th section of the Constitution Act, which created the Quarter Session Courts, seemed to qualify their powers by reference to "the circumstances and condition of the colony." If the newly-arrived Chief Justice would not heed that condition, the magistrates, who knew it better than he, determined to do so. They obtained the opinion of Saxe-Bannister, the Attorney-General, and in framing the lists of jurymen confined them to persons who had never been convicted. The attempt of Forbes to confound the free with the emancipist was thus thwarted; and the juries confined to the former class seem to have given general satisfaction. W. Wentworth himself, at a public meeting in 1827, is reported to have said: "We have already had in the Court of Quarter Sessions two years' experience of trial by jury, and notwithstanding a great proportion of the population is held not eligible to sit as jurors, it has gone on well and successfully." The English Parliament did not agree with Chief Justice Forbes as to the intention of the Statute which he had warped. In July 1827 a short continuing Act was passed; but in July 1828 the Act of 9 Geo. IV. cap. 83 set all doubts at rest. It continued the powers of the Supreme Courts in New South Wales and Van Diemen's Land; gave them jurisdiction over occurrences in the Indian and Pacific Seas; and by the 13th section declared that the Circuit Courts should "proceed in the like form and manner as the Supreme Courts." By the 17th section it imposed "such and the same manner" with regard to criminal cases tried before "Courts of General and Quarter Sessions respectively." Until further provision might be made, it (sec. 5) continued the military juries, and the system of prosecution in the name of the Attorney-General, or "other officer duly appointed." Thus it abrogated the ruling of Forbes, which had for a time foiled the remonstrances of the magistrates. It enlarged (sec. 20) the *Legislative* body by enabling the King to appoint a Council

not exceeding fifteen nor less than ten. Two-thirds (sec. 21) of the whole were required to be present, and various details were prescribed as to legislation, protests, &c. English law was (sec. 24) to be applied in administration of justice, subject to power of the Governor and Legislative Council to declare by ordinance what laws should be deemed to extend to the colony. This provision furnished an intricate subject of dispute in the colony. By the common law it had been held that conviction of any infamous crime barred the convict for all time from being a juror. The English Statute, 6 Geo. IV. cap. 50, qualified this exclusion, by declaring that "no person attainted of treason or felony, or convicted of any crime that is infamous, shall be qualified unless he have obtained a free pardon."

But before this Statute was passed in England, a local legislature had been created by the 4 Geo. IV. cap. 96, and that legislature was debarred from enacting anything repugnant to "the laws of England." The laws of England therefore (it was said) in existence in 1823 (when 4 Geo. IV. cap. 96 was passed) having made felons ineligible, even though pardoned, they remained still ineligible. The English subsequent Statute did not run to the colony, and the Colonial Legislature could not remove the disability, for it could not do what would be repugnant to the law extant in England in 1823. The emancipists and their friends were furious. The wager of battle thrown down originally by the Chief Justice was clamorously taken up.

William Wentworth led the ardent spirits. He contended for the time-honoured principle of trial by jury. But circumstances already adverted to made him an exponent of the wishes of the emancipists. Dr. Wardell fought by the side of Wentworth. Dr. Bland was an energetic coadjutor. He was highly respected for ability; but his position was peculiar. A surgeon of a man-of-war, he had been challenged, and had killed his opponent in a duel in India. He was tried in 1813 at Bombay, and transported to New South Wales for seven years. He was never treated with disrespect in the colony by any man or set of men, unless his imprisonment under Macquarie's government for a quarrel arising out of domestic unhappiness constituted an exception. He was personally beloved. But he was not

content with personal recognition. He burned to wipe off all stain from those of the emancipist party from whom, in such a community, the stain could not appear to be removed without bedimming virtue itself. He made a choice between a respected professional life and the turmoil of the platform; between approval of the thoughtful and the *civium ardor prava jubentium*. His name must therefore not be excluded from history. He obtained the blessings and commanded the sympathy of the emancipist class. They seemed to derive reflected lustre from his virtues, when they could point to him as their champion. Older in years he was not less impetuous than Wentworth.

Though a part of the struggle took place under Governor Darling, it may be dealt with here, as regards the statute of 1828, in order to diminish as much as may be the fragmentary notices of which all annals must be composed. At a public meeting held on the 26th Jan. 1827, the anniversary of the founding of the colony, Wentworth vigorously declaimed in favour of trial by a jury of colonists. These rights belonged as much to the people as the Crown belonged to the King. Other men of mark supported Wentworth, and petitions were sent to England to influence the debates on the Bill of 1828, which became law as 9 Geo. IV. cap. 83.

Huskisson brought in the Bill in April. Sir J. Mackintosh, on the day set down for the second reading, presented petitions from certain "gentry, merchants, and tradesmen of New South Wales," praying for popular representation and trial by jury. Huskisson pointed out that of a total population of 49,000, there were only 18,000 free settlers, and that he was prepared to show that the concessions asked for would be a disadvantage, and not a boon to the colonies. On the second reading Sir J. Mackintosh complained that the existing trial by jury at Quarter Sessions (by favour of Forbes) was abolished by the new Bill. Huskisson retorted that though it had been tried it had "from the peculiar state of society been found altogether inapplicable. The time was not yet come in which the machinery of that valuable institution could be extended to New South Wales with effect." The Bill was read a second time.

In May Huskisson left office by a loop-hole which he *involuntarily* found in the Duke of Wellington's lines, and

by which the Duke would not allow him to return to headquarters. Mackintosh conceived fresh hopes, and moved instructions to the Committee on the Bill for immediate establishment of trial by jury; and for election of one-third of the Legislature by electors having a clear yearly income of £100, and having been free inhabitants for three years. He declared there were 55,000 free Englishmen there: Was it wise to wait till they were half a million? Only Mr. Bigge opposed these innovations; Macquarie had favoured them. But Huskisson out of office did not abandon the views he had held as a Minister. He asked if English immigrants would expose life and liberty to the decision of a jury, nine or ten of whom had been convicted criminals. Nothing would so much deter capital and respectable members of society. Only Mr. Joseph Hume supported Mackintosh. Others supported Huskisson. Mackintosh's amendments were negatived. The Act was to be in force until the 31st Dec. 1836. The indignation of the emancipist party, and of the patriots, will be told elsewhere.

In 1824, the creation of the Council to advise the Governor was deferred until the arrival of the King's commands appointing the five principal officers in the colony to seats in the Council. They were Stewart, the Lt.-Gov.; Forbes, the Chief Justice; Goulburn, the Colonial Secretary; Bowman, the principal Surgeon; and Oxley, the Surveyor-General. The appointments were temporary, and Brisbane was desired to forward to Lord Bathurst "the names of ten of the principal merchants and landholders," whom he might consider eligible, "from which His Majesty will select as many as may be deemed proper." On the 25th Aug. 1824 the first appointees were sworn in (with the exception of Col. Stewart, absent from the colony). The first measure submitted to the Council was one "to stay proceedings against any person or persons advising, issuing, or executing any Proclamation, Order, or other Act of any Governor or Acting Governor of New South Wales, &c." On the 31st Aug. 1824 it was postponed. On the 28th Sept. a short Act was passed to make available Promissory Notes and Bills of Exchange made payable in Spanish dollars. On the 4th Jan. 1825 the measure for "staying

proceedings" against acts done under former Governors was made law. Brisbane desired to "make lawful" all former Proclamations by Governors, but his Council pointed out (11th Jan. 1825) how numerous such orders and proclamations had been, how multifarious and temporary. They could not be found (they urged) "in a collective or accessible body." They suggested that particular orders should receive particular sanction. Their unanimous protest was successful. The measures enacted in 1825 continued certain duties, and made lawful all former collections; regulated the sale of wines and spirits; the control of convicts, and of a prison hulk; postage; created a registry of "births, baptisms, marriages, and burials," and a registry of "deeds and conveyances."

In May 1825 Col. Stewart arrived and was sworn. In the same month the Rev. T. H. Scott,⁹ who, after acting as Secretary to Commissioner Bigge, had entered the Church and had been appointed Archdeacon of the Colony (1823), took his seat under a fresh warrant appointing the Council. Oxley was removed, though not offensively, for it was provided that in case of Scott's decease Oxley should succeed him.¹⁰ Brisbane took occasion to record in the minutes of the Council a despatch from England concerning the government of Van Diemen's Land. It evinced a complete acceptance of Bigge's views. After the Archdeacon took his seat at the Council the management of the women at

⁹ Much obloquy was cast upon Archdeacon Scott because he had held what was called a subordinate clerical post under Mr. Bigge; but when Lord Bathurst appointed him to that post he conferred importance upon it by announcing that "in the event of His Majesty being unfortunately deprived of the services of Mr. Bigge, either by death, illness, or otherwise, (Scott was to) continue and perfect the inquiry entrusted to that gentleman. . . ."—MS. in possession of Mr. Bigge's family. Mr. Scott had entered the Church and held a living in England when he was offered the position of Archdeacon. After declining it he was urged to reconsider the matter, and was then appointed by letters patent.

¹⁰ Macquarie did not see the posts of Principal Surgeon and Surveyor-General (into which he had plotted to introduce two of his convict friends) become stepping-stones to the Council of the country. (*Vide supra*, pp. 486-488.) The fact that the respected occupants, Bowman and Oxley, were placed there, proves the significance of the conduct of Macquarie in endeavouring to promote the convict class to such offices. Macquarie died in July 1824. There was a procession in honour of his memory in Sydney in Nov. The streets were lined with crowds, and the Rev. W. Cowper preached a funeral sermon in the church.

the "factory" at Parramatta became, under Lord Bathurst's directions, a special subject of consideration, as it had been in Bigge's Report.

It was the fortune of Sir T. Brisbane to have serious differences with members of several religious denominations. He did not, like Macquarie, imprison or send them away. Nor does it appear that he desired to quarrel with them. Those who surrounded him created his enemies. As the differences with Marsden agitated the colony for several years, and were much discussed in England, it is proper to summarize them. They sprang from the intrigues of one Dr. Douglass, against whom a surgeon of a ship preferred a criminal charge at the instance of a female convict, in Aug. 1822. Judge Wylde referred the complaint to the magistrates at Parramatta. Hannibal Macarthur, Marsden, and Messrs. J. and G. T. Palmer and J. Blaxland investigated it.

There was conflicting evidence, and the magistrates were accused of exceeding their powers by affecting to pass a sentence touching a question of perjury. The facts induced three of the magistrates to decline to sit with Douglass afterwards on the bench. The Governor gave them the choice of resigning or abandoning their refusal. They professed a desire to avoid any hostility to the Governor's wishes, but persisted in their refusal. Brisbane dismissed them. Thereupon Wylde, Judge Advocate; Field, the Judge; Oxley, the Surveyor-General; and Messrs. Riley, Antill, and Woolstoncraft in their capacity as magistrates, resolved that the proceedings of the dismissed magistrates in investigating the charge against Douglass reflected "the highest character for unsullied justice, and the most chastened sense of delicacy towards Dr. Douglass as a brother magistrate, consistent with public duty." Other complimentary terms were used. Nevertheless the dismissal of the magistrates was approved by Lord Bathurst on the ground of their exceeding their jurisdiction. Douglass, whose family had been friendly with Marsden's, resolved to use his influence to disgrace his former friend. Marsden had an assigned servant, a painter and glazier, named Ring, who was permitted to work for reward, or hire, *amongst the neighbours*. Dr. Douglass was one who had

employed him. There was an old regulation (of Governor King's, 1802) prohibiting the letting out the services of a convict. The object was to restrain the assignee from profiting by the hire of a servant for whom the government supplied food. Ring derived the profits of his own labour. But Douglass saw a prospect of assailing Marsden. Ring was arrested for being illegally at large; Marsden pleaded that Ring by his permission worked occasionally not for Marsden's profit, but for his own, and was therefore not culpable. Douglass and Lawson without further inquiry fined Marsden half-a-crown a day for each day of Ring's illegal freedom, and sent Ring to gaol. A few days afterwards, without more evidence, a fine of £10 was inflicted on Marsden, and levied by distress (June 1823). Marsden showed that one of Dr. Douglass's assigned servants was employed by Marsden as a tailor, but Brisbane, when appealed to, replied only that he "found no reason for his interference with the due administration of the law." Marsden prosecuted Douglass and Lawson in the Supreme Court, and recovered the amount of the fine, with costs. The convict Ring, once noted for neat attire, but now in irons and shabby, despaired of his case, escaped to New Zealand, and was heard of no more. Marsden wrote to Mr. (afterwards the great Sir Robert) Peel, Home Secretary: "I feel exceedingly for Ring; should he return to England and fall a sacrifice to the law,¹¹ I should never forgive myself unless I used every means in my power to save him."

Peel referred the matter to Lord Bathurst. Inquiry was ordered. The Governor, with the Chief Justice and Archdeacon Scott as assessors, composed the Court. Marsden and Douglass cross-examined the witnesses. One man, an Irish Roman Catholic, told Douglass that the whole town murmured at bail being refused for Ring when offered by Marsden; and that though he had no money he told Marsden at the time he would subscribe a bullock or two to prosecute Douglass for his conduct.

Marsden denied that he came within the scope of the order even if it had not been obsolete, because he supported Ring, whereas the Order of 1802 was intended to prevent

¹¹ A returned convict was liable to be hanged.

masters from profiting by labourers whom they neither supported nor controlled. He maintained that Ring was never at large, and he extracted from Lawson, one of the magistrates who fined him, that Lawson himself had more than once paid convicts for services sanctioned by their masters, who allowed them to work for him. The result of the inquiry was favourable to Marsden, but a letter (Jan. 1825) from Barron Field proves that Marsden's friends were anxious. Telling Marsden that Archdeacon Scott would be impartial and just, that Forbes was another assessor,—“and therefore I consider you will prove your charges;” he added,

“But leave no stone unturned, for Dr. Douglass has not spared you latterly in England, and if he don't fall, you will. You may wrap yourself up in conscious integrity, and at your time of life, and with your religious consolations, you may be indifferent to temporal opinion; but you owe something to those who have pledged themselves in your cause. If you are defeated, your friends will fall with you. Mr. Wilberforce will be mortified. The Church Missionary Society will be scandalized. You are therefore bound to exert yourself on the behalf of those who are implicated with you, and who are (as it were) sureties for your good behaviour. Think of these things and get up your proofs well, and not in that slovenly manner that Mr. Scott says you did before Mr. Bigge. Never was there such powerful interest made for anybody as for Dr. Douglass. Sir Thomas's letter was all in his own handwriting. Major Goulburn urged his brother as it were for a life and death matter. Mr. Stephen could not have advocated Dr. Douglass's cause better (in my presence) before Mr. Horton if he had had a brief of fifty guineas. . . . Mr. Wilberforce is wholly yours, but I am amazed at his nephew's enmity to you. I combated this before Mr. Horton so successfully that the Under-Secretary took your part, and Mr. Stephen was forced to apologize for his partiality. . . . Your letter to Mr. Peel worked as you intended, and set the one department upon the other; and Lord Bathurst could only quiet Mr. Peel by promising further inquiry.”

That Sir T. Brisbane should write earnestly to Lord Bathurst, and that Major Goulburn (Brisbane's Secretary) should with equal fervour importune Mr. Goulburn, then Chief Secretary for Ireland, was a combination sufficient to alarm Marsden's friends. They on their part awakened the interest not only of Wilberforce but of the just and generous Peel. Lord Bathurst was constrained to express publicly the sense entertained by the government of Marsden's “long, laborious, and praiseworthy exertions in behalf of religion and morality.” He directed Brisbane to increase the stipend, in consequence of “the long and useful services” of the old chaplain, whom the appointment of

Archdeacon Scott had reduced to the second position in his church. Lord Bathurst had (Sept. 1824), directed Brisbane, in conjunction with the Chief Justice and the Archdeacon, to examine "certain points in the case of the prosecution directed by Dr. Douglass against Mr. Marsden." In January he directed him to examine, with the same aid, "three points of accusation which have been made against Dr. Douglass, on the confirmation or refutation of which I shall form my decision as to the propriety of retaining him in official situation in the colony." Douglass had been accused of habitual drunkenness, and of ordering torture of a prisoner. Formal depositions had been made by a man named Bradley, and they were sent out by Lord Bathurst, who added: "I have to direct you to apply to Mr. Marsden to bring before you the statement which he has transmitted to England with respect to the alleged fact of Dr. Douglass having ordered a convict to be flogged with a view of extorting confession from him."

On the same day, so confident were Douglass's friends in the Colonial Office, a despatch appointed him Clerk of the Council with a salary of £800 a year; he was to assume the duties if the inquiry was "unequivocally favourable" to him. If it should be unfavourable the suspension by Lord Bathurst was to be continued until otherwise ordered. Marsden, when called upon by the Court (Brisbane, Forbes, and Scott), informed them that he had sent no statement to Lord Bathurst, but that as his name had been involved in the matter he was prepared to establish the charge of torture, lest it should be thought that he "shrank from a fair inquiry." The Governor, who had written so earnestly against Marsden to the Colonial Office, found sympathy in Forbes, and the Court declared that "such an inquiry not falling within his Lordship's instructions, the Court (15 July 1825) do not deem it expedient to advise the same." Marsden sharpened the point for investigation, by saying that one Bayne had been cruelly punished by Douglass. Bayne was to be found, for he was employed as one of the Governor's boat's crew. Judge Forbes said that the Court left it entirely to Marsden's discretion whether he would *put forward* the case of Bayne. He quoted Lord Bathurst's *direction* to "apply to Mr. Marsden" for "the statement

transmitted by Marsden to England." Marsden reiterated that he had no statement to produce, "because he had made none, in the shape of a charge." He had no doubt that in a letter to a friend he had alluded to the case of Bayne. The public flogger had informed Marsden that he was compelled by Douglass to flog Bayne "in the most cruel manner on suspicion of a robbery," that he was to give him twenty-five lashes every morning until he would tell where the stolen property was concealed: that he did so for five consecutive days, but was so disgusted that on the sixth day he kept out of the way; that on the eighth day (Monday) Dr. Douglass ordered the flogging to be repeated, while Bayne vainly protested that he knew nothing of the property. "I beg leave to be allowed (Marsden wrote, 28th July) to offer proof to this Honourable Court that the above circumstances did occur, and I leave this statement with the utmost deference and respect to your consideration." Even this statement the Court evaded.

"The mere fact of a man's having been punished six times in eight days might be in pursuance of a sentence of a Court, and therefore, unless you are prepared to prove that Bayne was punished on suspicion only, the Court does not think your statement of the 28th July 1825, so far at least as you are pledged to its accuracy, is within the point of inquiry directed by Earl Bathurst."

Marsden promptly replied: "I am ready to produce proof of the alleged fact of Dr. Douglass having directed a convict to be flogged with the view of extorting confession from him." Quoting thus the very words of Lord Bathurst's despatch, he might be pardoned for hoping that the quiver of the quiddits and quilllets of Forbes was exhausted. It was not so. The sturdy chaplain was informed by the Court—"unless you transmit a copy of the statement you have transmitted to England of the alleged fact . . . they do not feel authorized by Lord Bathurst's instructions to enter on any other subject of investigation."

The evasion was palpable, but Marsden could not thwart it. The Court made a fair inquiry dependent upon compliance with their own demand, which had been so framed as to make compliance impossible. He had made no statement; he had no copy of the private letter to England, in which he thought he had alluded to Bayne's

case; he had witnesses ready. The clerk who recorded Douglass' order, the constable who witnessed the punishment, the flogger who inflicted it, the gaoler who counted the stripes, the man who received them,—all were there, but injustice in high place refused to hear them. It seemed impossible to hear them and to confer office upon Douglass.

The Governor's private secretary forthwith informed Douglass that the "inquiry into the several matters of charge having been favourable," his commission as Clerk of the Council would be issued. From the vantage ground thus obtained, Douglass resolved to damage Marsden by accusations which would revive and aggravate the charges formerly made against him for severity. Before the resolution could pass into action, the public were astounded at a new phase in the "Torture" proceedings. The Grand Jury at Parramatta made a presentment inculcating Douglass and other magistrates for having on thirty occasions ordered prisoners to be flogged in order to extort disclosures of guilt. The *Sydney Gazette* published the presentment. The Attorney-General wrote immediately to the Governor. He thought the whole matter ought to be inquired into. The friends of Douglass were alarmed, when amongst several others a true Bill was found against Douglass on the very charge which the commission ordered by Lord Bathurst had refused to examine. They had brought against Marsden and others charges which had been dismissed by the Grand Jury for want of evidence. They then caused them to be brought privately before the Attorney-General; eight were thus submitted. In justice to the magistracy it must be stated that when called upon by Saxe-Bannister to explain the charges made against them, several thanked him for his courtesy, but did not think it necessary to say more than that they were anxious for public investigation of their conduct.

Douglass by no means courted the inquiry from which the Governor and the Chief Justice had rescued him. Forbes, eminent for ability, determined by a sudden blow to arrest the law. The first step taken was to consider in Council (30th Aug.) a letter from the Attorney-General respecting the presentment of the Grand Jury at Parramatta, and to call for the records of the benches of magistrates at

Sydney, Parramatta, and other places. On the 27th Sept. the Governor laid before the Council a petition from Hannibal Macarthur against the passing of any Bill to stay proceedings against magistrates against whom prosecutions had been commenced. Forbes presented a report by himself on the whole subject and moved its adoption. With the aid of Colonel Stewart and Major Goulburn the report was adopted. The Archdeacon and the principal Surgeon opposed it. Against similar dissent Forbes carried a message to the Governor suggesting to him "the necessity of causing a Bill to be laid forthwith" before the Council "having for its object to stay all proceedings" against magistrates for "inflicting punishment after conviction, to compel restitution of property or disclosures of parties implicated." The Bill was initiated on the 5th Oct. 1825, and under the deceptive title of an ordinance to "stay proceedings in certain cases against Justices of the Peace of New South Wales and its dependencies, acting in execution of their office," became law. Saxe-Bannister the Attorney-General, when instructed to prepare the Bill, recoiled, and asked for the report made to the Governor on the facts. Brisbane declined to recognize an Attorney-General's discretion in framing Bills; but sent him the report. Bannister shrank from the task of drafting a Bill to indemnify such a practice as torture. He would be no party to it. Brisbane did not see that in complying with specific instructions Bannister could become a party to any law. Bannister's contention would "render him a third estate in the Legislature. I cannot consent to this; the Council will not consent to this,"—Bannister must reconsider his letter. Bannister suggested that a *nolle prosequi* might serve all needful purposes to protect magistrates. Brisbane consulted his Council, and refused to change his plans. If Bannister should decline to prepare Bills, the Governor would "seek for professional aid in this branch of the Government elsewhere till the pleasure of the Crown could be known." Bannister, considering himself dismissed, was preparing to send his defence to England through the Governor; but Brisbane had no harsh intention. The Esau of whose words he was the conduit was Forbes, and Forbes did not wish the Home Government to

see that for hesitating to frame an *ex post facto* law to defend torture, Bannister's conduct was impugned. Brisbane replied: "The letter was not intended to dispense with your services generally, but merely in drawing Bills recommended by the Council. I beg leave further to state distinctly that it is my wish that you should continue to discharge your duties."

Bannister, who in a voluminous defence paid a grateful tribute to Brisbane for his personal courtesy, ascribed his conduct on this occasion to "submission to advisers who entangled him." He at once thanked Brisbane for condescending to correct the impression that he was superseded in his office. "I am aware that an Attorney-General is not a Minister of State, but some subjects appear to me of extreme delicacy, and on this I think I should be liable to punishment if I put my hand to the Bill."

Bannister wrote thus on the 4th October. On the 5th Brisbane introduced his Bill. These events deeply disturbed the public mind.¹¹ Marsden vainly protested against any Bill of Indemnity. Although charges had been made against himself for illegally punishing prisoners, he was prepared to meet them fairly without retrospective justification by law. Brisbane and the cabal who, in Bannister's phrase, "entangled him," had good reason to shrink from inquiry into the case of Bayne.

If Douglass should be found guilty by the Courts of Law after the Court of Inquiry ordered by Lord Bathurst had peremptorily declined to do its duty, the consequences might be disgraceful to Brisbane and Forbes. The Indemnity Act was framed in spite of the Attorney-General.

Meanwhile the charges against Marsden (brought before the Grand Jury and dismissed for want of evidence) having been put before the Attorney-General, he, in accordance with custom, apprised Marsden (10th Sept.) that unless the latter could show reason to the contrary, a writ of *certiorari* would be asked for to bring up the proceedings of cases in which on 1st July in 1822, and on the 5th of April in 1825, illegal sentences were given by Marsden.

¹¹ John Macarthur, in a letter to his son in England, wrote: "The affair of Marsden made a great impression even on the common people; and what better can be expected hereafter?"

To the magistrates charged by the jury presentment, as well as to those secretly charged, Bannister sent invitations of a similar tenour. Marsden disclaimed all recollection of the case in 1822, in which he was accused of concurring with Douglass in ordering Downes and Carroll "to be confined in a solitary cell on bread and water, and every second morning to receive twenty-five lashes until they tell where the money is concealed." He asked Bannister to call for the warrants, and his name was not found on them, although in the record of attendance on the Bench it was included. Forgery had been at work, and it had been clumsy.¹² On the day on which Marsden was accused of punishing Downes and Carroll at Parramatta, he was far away on a tour to Portland Head at the Hawkesbury. He had on that occasion performed a marriage ceremony (27th June),¹³ and Mr. Cox, one of the best-known gentlemen in the district, was able to furnish a written statement that Marsden was at Cox's house, Clarendon, on the 1st July, and did not leave it until the 3rd. An alibi so established tended to throw doubt upon the other charges. Marsden published the refutation in a newspaper. There was a case which occurred on the 5th April 1825, in which the records were not disproved by external evidence, but Marsden denied their accuracy. His name was put at the heading of the proceedings, but he had not signed them. When Brisbane's Council investigated the matter, they observed the deficiency, but surmised that as Marsden was present on the following day he was present on the 5th.

The luckless Douglass was said to have signed an order to flog a man daily until he should tell the names of four associates in gambling, and Marsden's name had been entered at the head of the record. The report of Brisbane's Council stated that the clerk of the Bench at Parramatta placed the original minutes before the Council. Marsden

¹² The poor creature, believed to have been employed or to have worked from personal malice, was the man who had made the charges against Douglass before. He had been originally transported for forgery, and was eventually hanged in New South Wales for a similar offence!

¹³ Mr. George Cox, son of the witness, was married on that day at Windsor to Miss Bell, in the presence of Wylde the Judge-Advocate, the fathers of the bride and bridegroom, and others, in the church at Windsor.

was indignant. The entry must have been a forgery as regarded his presence.

The man supposed to have been thus punished by Marsden's order afterwards made an affidavit that he was never punished by him for any offence. Marsden subsequently ascertained that the record produced before the Council was a forgery, and in 1828 received certificates from the Colonial Secretary, and from the Parramatta Superintendent of Police, showing that no such entry existed in the official records. But before 1828 Brisbane had given place to another Governor.

The report drawn by Forbes had elicited an instruction from Lord Bathurst to reprimand Marsden privately. He sturdily appealed to Governor Darling for the fullest inquiry. He wrote to Huskisson (then Secretary of State) to demand it. He published (1828) a pamphlet, in which he vindicated himself.

In the colony the prime mover in the transactions by which inquiry into Douglass' conduct was stifled, was well known. A writer friendly to him stated (Sept. 1826) that it was in order to put an end to feuds that Forbes "thought fit not merely to suggest the propriety of passing such an act of indemnity . . . but also most readily to sign the requisite certificate."¹⁴ But the iron must have entered into the soul of William Wentworth when he saw the champion of his friends resort to foul weapons. He could not approve their use, but his newspaper endeavoured to throw the responsibility for their use upon the man who condemned them at the hazard of his post.

Bannister (the *Australian*¹⁵ said), when "called on to extricate the Government from embarrassment" . . . "cast upon the Council of the colony, and upon the Government, the odium of interfering with the administration of the law—the odium of staying prosecutions already commenced—the odium of resorting to that most desperate

¹⁴ By § xxix. of 4 Geo. IV. cap. 96, it was enacted that no law or ordinance should be laid before the Council or passed unless previously a copy had been laid before the Chief Justice, and he had given a written "certificate that such proposed law is not repugnant to the laws of England, but is consistent with such laws, so far as the circumstances of the *said colony* will admit."

¹⁵ 18th Oct. 1826.

of all desperate powers of legislation, an *ex post facto* law." It was difficult to know which was the most pitiable—a man of the ability and in the position of Forbes recommending such a remedy, or a man of Wentworth's masculine honesty so duped by Forbes, or so blinded by prejudice, as to seek to throw the blame upon Bannister. The new Constitution Act, passed in July 1828, removed from the path of the political Chief Justice the stumbling-block of Grand Juries.

It was during Brisbane's government that a young Presbyterian minister, who was to become notorious in colonial history, immigrated to Sydney. Mr. (afterwards Dr.) John Dunmore Lang arrived there in 1823. A brother was there in 1821, and through the intervention of Commissary-General Wemyss received an appointment as clerk in the Commissariat Department. The Presbyterians in Sydney had no organization, and the clerk suggested that his brother John might become their minister. Sir Thomas Brisbane was friendly to the suggestion. Dr. Lang was ordained in 1822 at Irvine, and arrived in Sydney in May 1823. He recorded, in his *History of New South Wales*, that his Church in Scotland regarded his emigration with "cold-blooded and unnatural indifference."¹⁶ He was hospitably invited to the house of Mr. Wemyss, and cheerfully accepted the invitation.¹⁷ The "solitary friendless wanderer," as he called himself, was to play no ordinary part in the colonial drama. At first it was religious. It became political when he bid for popularity in public affairs to obtain control or purchase favours. His appearance as defendant in actions of libel, for emissions in what he called religious newspapers, were numerous. Grasping at money, he cared not for it for its own sake. To maintain a foremost position in public regard, or wreak his wrath upon an enemy, he would have compounded for a life of imprisonment. His admirers were astonished when, on going to condole with an incarcerated martyr, they found him gaily reading a newspaper and sipping his coffee. Indomitable in will, unscrupulous in word and deed, vigorous in mind and body,

¹⁶ Third Edition, 1852. Vol. ii., p. 460.

¹⁷ "Narrative of the Settlement of the Scots' Church, Sydney." By J. D. Lang, D.D. Sydney: 1828.

he seldom met a conqueror ; but, astute in forecast, when he did meet him he avoided conflict.

It has been common for his partisans to defend his equivocal actions by pleading his unselfishness. If he was extortionate for his church, he erred from excess of religious zeal. If he improperly obtained money from intending immigrants with a foreknowledge that they could not receive land-orders on arrival—the Colonial Office having distinctly warned him of the fact—this also was extenuated as laudable devotion to the cause of immigration. At any rate he did not miser-like store money in a chest for himself. He spent what he appropriated. Finally, it would be argued, that if he was at times unscrupulous, ill-treatment and persecution had soured him, and that when he was young his code of ethics was irreproachable. While he was undergoing imprisonment for libel (more than a quarter of a century after his arrival in 1823) subscriptions were sought in his behalf. A young man vainly solicited aid from a gentleman, who replied, it was no part of a Christian minister's duty to libel his neighbours. The final argument in Dr. Lang's favour being adduced, the gentleman replied :

“Young man, I knew Dr. Lang probably before you were born. You see that corn-field. I was ploughing there when Mr. Lang, fresh from Scotland, came to ask for a subscription for a kirk. I promised him one, which he was pleased to call handsome. Before leaving me he begged me not to be surprised if I saw that my really handsome subscription appeared double in the published list. I should not be asked for the money ; but by such a method a larger amount could be obtained from government. I told him that my promised subscription he should have, but that I would not allow him the use of my name at all, and that I would apprise Major Goulburn (Brisbane's Colonial Secretary) of his nefarious practices. And you will observe, sir, that this was while he was young, and before he had been, as you say, persecuted.”

The writer of these pages heard these words from the speaker a few days after they were uttered.

The career of Lang was in keeping with this beginning. His supporters argued that his cause was good, and that if he wished to build a church a zealous indiscretion taking the form of untruth was scarcely blameable. Such a teacher might debase, but could not raise, the standard of morality. He was ever ready, however, to scourge an opponent for immorality, and was often a terror to them that *did evil*. To those who thwarted him in a good or bad

cause he was equally unforgiving. Major Goulburn, who in the instance above quoted was apprised of his method of swelling subscription lists, and guarded against it, was a perpetual theme of abuse. Coarse raillery in rhyme or prose was ever ready to Lang's pen and tongue, and what his ingenuity prompted no charity restrained. To refute his slanders was not to silence him, for he repeated them from day to day and year to year. In time they might be believed. He was industrious in public meetings, in the press, and in legislative assemblies. He embodied in an "Historical and Statistical Account of New South Wales," which ran through several editions, so much of his own career and quarrels, that it was said that the proper title would be, "The Sayings and Doings of Dr. Lang, with some remarks on New South Wales." On the spot, and while the generation in which he lived was extant, his misrepresentations could do little harm. Few believed them. Abroad they found credit in his own day. On many subjects therefore it is necessary to narrate the facts with careful detail, and to prove the worthlessness of his fictions.

Major Goulburn so used his knowledge of Lang's methods of extorting aid from the Government, as to create a grievance. Lang, denouncing the Governor's hostility, averred that it was due to his being "governed by the Colonial Secretary." Brisbane himself at the outset subscribed to a proposed Scots' church, but Lang's unscrupulousness made Brisbane withdraw his subscription.

Lang railed at Wemyss for not supporting an appeal to the public. John Macarthur earned Lang's ephemeral gratitude by convening a private meeting at the house of Bowman, the principal surgeon, and, proposing that a salary should be guaranteed to the fervid young minister. Lang complained of the "ungenerous opposition" of Wemyss to Lang's "settlement." A sum of £700 was rapidly subscribed towards building the church. Amongst the subscribers¹⁸ may be seen the names of many who were afterwards assailed by Lang. Mr. Wemyss gave £25; Mrs. Wemyss, £10; John Macarthur gave £25. His sons James and William gave (each) £12 10s. Thomas Icely gave five

¹⁸ *Sydney Gazette*, 5th Feb. 1824.

guineas, and Alexander Berry gave ten guineas. All of them were in turn reviled. Icely and Berry were driven to obtain redress at law.¹⁹

An address to the Governor was signed by influential persons, and was presented in due course. It reminded Brisbane that he had granted aid to the Roman Catholics in the erection of their chapel, and prayed him to extend "countenance and support" to the Presbyterians. Major Goulburn, deemed able, and known as the impenetrable "Major," was accused of framing Brisbane's reply. Whoever framed it, unwisely worded it as though Lang were the only petitioner, and the Executive Government were called upon to discuss the morality of petitioners. Brisbane read his reply to the astounded deputation, and it was published in the *Gazette*:

"When the Presbyterians of the colony shall have advanced by the means of private donations in the erection of a temple worthy of religion; when, in the choice of their teachers, they shall have discovered a judgment equal to that which has presided at the selection of the Roman Catholic clergymen; when they shall have practised what they propose, 'to instruct the people to fear God and honour the king;' when, by endeavouring 'to keep the unity of spirit in the bond of peace' in a colony requiring it more than all others, they shall have shown through their lives the influence of the holy religion they profess—then assuredly will the Colonial Executive step forward to extend its countenance and support to those who are following the Presbyterian creed."

"Of the Church of England one of the glories is her toleration"—was a phrase in the earlier part of this strange document, which Lang vigorously denounced in a letter to the Governor, of which no notice was taken, unless the withdrawal of subscriptions for the Scots' church to the amount of £65 (by Brisbane and his household) was intended to serve as a notice. Dr. Lang's mother arrived in Sydney early in 1824, and busied herself in rallying the

¹⁹ When on Icely's prosecution Lang was sentenced (1851) to four months' imprisonment and to a fine of £100, a friend said to Icely—"Well, you have put that old rascal in prison, but I would not have gone through what you must have endured for anything." "Why?" "Because you must have had to read all the vile slanders in his newspaper." "Not at all (said Icely). I heard he was assailing me, and told my solicitor to take the paper and ask me for instructions on anything he deemed actionable. He eventually sent me a copy, and I told him to proceed. That is all. I never took nor read the man's paper." It was in collecting a sum to pay the fine on Icely's prosecution that a youthful acolyte learned how his prophet conducted himself when he was young.

fortunes of the Scots' church under what Lang called "a sentence of proscription." Lang published in 1828 (after Brisbane's departure) what he called "scraps of Presbyterian conversation," in which his mother accused the Governor to his face of "slighting her family and persecuting the cause of God."

While her son was still an almsman in the house of Wemyss, the intervention of Mrs. Lang created illwill between Wemyss and Brisbane. The latter promised to assist the church, and the former (according to Lang's statements) distrusted the promise. Under these circumstances Lang declared that he "determined to leave the Commissary's family altogether, and to live in future in his own hired house." He abstained from conversing with Mrs. Wemyss, in compliance with the injunction—"Ephraim is joined to his idols; let him alone." Severance from the Commissary had "become indispensably necessary" in order to profit by the grace of Sir T. Brisbane, with whom Lang put himself in communication in May 1824, and from whom he received promise of assistance. Brisbane subscribed £100, and in July 1824 was present at the laying of the foundation-stone of the Scots' Church on land which he granted for the purpose. Wemyss was absent, and Lang said "he was evidently hardening his heart against the Lord, who had accomplished the deliverance of the Scots' Church from the hand of her enemies." Brisbane undertook to recommend to the Secretary of State the issue of a stipend to the successful Lang, who sailed for England (Aug. 24) to ply his persuasions in person, ostensibly to secure a grant in aid of the erection of the church, but with an eye to a more personal matter. There he found that Lord Bathurst had already animadverted²⁰ upon Brisbane's offensive reply to the Presbyterians. The requirement from them to prove their loyalty was one which on reflection Brisbane would consider "an ill-advised and extraordinary demand." Brisbane was directed to "assign out of the Police Fund a sum equal to one-third of what upon an estimate of a plan first approved" by himself might appear requisite for the erection of a

²⁰ Despatch, 16th Aug. 1824.

church for the Presbyterians at Sydney,—it being understood that they, and not the public, would be responsible for its completion. But Lang suggested that a salary for himself would be more advantageous than a grant for building a church. Mr. Wilmot Horton asked him whether it would be more satisfactory to the Presbyterians. He wrote (28th Jan. 1825):²¹ “I beg to express my decided opinion that it would be much more satisfactory to the Presbyterians . . . and I feel confident that on the alternative being proposed, they would unanimously prefer the appointment of a salary for their clergyman, even at the risk of having their church encumbered²² with a load of debt for a series of years.” Lord Bathurst consented. Brisbane was informed (Feb. 1825):

“The Rev. Mr. Lang having represented that it would be more satisfactory to the Presbyterians of the colony that a salary should be allowed a clergyman in connection with the Church of Scotland, than that they should receive a grant for the erection of a church, Lord Bathurst orders £300 for the purpose in lieu of the assistance it was proposed to afford to the Presbyterians of New South Wales for the erection of their church.”

Lang returned triumphantly with a salary, and treasured the compliance with his own suggestions as a grievance to be used in after time. On arriving in Sydney (Jan. 1826), he found that Brisbane had already advanced 2400 dollars for the building of the church: and with financial ingenuity he evaded repayment. Though the church trustees after some years executed a mortgage to secure the repayment, by various arts and contentions it was eluded. The curious may read Lang's narrative in a pamphlet published in Sydney in 1828; and learn how his mother “could not commend her son” for writing a libellous letter about Wemyss; how in that letter he reviled Wemyss, to whom “he was indebted for the salt of his hospitality and the

²¹ New South Wales Legislative Council Proceedings, 1843, p. 566.

²² In 1843, twenty-six trustees, elders, and committee-men petitioned the Legislative Council for relief. They required £1480 to liquidate the debt. They denounced the “palpable injustice” of the alternative (originally suggested by Lang and) sanctioned by Lord Bathurst, by which salary was exchanged for a building-grant. It was only “tacitly acquiesced in by the Presbyterians.” Before a Select Committee Lang was asked how he reconciled the petition with his own letter to Wilmot Horton. He replied, “I had to embrace one of two alternatives, and I chose that which I conceived to be the best.”

shelter of his roof;" how he likened him to the rod of Moses which turned to a serpent in the hand, and declared that Divine vengeance could be averted only by "timely repentance." If he should testify contrition Lang would again meet him as a friend. It seems that the hardened Wemyss exhibited the letter as a proof of Lang's ingratitude. In the same pamphlet is included a letter to Mr. Busby (who having been a member of the Scots' Church Committee in 1824, was repelled by Lang's conduct). Lang wrote to Busby: "Several of my former supporters have doubtless fallen away from me and deserted my ministry. So it fared, however, with the Saviour of the world and with his twelve apostles; and I feel content to receive the same treatment as my Master." These occurrences for a time rendered Lang's name a synonym for untrustworthiness. It was not until he plunged into politics, in 1843, that he acquired any general following. As he occupied a prominent position at all times it is right that he should be introduced in his true colours and judged by his own words and acts. His importance may deserve a personal description. Tall and lean in youth, he became portly in advanced life. His aspect was keen, his nose aquiline, his voice harsh, his action ungainly, his accent broad, his language coarse. Unctuous as a petitioner, he was insolent when backed by numbers. An opponent once, amid a shuddering consciousness of the likeness in some respects, read, with hypothetical application to Lang, Macaulay's description of Ferguson the plotter, in the reign of Charles II.:

"He had been bred a Presbyterian; but the Presbyterians had cast him out, and he had become an Independent. . . . Though texts of Scripture were always on his lips, those who had pecuniary transactions with him soon found him to be a mere swindler. At length he turned his attention almost entirely from theology to the worst part of politics. . . . Violent, malignant, regardless of truth, insensible to shame, insatiable of notoriety, delighting in intrigue, in tumult, in mischief for its own sake, he toiled during many years. . . . Nor was it easy for him to escape notice; for his broad Scotch accent, his tall and lean figure, his lantern jaws, the gleam of his sharp eyes . . . his gait distinguished by a peculiar form of shuffle, made him remarkable wherever he appeared."

Lang, however (unlike Ferguson), did not skulk in hiding-places. His boldness was ever ready to distort or to defend openly whatever his cunning devised.

Having devoted so much space to prominent members of two churches, it may be well to mention that the Wesleyans, without mingling in political warfare, strengthened their pastoral staff. They had five Ministers at work in New South Wales when in 1826 and 1827 they opened chapels in Hobart Town and Launceston.

There was an important accession to the bar and to politics in 1824. William Charles Wentworth returned to Sydney. He had competed with more than twenty others for the Chancellor's medal at Cambridge, and though W. M. Praed's poem on Australasia gained the prize, Wentworth's gained the second place, and in the opinion of many deserved the first. His pen seemed touched by the fire which kindled the muse of Dryden. His sanguine youth predicted the future glories of the sunny South. He claimed to sing them as one born of the soil.²³ The dwellers in it were proud of the talent of their first-born bard. Another able barrister arrived at the same time—Dr. Wardell—who was to be closely allied with Wentworth in public life. The Supreme Court created by the New Constitution Act was not their only arena. Brisbane announced (Oct. 1824) that the censorship of the press would be discontinued, and the *Sydney Gazette* became untrammelled. Nor was it the only newspaper. In the columns of the *Australian*, established in 1824, Wentworth and Wardell thundered in a style unknown in the colony before. Sir Ralph Darling had the reputation of being the first to curb the licentiousness of the press, but Brisbane broached the subject (15 Jan. 1825), and it was in response to his despatch that Lord Bathurst (12th July 1825) directed Darling at the "earliest opportunity" to initiate a measure to control the press, to exact a license and to make the maximum term of the license one year.

Sir T. Brisbane was unfortunately estranged from the Colonial Secretary, Major Goulburn, and although that officer's brother was in high reputation in England (Under-Secretary for the Colonies from 1812 to 1821, and in

²³ "Thy native bard, though on a foreign strand,
Shall I be mute, and see a stranger's hand
Attune the lyre, and prescient of thy fame
Foretell the glories that shall grace thy name?
Forbid it, all ye Nine! 'twere shame to thee,
My Austral parent: greater shame to me."

1825 Chief Secretary for Ireland), Lord Bathurst relieved Major Goulburn from office, intimating at the same time that if he should choose to do so he might hold office until a successor might be appointed. Goulburn remained after the Governor had departed. Disagreement with his Secretary was supposed to have hastened Brisbane's retirement. The advice of those around the Governor created continual trouble. Chief Justice Forbes had arrived in the colony, like Governor Macquarie, with ostentatious predilection to exalt the emancipated convicts at the expense or in defiance of the free settlers. He was suspected of half-hearted allegiance to the monarchy of England. He affected to spurn the prudishness of those who kept aloof from the society of the freed.

Amongst those who kept aloof was John Macarthur, who was unintentionally aggrieved by the Governor. Brisbane, in 1822, requested Macarthur to become a magistrate. His "high character," his "useful pursuits," his "talents," induced the offer. Wylde the Judge-Advocate, and Barron Field the Judge, deprecated the appointment. They admitted Macarthur's ability and the public benefits he had conferred, but

"the part which he took in the rebellion, or rather the rebellion which he almost alone caused . . . and having reason to know that good terms so little, if at all, prevail between him and the magistrates generally, we cannot but doubt whether the appointment would be approved by His Majesty's Ministers, and we consider it at least our public duty respectfully to submit whether it should at all take place."

Brisbane sent Major Goulburn to explain that, having "discovered that divisions unfortunately existed which he endeavoured in vain to conciliate," he was under the painful necessity of declining Macarthur's aid, but that "no change had taken place in the esteem he entertained for Macarthur's character," and that at all times he should be most happy to meet him.

Macarthur considered himself "particularly unfortunate in having been invited" to accept an office which circumstances might have induced him to decline but for a wish not to be thought "disinclined to contribute to the support of the government." But as he had "unfortunately consented," the omission of his name was a public degradation, which nothing but consciousness of rectitude of conduct

and honourable intention would enable him to support. He appealed to Brisbane as a soldier "and a man of honour to afford the only relief possible," that "of knowing to whom I am to attribute my disgrace, and what are the particulars of the representations which can have made him feel it obligatory to inflict so deep a wound upon a man of whom he is pleased to express such favourable sentiments. I solicit no favour but that of being permitted to defend myself against the masked attacks of my enemies." He had heard that Wylde and Field had been active; and collateral circumstances confirmed the rumour. He respectfully entreated that he might obtain the information indispensable for relief of his wounded feelings and the support of his honour. As a soldier, Brisbane could hardly, in those days, reject an appeal made in the name of honour; but he prudently postponed the production of the letter of Wylde and Field for some months. The fiery Macarthur restrained his indignation while his traducers held office. When Field was about to leave the colony he sent him a note which did not produce the answer which Macarthur considered "agreeable to the usage of gentlemen." Then he wrote a letter declaring that Field's statement that good terms did not exist between Macarthur and the magistrates was one which those gentlemen were ready to contradict, and "you will therefore be pleased to understand that I accuse you of having knowingly and deliberately committed an act which the manners of a gentleman forbid me to name, even under the sanction of your example."

When the New Constitution was granted Macarthur's name was the first on the roll of the leading colonists who thanked Earl Bathurst for the measure, as beneficial in itself, and the precursor of greater benefits whenever the increased number of respectable inhabitants might induce His Majesty's Government to confer a "Legislative Assembly" and "the inestimable privilege of trial by jury." Under existing conditions that "sacred institution of our ancestors might be productive of great evil," and the memorialists considered the steady opposition of the "government to its hasty introduction the dearest proof of the correct and enlightened views taken of our peculiar

population." In these words may be read the intensity of the strife created by Bligh and fostered by Macquarie.

Again, when in 1825 an address, imbued with wild notions, was presented to Sir T. Brisbane, the leading residents, with Macarthur at their head, prepared a memorial. They disclaimed sympathy with the address. They feared that the dissemination "by a licentious press of doctrines tending to inflame the worst passions of the lower orders—to excite a spirit of animosity towards the upper classes, and contempt for all legitimate authority, will (unless timely counteracted) subvert that disposition to peace, good order, and loyalty, for which the colonists of New South Wales have been hitherto distinguished." They advocated an enlargement of the Legislative Council by nomination by the Crown, and "an extension to the Supreme Court of trial by jury, founded upon the same principles with respect to the qualification of jurors as are in England considered indispensable to secure impartial administration of justice." "Such measures would disarm agitators of power to do mischief."²⁴

Though Macarthur lived in comparative retirement, the inquiries of Commissioner Bigge had so far attracted him to public affairs that he furnished Brisbane with recommendations upon them. He advocated some provision for the moral and religious instruction of convicts, and before Brisbane succumbed to the influence of Douglass and of the Chief Justice he promised to adopt Macarthur's suggestions. Macarthur did not rely on moral suasion only, for on the ground that "a thief's most vulnerable part is his belly," he advised the stoppage of allowances to misbehaving assigned servants. The saving which accrued was to go, not to the master, but towards a rural police fund. He earnestly advocated the establishment of

"a body of really respectable settlers; men of real capital, not needy adventurers. They should have estates of at least 10,000 acres, with reserves contiguous of equal extent. Such a body of proprietors would in a few years

²⁴ Among the memorialists were several Macarthurs and Nortons, Oxley, Bowman (Principal Surgeon), Macvitie, Cordeaux, Lethbridge, Chisholm, Walker, Harrington, Scott, Campbell, Allen, Busby, Alexander Berry, W. H. Moore, Richard Jones, De Mestre, A. B. Spark, and others joined them.

become wealthy, and, with the support of the Government, powerful as an aristocracy. The democratic multitude would look upon their large possessions with envy, and upon the proprietors with hatred. As this democratic feeling has already taken deep root in the colony in consequence of the absurd and mischievous policy pursued by Governor Macquarie, and as there is already a strong combination amongst that class of persons, it cannot be too soon opposed with vigour."

Something of the sort must be done "if His Majesty's Government propose to retain this colony as a dependency of Great Britain." With augmentation of population the aristocratic body should be enlarged. Flocks would multiply,—Great Britain would receive fine wool,—and "British manufactures to an immense amount would be consumed in the colony."

Grantees of large estates should be compelled to fulfil certain conditions, otherwise the Government would be disappointed and the colony embarrassed. "Adventurers without capital retard all improvement, and as they sink deeper into poverty and distress swell the mass of discontent, become most furious democrats, and attribute the misery into which they are plunged not to their own idleness or want of discretion, but to the errors of the Government, and the oppression of the wealthy."

The actual state of the colony may be discerned more clearly through the workings of Macarthur's mind in this period than in the laboured disquisitions of numerous books. He descried the difficulty for which Gibbon Wakefield afterwards propounded a remedy in the "sufficient price" for land. He would withhold land from those who were not "men of character possessed of skill and capital."

Living in a colony where only convict labour existed, Macarthur aimed by arbitrary limitation of government grants and assignments, to do that which the sagacious Wakefield strove to do in a free community by fixing such a price upon land as would restrict its occupation to those who could profitably use it. Macarthur's plan seemed more arbitrary than Wakefield's. Yet thoroughly to carry the latter into practice, it would have been necessary to be prepared to enhance the price in case of need so much *as practically to prohibit general sale*, and thus the *two plans coincided in principle.*

Both Macarthur and Wakefield had a certain share of honour, but neither saw his scheme promoted to the full. Macarthur's advice to Brisbane concluded with a reference to the growth of wool.

"Should His Majesty's Government consider it advisable to direct any portion of its fostering care towards this hitherto neglected mine of wealth and future prosperity, it would not be difficult to devise methods by which the most respectable class of proprietors might be excited to more strenuous exertions to increase their flocks, and to improve the wool to the utmost degree of fineness; and even some of the most uninformed and careless might slowly be led into the adoption of arrangements calculated to promote their own and the public welfare."

Though Macarthur eventually succeeded, he had a contest during Brisbane's government to secure the contingent advantages originally pledged to him by Lord Camden. His son John, in England, reminded the Colonial Office of the promises of former time with regard to land. Brisbane, under the influence of those about him, had made overtures to Macarthur in defeasance of those promises.

Lord Bathurst at last wrote (17th Aug. 1824):

"As I find on reference to your despatch that the terms on which an offer has been made by you to Mr. Macarthur respecting his grant differ most essentially from those which were directed in my letter, I have to direct you that Mr. Macarthur be put into *immediate possession* of the lands described in that letter, amounting to 10,700 acres, on the payment of £2850 (being at the rate of ten shillings per acre for 5700 acres), or on the payment of an annual quit-rent of £142 10s., redeemable at twenty years' purchase, which is equivalent to a ready-money payment of £2850."

Conditions with regard to such sites for church and school as Archdeacon Scott might deem desirable, and to valuation of any property of the Crown on the land, were attached.

Thus at last the man who urged that others should be encouraged in founding family estates, was permitted to create his own in compliance with promises of former years.

Brisbane saw rapid growth of commerce, and a large increase of agricultural and pastoral industry, during his term of office.

The population of New South Wales in 1825 was 33,675. There were 237,622 sheep and 134,519 cattle. Of wool 411,600 lbs. were exported, and 45,514 acres were under cultivation. Nearly thirty ships were engaged in whaling and in procuring sandal-wood, bêche-de-mer, and other articles among the islands of the Pacific. The revenue

raised in the colony was, in 1825, £71,682. On the Crown a large expenditure devolved. In 1821 it was £425,350.

In the years 1819-24 the published returns showed that ninety-five persons had been executed. The only gleam of hope was that in the later years crime had diminished.

The extension of the settled area afforded facilities to bushrangers, and Brisbane, though humane, declined to run the risk of encouraging crime by imitating the leniency which Macquarie had tried, and had in later years abandoned.

At Bathurst, on one occasion, a successful outbreak threatened to spread into a general rising of the assigned convicts in the district, and more troops were despatched thither. They were hardly required. Crime, like a wounded snake, generally shrinks back when confronted by lawful authority.

Brisbane prompted exploration, not only on political grounds, but as the friend of science. He was held in high esteem by eminent men in England. After consulting Sir Humphrey Davy, the great Sir Robert Peel (Home Secretary) applied to Lord Bathurst for authority for the measurement of an arc of the meridian in the colony,—“Sir H. Davy and his colleagues at the Board of Longitude consider the interests of science will be greatly promoted. They have entire confidence in the scientific persons whom Sir T. Brisbane has on the spot, particularly Mr. Rumker.”

Brisbane instituted inquiries which led to the supply of Sydney with water from the Botany Bay swamps, under the management of Mr. John Busby, as civil engineer and mineral surveyor.²⁵

The mode of Brisbane's departure deserves mention. Bereft of the advice of Major Goulburn, he listened to those who, like the Chief Justice, wished to break down the barriers between the free and the freed. He attempted to ingratiate himself with the emancipists by courting their favour on the eve of his departure. Up to that time he had neglected, if he had not repressed them. The advice of Bigge had been embodied in an Act, and

²⁵ Mr. Busby was a colonist of the right stamp. In 1825, his second son, Mr. James Busby, published in Sydney a “*Treatise on Culture of the Vine and Wine-making*,” and at later dates, Mr. James Busby also distributed many thousands of vine-cuttings to his fellow-colonists.

was for the time paramount. But Brisbane was weak, and having failed to secure such active sympathy as he had hoped for from the free settlers, cast out his net for a draught of popularity among the convicts. He allowed it to be understood that he would honour the emancipists and their friends by dining with them. He did so. He went further. He was invited to dine with the leading inhabitants before his departure. He informed the deputation that he was willing to do so if certain emancipists also were invited. The deputation was not authorized to make terms about emancipists, and after consideration, the Governor was informed that on such terms the inviters could not have the honour of dining with his Excellency. They were branded as "exclusionists," or "exclusives;" and the "emancipist" party, proud of having the Governor to themselves, entertained him sumptuously at an hotel in Parramatta. The sentiments of a people cannot be coerced even by a strong man. A weak man attempting to control, intensifies them. The revival by Brisbane of the errors of Macquarie gave satisfaction neither to the respectable colonists nor to the English Government, and embittered the relations between the two classes in the colony.

The history of Van Diemen's Land during Brisbane's government may be briefly summarized. Colonel Sorell was so popular, that at a public meeting of "landholders, merchants, and free inhabitants," a petition in favour of his retention was adopted with but one dissident. From April 1817 to the end of 1823 he had ruled with kindness amidst general goodwill. In suppression of bushranging his firmness had been exemplary. His easy nature deterred him from severity in punishing cruelties practised against the natives. The sternness which might have effectually repressed outrage would have made enemies of many of his friends.

A new phase of relation between the two races appeared. Musquito, the Australian black whose capture has been recorded, was eventually transported to Van Diemen's Land. There he was employed in hunting bushrangers. His dexterity and daring were to be acknowledged by liberty to return to Sydney. Faith was broken with him. A convict taunted him, and Musquito struck him to the ground.

Arrested, and alarmed, Musquito escaped into the bush. He associated with the native tribes, and became their leader. When urged to abandon his vagrant life and become a tiller of the soil, he replied that none of his companions would join him. He did prevail upon his newly-found comrades to make some rude attempts to cultivate their territory. In war he trained them so well that though before his escape from the whites he had joined in outrages committed against the natives, they acknowledged his supremacy, and would wait for his signal to advance while he strode to the hut of a settler with the dignity of a general. Before the arrival of Arthur he was a power in the land. He is known to history only by the name conferred upon him by the whites. The terror he inspired amongst them, and the sway he exercised in his exile over his former enemies, the Tasmanian natives, would of themselves redeem his race from the imputation of incapacity often cast upon it.

In commerce and in agriculture much progress had been made in the island. The morals of the community were rather fortuitous, and Sorell in this regard left a wide field for his successor. Free immigration was stimulated in the dependency as well as in the parent colony, when Macquarie's influence was withdrawn. By all classes Sorell was beloved. His handsome person accorded with his affability, and although none were refused audience, all were proud when they obtained it. Sorell was succeeded (12th May 1824) during Brisbane's government by Colonel George Arthur, who was to sway the destiny of the young settlement for twelve years. His industry, keenness, and determination were quickly shown. His sense of morality was impressed upon society. The inhabitants, who had parted reluctantly with Sorell, were not effusive towards his successor. In a formal reply to their address, Arthur reminded them that the moral example of the free was essential in improving the condition of the remainder of the population. What Sorell had not discountenanced Arthur promptly repressed. If he could not directly punish social disorder, he discountenanced it. Those who had children by convict women, and were yet unmarried, learned *that if they would obtain any favour from the government*

they must make their social relations legitimate. Those who shrank from the last act of justice within their power, found that the hand of Arthur could fall heavily upon them. He made no distinctions, and not even slander dared to asperse his own character. He speedily encountered opposition from the press. The *Hobart Town Gazette* had been officially established, and was once subject to the censorship of the government; but Sir Thomas Brisbane had released the press in both colonies from any other restraint than that of the ordinary law. Arthur was discontented with the management of the *Gazette*, and after disputes with Bent, its conductor, established another newspaper, to which the title of *Gazette* was given, and the irritated, if not injured, Bent saw his own adventure decay.

The Act 4 Geo. IV. cap. 96 created a Supreme Court in Van Diemen's Land as well as in New South Wales, and in 1824 Mr. J. L. Pedder arrived as Chief Justice, with the charter of the Supreme Court. Mr. J. T. Gellibrand was Attorney-General, and Mr. Joseph Hone (brother of the author of the Day Book) was "Master" of the Supreme Court. In the following year the direct dependence of the younger colony upon New South Wales came to an end. The 44th section of the Act (4 Geo. IV. cap. 96) enabled the Crown to establish Van Diemen's Land as a separate colony. General Darling visited Hobart Town on his way from England to assume office as Governor of New South Wales, and the separation of the local government from that of Sydney was formally announced. Up to that time the dependent settlement had been ruled by those who were addressed as "His Honour." After Darling's visit Arthur became "His Excellency." Local Executive and Legislative Councils were duly appointed. The first contained Mr. Percival, the Colonial Secretary; Mr. Pedder, Chief Justice; Messrs. Humphrey and Thomas. The Legislative Council was composed of Messrs. Pedder, Percival, Abbott, Hamilton, Humphrey, and Curr. All the appointments were made by the English Government, but correspondence with Colonel Arthur preceded them. Mr. Curr had gone to Van Diemen's Land as secretary to the Van Diemen's Land Company. Like the Australian Agricultural Company, it was founded after the resources of Australia were becoming

known, and it was understood that the British Government would encourage immigration of free settlers. The charter enabled the company to cultivate, to depasture stock, to lend money on mortgage, and promote fisheries, but not to become bankers or merchants. Their grant of land was to be 500,000 acres on the North-West Coast. Works of magnitude were to be undertaken. For each convict employed there was to be a remission of quit-rent to the amount of £16. The total quit-rent was £468 16s. per annum. Another company of smaller dimensions, the "New South Wales and Van Diemen's Land Establishment," was founded about the same time. Both companies expended large sums in importing live stock. Colonel Sorell, in 1820, had taken the first step to improve the wool grown in the colony, by importation of Merino sheep, which John Macarthur supplied from Camden, under an arrangement by which the Crown exchanged land at the Cow-pastures for sheep delivered. Sorell allotted the sheep to "those whom he considered most capable of giving attention to the improvement of their flocks."²⁶ From Sorell's judicious importation the trade of Van Diemen's Land in wool may be said to date. When the island was separated from the government of New South Wales its population was about 12,000. It was able, nevertheless, to export wheat to Sydney, and to prosecute whaling with vigour. The revenue derived from the custom-house was the principal local contribution (upwards of £20,000) to the expenses of government. But the Imperial exchequer bore the brunt of maintaining the establishments.

After the arrival of Colonel Arthur in 1824 the fortunes of Van Diemen's Land were greatly dependent upon his sagacity and strength of will, even before the separation of the local government from that of New South Wales was effected. The community which Arthur found was peculiar. There were more than twelve thousand souls in 1824. Of these, 266 were military guards. There were 9250 male civil inhabitants, of whom no less than 5470 were convicts. There were 2250 free women, and 470 convict women. There were many freed persons amongst those styled free. In 1831 the numbers had been augmented to 8392 free

²⁶ Bigge's Report.

men, and 4952 free women. The convict males were no less than 10,391, the women 1627. The military had been increased to 1032; but the total free male population, including the military, was less than the convicts still in government custody, or assigned to colonists as servants. Circumstances demanded that the Governor of such a community should be firm, and Arthur never flinched from duty.

The Chief Justice, J. L. Pedder, did not feel called upon to obstruct the strong Governor. He differed from his brother Chief Justice in Sydney. He ruled that the Constitution conferred upon the colony by the Act 4 Geo. IV. cap. 96 (already explained) did not create juries of civilians, as had been contended by Forbes in New South Wales. By Pedder's construction it was only as provided by the Act, or as extended, under its provisions, by the Crown, that civil juries could be created. Colonel Arthur's enemies alleged that he found in Pedder a pliant tool with regard to the jury law; but the subsequent changes made by legislation were such as to show that not Pedder, but Forbes endeavoured to fasten upon the law a construction foreign to its scope. In 1830 Colonel Arthur passed a local enactment allowing juries in civil cases on the demand of either party in a suit.

The contest with the Press upon which Colonel Arthur entered was not checked at the outset by any apprehensions for friends such as prompted Forbes to withhold his certificate because a newspaper stamp of fourpence was proposed in New South Wales. Colonel Arthur received similar instructions to those issued to Governor Darling with regard to the control of unlicensed printing; and unlike Darling, he encountered no opposition from the Chief Justice.

He passed Acts (1827) which prevented publication of any newspaper without a license, and imposed a Stamp Tax of threepence on every newspaper of a certain size printed in the colony. A discretionary power was left to the Governor to withdraw the tax, but the very mercy of the condition seemed cruel, as it subjected disturbers to the fiat of the Governor. It was also in his power to grant or withhold licenses. Recognizances were to be entered into. A penalty of £100 was enforceable for publication without

a license, and a signed copy of each newspaper was to be lodged with the Colonial Secretary within ten days of publication. The Chief Justice, having no political associations in the colony, was not impelled to veto the Acts by withholding his certificate.

The printer, Andrew Bent, who had obtained a quasi-triumph over Colonel Arthur in legal contention about the proprietary of the *Gazette*, applied vainly for a license. He published a monthly periodical, but the speculation failed. He presented a memorial supported by many colonists, but Arthur was inexorable. He transferred his press to Mr. Gellibrand, intending to occupy himself as a subordinate, but the Governor saw in such a transfer no reason for modifying his resolution. He told the memorialists that the press ought not to be free so long as the colony might be a receptacle for convicts.

The Acts passed in 1827 did not remain long on the Statute-Book. A tax of threepence in so small a community was prohibitory of all newspapers from which profit was expected, and the Stamp Duty was not maintained. But an Act to regulate the printing and publishing of newspapers was re-enacted in 1828. It prescribed affidavits of the names of printers and publishers under heavy penalties—recognizances with two or three “sufficient sureties to the satisfaction of the Chief Justice” . . . “in the sum of four hundred pounds” for the printer or publisher, and “a like sum” in the case of the sureties. The printing press was still subject to the grasp of law, and to the strong will of the soldier who had the island in his charge. Printers and editors battled vigorously against the tyranny to which they complained of being subjected; but the Governor pursued what he called his duty, and more than one offender pined in imprisonment.

Colonel Arthur did not rely on prosecutions only. He secured the co-operation of an able colonist, Dr. Ross, to superintend the publication of the *Gazette*, which supported the government policy, and was denounced as venal. When the *Gazette* became a formal vehicle for advertisements, Dr. Ross continued his labours in the *Courier*. The unflinching ruler shrank from no responsibility. A motion had been made by the Solicitor-General to disbar the Attorney-

General, J. T. Gellibrand, for alleged malpractice in drawing pleas for a plaintiff, and acting officially against him afterwards. Chief Justice Pedder dismissed the application. The Governor appointed a board of inquiry, and after appearing before it, Gellibrand, offended at the conduct of the commissioners, refused to go before them again. The result was that Gellibrand, complaining that he was unfairly dealt with, was suspended by Arthur, and removed by an order from England from the office of Attorney-General, and shortly afterwards Arthur informed him with regard to an application for land—"His Excellency does not consider himself at liberty to make a grant of land to an individual whose conduct His Majesty has disapproved."

Mr. Serjeant Talfour, consulted by Gellibrand's friends, gave an opinion that Gellibrand had been "ill-treated by the commissioners, that the charges against him were grounded in malice or mistake," that those imputing unprofessional conduct to him were "too absurd to stand for a moment," that it was to be regretted that he did not "remain and conduct his own defence" before the commissioners; but that "against the exercise of the undoubted prerogative of the Crown to dismiss its own officers" there could not be "any appeal as matter of right."

High-handed acts were charged against the Governor. Displeased (1833) with a magistrate, he refused to receive his resignation, removed him from the commission, and took from him all his assigned servants at a time when their labour was of peculiar importance.

The legislation of Van Diemen's Land shows the pressure of the same wants as in New South Wales. In the same year (1826) both colonies passed Acts to regulate the currency and promote the sterling money of Great Britain. The control of the convicts, their transportation, their confinement at Macquarie Harbour and Maria Island; the administration of justice generally; the registration of wills affecting real property; impounding of cattle; the regulation of slaughtering of sheep and cattle; the regulation of the printing and publishing of newspapers; the selling of spirits and wines; the licensing of dealers in spirits; the statutes of usury; an Act (20th Jan. 1830) to remove doubts as to the validity of ordinances passed by the

Governors of New South Wales, were subjects brought by Arthur before his Council before the end of 1831.

It is worthy of remark, that in 1830 Colonel Arthur led the way in enacting that the Usury Law in force in England at the date of the Constitution Act (25th July 1828) should not apply, and should be held not to have applied, to Van Diemen's Land. Several years afterwards the Legislative Council of New South Wales passed a similar law.

The invalidity of grants made by governors in their own instead of in the Queen's name was an evil in both colonies. When the defect was discovered in Van Diemen's Land (1829) Arthur prudently concealed it until he obtained (in 1830) authority under a royal warrant to correct it. He did not, however, sanction all claims by a general Act. He preferred the more laborious and protracted, but more just, means of testing each grant, many frauds having been brought to light, and many errors. To have attempted to confirm all grants would have been absurd, and in some cases impossible, for the descriptions were so conflicting that where there were many contiguous blocks, the presumed area of one had often been already included in the description of another. So slovenly had been the practice that settlers were found occupying places to which they had no title, and bitter complaints were made of resumptions by the government. Though determined upon in 1830, the labours of the board appointed by Arthur were not undertaken till 1832. When the Colonial Office resolved in 1831 that all land should be sold by auction, the cessation of free grants, and the upset price of five shillings an acre, did not please Arthur. There was no undue tendency to dispersion in Van Diemen's Land, he said. The one thing he could do to counteract Lord Goderich's²⁷ regulations he did. He lavishly exercised his power to grant lands before the new regulations could come into force.

The collection of quit-rents was as difficult in Van Diemen's Land as in New South Wales. Debts at first neglected, and afterwards evaded, caused an accumulation of arrears. Composition was proposed by the government. Remissions were petitioned for by the holders of land. Those who redeemed their grants were dissatisfied when

²⁷ Afterwards (in 1833) Lord Ripon.

they found that less conscientious holders in process of time avoided payment. The latter were discontented with any arrangement which held them liable to perform their contracts. As usual, the resumption of the position of a creditor involved the government in an anomalous position towards its numerous debtors. With a man of so firm a will as Arthur's, supported by an Executive Council of four members, all of whom were officials, and by a nominee Legislative Council, the ardent spirits of the island were discontented. In March 1827 a public meeting resolved to petition the King and Parliament for "trial by jury, and legislation by representation." Echoes from Sydney reverberated to the Derwent.

There was a misunderstanding about the time for the reception of a deputation bearing the petitions to the Governor, with a request that he would forward them. Resenting delay, the deputation refused to return when invited to do so. They sent their petitions otherwise, and were informed that by an extant circular from the Colonial Office it was enjoined that all complaints should pass through the Governor's hands.

Mr. W. Gellibrand was removed by Lord Goderich from the commission of the peace for his share in the irregular transaction. He repaid the slight by vehement opposition to the Governor's measures, and by demanding (with Mr. Gregson, Mr. Horne, and others) popular institutions. By some of the reformers it was claimed that every convict on arrival on the island should be set free. The Governor meanwhile kept the rigid tenour of his way.

When Mr. Baxter (who had for a short time held office in Sydney as Attorney-General in succession to Saxe-Bannister) was appointed to act as Puisne Judge in Van Diemen's Land, Colonel Arthur boldly neutralized the appointment. Baxter was a notorious drunkard; and though the new charter of justice provided for the appointment of a second Judge, Arthur remonstrated against Baxter's assumption of office, and dealt with the position by a short local Act, which was denounced as "doubtful and dangerous." The Act (2 Will. IV. No. 1), 5th Sept. 1831, declared that "whereas Alexander Macduff Baxter, the person appointed by his present Majesty's

Letters Patent, . . . has not assumed the execution of his office, nor has yet arrived within this island," and there was no reasonable expectation of his arrival "within any certain short period of time," the Governor might appoint another person *pro tempore*, and in the meantime, pending an appointment by the Governor, "the powers and authority of the Court and the two Judges thereof shall be vested in and exercised by the single remaining Judge, and it shall be lawful for such Judge to sit and act alone . . ." The Act served its purpose.

Baxter never profited by the King's letters. Colonel Arthur²⁸ wrote (25th Oct. 1831): "Mr. Baxter has arrived from New South Wales; but, from circumstances, is unable to enter upon the duties of his office; he has therefore requested permission to return to England, to which I have this moment acceded." The post was given by Arthur to Algernon Montagu, the Attorney-General.

Within the general bounds which contained convicts in the island there was an inner one, Macquarie Harbour on the west coast, where the most ferocious and incorrigible prisoners were held in durance; and the accounts of them and of the severity shown to them made the name of the place a synonym for all that was odious. Governor Arthur removed the establishment to the east; first to Maria Island, and then to Port Arthur, where on a peninsula with a narrow neck nature seemed to have provided a prison.

In 1827 Arthur divided the island into police districts, and brought the convict population more directly under the control of the government. In 1829 he showed how imperiously he asserted that control. A receiver of stolen goods, escaping from Newgate after committal, sailed to Van Diemen's Land, whither his wife had been transported, and under an assumed name obtained her as his assigned servant. The facts were reported to England by Arthur. The Secretary of State directed that the runaway should be arrested. A writ of *habeas corpus* brought him before the Supreme Court, and Judge Pedder did not agree with the Attorney-General that the warrant was valid, or that he

²⁸ Parliamentary Paper. 1848. Vol. xliii.

could have refused the application for the writ. Arthur, finding the knot "too intrinse to unloose," cut it, and sent the prisoner to England to be tried.

Arthur sought to carry out great works—great, that is to say, relatively. In the youth of the colony a substantial wharf; the Bridgewater Causeway; the roads to Richmond and elsewhere;—were of momentous importance. The Governor did not escape the imputation that some of his works were undertaken to benefit the property of himself or his friends, but it seems to have been utterly unmerited. The wild cruelties practised against the natives under his predecessors have been alluded to. Retreat was impossible for the natives. They turned upon their persecutors. Musquito, the adopted warrior, and a native known as Tom, led them in their reprisals. They watched till firearms had been discharged, and then rushed upon their victims before the arms could be reloaded. They inspired such terror that houses were abandoned to their mercy. Arthur by proclamation warned the whites (1824) against ill-treating the natives who were "under British government and protection." He would cause infringers of his proclamations to be prosecuted. He warned in vain. Irrespective of the government and its orders, the work of killing went on at private charge. The special historian of Tasmania, West,²⁹ thus summarizes it: "The smoke of a fire was the signal for a black hunt. The sportsmen would discharge their guns, then rush towards the fires and sweep away the whole party. The wounded were brained; the infant cast into the flames, the musket was driven into the quivering flesh." In revenge the blacks attacked and burned homesteads. A woman rushed from a burning house at the Big River, and threw herself on her knees to ask pity while her clothes were on flame. One of the blacks quenched the fire, and told her to go safely away. But such instances of pity were rare. Words could not paint the horror of the time. Even Arthur, while deprecating cruelty, joined the general demand for obtaining quiet which could only be obtained by annihilation. The popular demand found vent in a news-

²⁹ "The History of Tasmania," By Rev. J. West. Launceston (Tasmania), 1852.

paper thus: "Let them have enough of red-coats and bullet-fare. For every man they murder hunt them down, and drop ten of them. This is our specific; try it." There was an Aborigines' Protection Society in Hobart Town, which pointed out that the blacks were driven to retaliation. Arthur offered a reward for the apprehension of Musquito. For a long time the wary Australian defied all efforts to capture him. At last, by the aid of a black native lad, secret information was obtained, Musquito was surprised unarmed, shot, imprisoned, and executed. The author of a work on the native tribes of Tasmania (Mr. Calder) declares that "it is not easy to understand on what it was the" grim chieftain "was convicted, there being" no legal proof "of any guilt." But he adds that it may have been necessary to "intimidate his surviving brethren into submission." To remove him from his old haunts by capture or death, was, in Mr. Calder's phrase, "no longer a simple desire, but an overpowering necessity." Mr. Calder relates that Musquito was notable for his pursuit of Michael Howe, the bushranger, and that the Government might have conferred "something more than mere dismissal" on their benefactor. They preferred to drive him to desperation. The Tasmanian natives had become deeply attached to him. They interceded for him in vain, and his death deepened their hatred of his slayers. Henceforward there was no hope. Musquito died on the scaffold in sullen silence, in 1825. As doggedly his companions met their fates in the forest. In 1826, Arthur issued a proclamation lamenting the failure of his efforts to conciliate the natives. He invited settlers to arm themselves and join with the military in repelling attacks, as well as in capturing felons. Where to be black was to be a felon, such terms were dangerously wide, and were widely availed of.⁹⁰ In

⁹⁰ One Henry Widowson in 1825 went to Van Diemen's Land as "Agent for the Van Diemen's Land Agricultural Establishment." He dedicated to Lord Althorp a volume on the State of Van Diemen's Land (London, 1829). He said that "of late the audacious atrocities of the natives have been lamentably great; although at the same time I have little hesitation in saying they have arisen from the cruel treatment experienced by some of their women from the hands of the distant stock-keepers. Indeed these poor mortals have, I know, been shot at merely to gratify a most barbarous cruelty" (p. 191). Colonel Arthur on the occasion of the execution of two

April 1828, Arthur issued a proclamation, declaring that all previous measures had failed to repress the wanton outrages of whites and blacks, that the latter were gradually increasing in art and systems of attack, that the intercourse between the races must be regulated, and special districts be assigned for the exclusive benefit and occupation of the blacks. Military posts were to be established "along the confines of the settled districts," and all aborigines were commanded "to retire and depart from" such districts. Magistrates were authorised to expel them. All practicable methods were to be employed to communicate the proclamation to the blacks, and to persuade them to retire. If they would not retire, "capture of their persons without force is to be attempted," and "whenever force cannot be avoided it is to be resorted to with the greatest caution and forbearance." In explaining the condition of affairs to the Secretary of State, Colonel Arthur said (Jan. 1828) that "the quarrel of the natives with the Europeans occasioned by an unfortunate step of the officer in command of the garrison on the first forming of the settlement, was daily aggravated by every kind of injury committed against the defenceless natives by the stock-keepers and sealers, with whom it was a constant practice to fire upon them whenever they approached, and to deprive them of their women whenever the opportunity offered." He had proclaimed that acts of aggression by Europeans would be prosecuted. In April he reported that the provoked animosity of the "wretched people" had overcome his "reluctance to proceed to any coercive measures." Therefore he had proclaimed the exile of the blacks from their native haunts, and asked to be allowed to give to them food and clothing necessary for their support. Sir George Murray said that the King deplored the state of affairs. Arthur was authorized to

natives in 1826 for the murder of a stock-keeper, reiterated his warning that on those who might injure or annoy the natives the severest penalties of the law would be inflicted "without the slightest interposition of mercy" (Sept. 1826). How idle such proclamations were may be inferred from the fact that in Melville's "History of Van Diemen's Land" (London, 1835) it is affirmed that "*not one single individual was ever brought to a Court of Justice for offences committed against these harmless creatures*" (p. 60). The italics are Mr. Melville's. He had spent many years in Van Diemen's Land.

give food and clothing "limiting it as much as possible," . . . "and causing it to be understood as the reward of a peaceable disposition." He entreated that "no unnecessary harshness might be exercised in order to confine the coloured inhabitants within the boundaries which you have fixed." Military parties went to the frontier and the natives were forced back; but the whites still murdered, and the blacks still roamed over their forbidden soil, until (Nov. 1828) Arthur proclaimed martial law. He told the Secretary of State that there was no such cause for alarm as was professed by some, even in his own Council; for the "blacks, however large their number, have never yet ventured to attack a party consisting of even three armed men." He excepted certain districts, but the blacks understood neither the inclusion, nor exceptions, and the whites did not respect the latter. To make the matter clearer, boards were fixed to trees. Sketches of blacks and whites at peace were painted. The Governor shook hands with a chief. Below were painted the consequences of war. The Governor was shown superintending the hanging of a black for murder, and of a white man for the same offence. Such appeals were not understood, and if understood, would have been unheeded. "Capture parties" were fitted out. John Batman was one of the leaders. A native of New South Wales, he migrated to Van Diemen's Land in 1821. His services were used against bushrangers, of whom one of the most notorious, Brady, submitted without resistance when he found that his challenger was John Batman, then a settler near Ben Lomond, and already the recipient of favours from the Governor for capturing bushrangers. On one occasion he sprung unarmed upon an armed robber who attacked him in the dusk. A struggle ensued, during which Batman's grasp was on his assailant's throat. When his foe resisted no more Batman rose, but his assailant was dead, choked by the strong man's gripe. When the government resorted to systematic measures to subdue or capture the natives whom atrocities had provoked, and who had no sanctuary to abide in, Batman's services were enlisted, and it is said that he, in the days of bloodshed, resorted to conciliation and kindness. He had ten convicts assigned to aid him, but his chief assistance was

given by six natives of New South Wales, whom he persuaded to join him. His first exploit was the capture of three women, two men, and five children without loss of life. He used the women as decoys to explain his peaceful intentions. But all his encounters were not bloodless. In one he left fifteen blacks dead on the field, having captured only one woman and child. It was a tradition having almost a religious force among the Australian blacks, that it was good to deal death amongst tribes not friendly. Even without a brutal disposition, therefore, many atrocities were committed by these superstitious children of the forest; and it was fortunate that the Sydney natives were employed under the control of a man like Batman, who was bold but not brutal; rough and uneducated, but shrewd and genial. His services were so highly appreciated by Arthur, that at the end of twelve months he granted him two thousand acres, and rewarded five of the convicts employed under him. To the Sydney blacks £10 (each) were given, and Arthur informed the Secretary of State that "Mr. Batman, who has taken the most lively interest in conciliating those wretched people, and has been one of the few who supposed that they might be influenced by kindness, was, with his family, most assiduous in cultivating the best understanding." The Rev. J. West declared that to Batman was due "the praise of mingling humanity with severity." There were other "capture parties" more ruthlessly led. The small island was traversed by hunted blacks and hunting whites. Peace would only flow from such tactics when, by universal slaughter, captures had become impossible. What humanity there was in Van Diemen's Land recoiled from such an end. The Aborigines' Protection Society in Hobart Town protested against the indiscriminate killing which made all Christian men shudder; and they found a man to aid in putting a stop to it.

Mr. George Augustus Robinson was a remarkable man, of humble origin. A bricklayer by trade, he busied himself in promoting religion amongst the sailors, and in visiting the convicts in their barracks. He was kind to the natives before his peculiar mission brought them under his care. To watch and tend the captives, Arthur required a manager to reside on Bruni Island, and offered by adver-

tisement (March 1829) £50 a year to "a steady man of good character." Robinson offered to take the post, but pointed out that £50 would not support his family, and Arthur gave him £100. His great difficulty was to contend against the debauchery of the whites, who interfered with his black prisoners of war. But he revolved greater things within his mind than the mere custody of the unhappy few saved from slaughter. In 1829 he volunteered to go unarmed into the bush, to win the fellow-creatures of whose language he had learnt something. "I considered," he said afterwards,

"that they were rational, and although they might in their savage notions oppose violent measures, yet if I could but get them to listen to reason, and persuade them that the Europeans wished only to better their condition, they might become civilized, and rendered useful members of society, instead of the bloodthirsty, ferocious beings they were represented to be. This was the principle upon which I formed my plan."

The government tactics ill-paved the way for Robinson's; but Arthur permitted the experiment to be tried. With some of the Bruni Island blacks and others, recently captured, to act as guides, Robinson sought Port Davey. The boat provided for him had been wrecked, and he walked overland. He met some blacks and appointed a meeting for the following day. "They were very suspicious, having been fired at by Europeans; and though I carried no fire-arms, nothing in fact but bread, and endeavoured to explain my pacific intentions, they left me without any sign of desire to repose trust in me." Arthur wrote to England (27th Aug. 1830), "All Mr. Robinson's efforts to hold a conference have hitherto failed." He traversed the west coast to Cape Grim. Early in 1831 he was on the north-east coast, and though unsuccessful on the mainland released eighteen black women who had been trepanned by white men, who, engaged in seal-hunting, carried these women by force to island prisons and kept them there. By such acts he established his reputation for truthfulness; and these rescued women and others, with their husbands, were his chief guides to success.

Meanwhile the Governor resorted to other advisers. Availing himself of a visit from Archdeacon Broughton (of Sydney) he appointed a Committee of Inquiry of eight persons, three of whom were ministers of religion. In

their researches they glanced back to the first collision at Risdon in 1804, in which "the numbers slain of men, women, and children, have been estimated as high as fifty."⁸¹ Witnesses described the scene to the committee. It was undeniable that since that fatal day intercourse with the natives had never been "perfectly secure" for the weak. The blacks were, in the opinion of the committee (who could take evidence only on one side), cruel and crafty, of a wanton and savage spirit; but they had "no hesitation in tracing to the manifold insults and injuries which these unhappy people have sustained from the dissolute and abandoned characters whom they have unfortunately encountered, the universal and permanent excitement of that spirit which now prevails." They told with horror how, in former days, a white man, having killed a native while endeavouring to seize the native's wife, "cut off the dead man's head and obliged the woman to go with him carrying it suspended round her neck." It was a relief to find that the government had striven, though vainly, to arrest brutalities. Collins in 1810, Davey in 1813, Sorrell in 1817, and Arthur in 1824, had proclaimed that ill-usage of the natives would be punished.

The recommendations of the committee were few. Settlers should be always prepared to defend themselves, and should point out to their servants "the fatal consequences which have resulted to the entire community from the base and barbarous conduct which some of their class have pursued towards the natives; and how much it behoves them to desist from a repetition of such disgraceful conduct, from a regard even to their own safety, seeing that not one of those barbarians by whom the natives were thus irritated has ultimately escaped the effects of their vengeance." The kangaroos and other game in the "limits prescribed to the natives" ought not to be molested. Police and military should be employed. The "roving parties" should be more carefully managed.

⁸¹ It may be remembered that when Collins transmitted a narrative of the occurrence, it spoke of three natives as having been "killed on the spot." The inquiry in 1830 elicited facts which it was the duty of Collins and of Governor King to have ascertained in 1804. Perhaps the truth was told more openly when lapse of years had obscured responsibility. (See *ante*, pp. 323, 324.)

In transmitting the report to England, Arthur wrote (15th April 1830) that Robinson in the south-west, and Batman on the north-east coast, had recently had friendly meetings with the "miserable beings" who were the victims of "barbarity of runaway convicts or detached stock-keepers." Sir George Murray approved the conduct of the Governor, and urged him "in the strongest manner to continue to use the utmost endeavours to give to the intercourse between (settlers and aborigines) a less hostile character, and to employ every means which kindness, humanity, and justice can suggest to reclaim the natives from their original savage life."

But the past was inexorable. Blood would have blood. Few though they were, the activity of the hunted savages made up for want of numbers. While Robinson in the winter of 1830 succeeded in communicating amicably with tribes on the north-west, fresh atrocities were perpetrated in the heart of the island. Eumarrah, a chief captured by Robinson, filled the cup of bitterness for the Governor. More than a year he was in durance. His

"apparently artless manner and strong protestations of attachment were confided in more and more, until at length I felt a confidence that he would be greatly instrumental in carrying into effect the measures so ardently desired for conciliation. I have continually had him at Government House, . . . but, to my disappointment and sincere regret, he availed himself of the first moment to abscond, and has, I fear, rejoined his tribe with the most hostile intentions. . . . Failing in every endeavour to conciliate, and the outrages of the savages being more daring, . . . the next measure we are bound to attempt is, I conceive, that which is now in progress, the earnest and hearty co-operation of the whole European population to capture them with the least possible destruction of life, or to drive them into Tasman's Peninsula."

Arthur was "not sanguine" about capturing, but he thought it feasible to "drive the savages" into the peninsula and guard its narrow neck.

On the 9th Sept. 1830, "the inhabitants of the colony at large" were called upon to aid the military. "All minor objects must for a time give way to this one great and engrossing pursuit." For months the scheme for the cordon across the island was in preparation. Twenty-six depots were made for provisions. Twenty-eight paragraphs of a Government Order imposed duties on the inhabitants

and the military. More than eight hundred soldiers, between seven and eight hundred armed convicts, and settlers who raised the total force to more than four thousand, advanced as beaters. Over mountain and fell they toiled. The Governor was ubiquitous and congratulatory. In October Mr. Walpole, commanding an auxiliary roving party, captured one native. The settlers at East Bay Neck were directed "to keep free from everything that might create alarm, or interrupt the passage of the fugitive natives . . . in order that nothing may present itself to deter the aborigines from entering the Peninsula." South of the Prosser river were three hills, called the Three Thumbs, densely covered with timber large and small. Within the wood the natives were supposed to be crouching. Chosen men entered this ominous spot. Fires still smouldering were found, but no natives. The cordon was pushed on. From the "Camp, Sorell Rivulet," Arthur dated his orders for the final advance to East Bay Neck. From Spring Bay to Sorell, thirty miles in width, the tramp of men beat time to the sea,—and that was all. No native was in front. Those who had once been in front had by some means found passage through the lines.

The expedition had cost £30,000 directly, and much indirectly, but had failed. Nevertheless it did not tend to make Arthur unpopular. His exertions commended him to the good wishes of the community. He exchanged congratulations with them on the unanimous effort that had been made. Hardly a dissentient appeared at a large meeting called to thank him. In reply, Arthur exhibited his sense of justice by stating that it was undeniable that cruelty and oppression by "stock-keepers and other convicts in the interior, and sealers on the coast," had goaded the blacks to revenge. "This fact must continue to disarm us of every particle of resentment."

The roving parties meanwhile were shooting many and capturing few. It was felt that a reward per head was a kind of blood-money disgraceful to the English name. The Aborigines' Protection Society was earnest in favour of giving Robinson a fair field. How could he peacefully go to the blacks when hunting parties of his countrymen took their lives at random in every direction? Arthur consented.

The capture parties were discontinued. Robinson's salary was raised to £250, and a force was placed at his disposal. He forbade firearms, but some of his subordinates secretly carried them. With his native guides, amongst whom Truganina, the wife of Wooreddy, was conspicuous, he sought to parley and induce the wild blacks to join their captive countrymen. He met Eumarrah in the forest, and the chief, who was not to be won by the civilities of a Governor, rushed to his former captor and grasped his hand with fervour. A chief, Manalagana, was conspicuous for his noble qualities. In 1831 Robinson was able to report that he had received 123 submissions of natives, and had communicated with many more. In the same year the Big River, or Ouse River, tribe yielded themselves not as prisoners, but as friends. There were but sixteen men, nine women, and a child among them; but they had been a terror to the land. They had been thought numerous, because, chased like wild beasts, the blows they struck were in various places. Their capture had been one main object of the cordon in 1830. After numerous marches and traverses, in which he vainly sought the distrustful Tasmanians, Robinson came upon them in the mountainous region on the west coast. He had previously sent forward some native guides, but knew not whether they had found the natives, who did not fly from his small band. Their chief, Montpeliata, strode forward with his spear. His fifteen warriors shouted their war-cry, and were hardly restrained while he advanced. Robinson's companions thought themselves doomed. At first he himself could not see his friends, but on nearer approach he recognized them gladly. To Montpeliata's question he replied:—"We are gentlemen. We have no guns; no pistols." One of the native guides in alarm took to flight. Montpeliata called him back, "for he would not hurt him." The apparition of a white man not bent upon murder—a white man unarmed—bewildered the chieftain. Truganina, with some friends, had already made a circuit and joined the wild women. Montpeliata retired to discuss the situation with his friends. His comrades retained their warlike position. The assailing dogs were called off by the wild tribe, and *silence* reigned for a few anxious minutes. The signal of

peace was given. The spears were thrown down. Eumarrah found two brothers under the guidance of Montpeliatia. Others found friends. The dark children of the forest, the wild and the subdued, mingled their lamentations for the lost with their joy at an unexpected meeting. They had secured sixteen muskets in the war, and produced them. Ammunition they had none. The whole party returned peacefully, but Robinson could hardly allay the fears of the settlers as the dreaded tribe camped near their abodes. Neither could the white population credit that the tribe which had held them in terror contained only sixteen men. The march to Hobart Town was a triumphal progress. The Governor welcomed the natives at his residence, and decorated them with ribbons. One of them, Ondia, exhibited his prowess with the spear, piercing a cray-fish at sixty yards' distance. But the captives of Robinson's conciliation were living memorials of bygone war. None of them were without wounds. Again, at Port Davey, Port Macquarie, and other places, Robinson captured small parties of the remnants of tribes. Once at the Arthur river, on the north-west coast, his life was saved by Truganina. The natives would not trust him. He could not swim, but he sat on a log which Truganina guided across the river. Subsequently even these poor creatures were peacefully enticed, and in 1834 it was supposed that only two families remained at large.

In Dec. 1834 the last captives were supposed to have been made at the Western Bluff. Four women, a man, and three boys,—outcasts on their native soil only one generation after its first invasion by the whites,—seeing Mr. Robinson's natives, rushed forward and embraced them. They had, they said, thought of surrendering before, but shots were fired at them when they approached the white man's dwellings. They had fled to the less inhospitable mountains covered with snow. With their friendly captor they entered Hobart Town on 22nd Jan. 1835. A subscription, richly deserved, and grants of land were given to Robinson. His captives meanwhile had been located in various places. Sir John Pedder, the Chief Justice, denounced the project of transporting the natives to an island where they must pine away and die. Robinson

advised that Maria Island should be selected as their home. It was pleasant to the eye and the soil was good. But there was a penal settlement already there and the Government grudged such a concession to the proscribed race. They must go to the barren and repulsive King's Island. After temporary occupation of Swan Island, and a confinement on Gun Carriage Island, during which their guards could not account for their deaths otherwise than by calling them "sulky," it was determined to make Flinders' Island their home. In Jan. 1832 the first detachment were sent thither. They instinctively shuddered when they saw it. Their fate must be told hereafter. More than 200 had been captured.

There was one family still left amongst the native wilds. Fires, distant sounds, and other signs, betokened their existence, and in 1842 they also were caught and sent to join their countrymen in exile and in death. In 1833 Sir George Arthur summed up thus his dealings with them:—

"Undoubtedly the being reduced to the necessity of driving a simple and warlike, and, as it now appears, noble-minded race from their native hunting-grounds is a measure in itself so distressing that I am willing to make almost any prudent sacrifice that may tend to compensate for the injuries that the Government is unwillingly and unavoidably the means of inflicting."

Had the first Governor of Van Diemen's Land been just, firm, and wise as Phillip, this sad elegy might not have been drawn from his successor. All the education and experience of all Arthur's predecessors had made none of them as sagacious as Robinson the bricklayer, of whom it is necessary to add that he was a pious Christian, without which qualification he would perhaps have wanted the motive for his humane exertions.

Bushranging was rife during the early part of Arthur's rule. Terrible revelations were made. One gang, escaping from Macquarie Harbour, and starving in the woods, turned eyes upon one another. Three out of eight left the rest. Four then killed one and ate him. A second and a third met a like fate. The two survivors watched one another with deadly eyes, each striving to catch the other off his guard. Exhausted nature brought sleep to one and immediate death. The wretch who killed and devoured him at last reached a friendly roof. He joined some bushrangers,

was captured, and sent back to Macquarie Harbour, whence he again escaped with another man. This man he slew, and thus filled to overflowing the measure of his crimes. Horror seized him, and he gave himself up to the executioner.

Such was the material with which Arthur had to cope. He was not slow to denounce the cowardice of those who yielded without a struggle to robbers. As far as he was concerned, the march of the law was unrelenting. One hundred and three criminals suffered death in two years. All instances of bravery in capturing bushrangers were sedulously proclaimed and rewarded by grants of land. The reins of government were tightened in every direction. Arthur notified that the flagitious proceedings of the criminals were often caused by the "ill-judged neglect of discipline or corrupt toleration of irregularity" shown by the masters. From such masters he declared that he would withdraw all "support and indulgence."

Criminals knew what to expect from him. No morbid feeling, no sensitiveness, would restrain him in administering the law in such a manner as justice seemed to require. He was not, like Macquarie,—variable. Acting on principle, he was at the last what he was at the first. As a Christian man, before he left the colony he sought reconciliation with men whom he had stringently dealt with, and by whom he had been bitterly opposed; but, as a Governor, he never swerved from the path he had chosen.

In 1827 several bands of bushrangers were extinguished. On the 3rd July eight men died on the scaffold. Ten bushrangers were captured a few days afterwards, and Arthur issued a public order thanking the magistrates by whose exertions the robbers had been secured. Two accomplices were subsequently caught, and in August the twelve were convicted, and nine of them were executed. Arthur announced that he commuted the sentences of three because through their means the others had been kept from murder or bloodshed. But the commutation was only to transportation for life. To witness the "awful spectacle" of the execution of the nine men, all the convicts in Hobart Town were compelled to leave their tasks; and the notice added, "In order to prevent the further effusion of blood from the

inevitable fate which attends the crime of bushranging, his Excellency trusts the settlers generally will embrace the present opportunity to impress upon the minds of prisoners committed to their care the dreadful consequences of crime, and to inculcate as far as possible the duties of moral life."

That Arthur's measures effected their object was not denied by his opponents. It was recorded in a leading article in *The Tasmanian* (Nov. 1827): "A person may now walk at all hours of the night in perfect safety." In his own district John Batman was useful, and Arthur publicly commended and rewarded him.

For convenient control of convicts withdrawn from bad masters, Arthur enlarged a Penitentiary in 1827. He classified the prisoners. Stricter discipline could control the weaker but not the more determined. They still risked their lives for temporary freedom. In 1829 a vessel, the *Cyprus*, conveying prisoners to Macquarie Harbour (called "the Hell" by the convicts), was seized by them. Their military guard, and some of the convicts who declined to take part in the seizure, were landed, and the captors found their way to Japan, where seven of them deserted their comrades. There the command devolved upon a daring sailor, one Swallow, under whom the *Cyprus* reached China. With a boat which he had picked up, and a sextant engraved with a name which he claimed as his own, Swallow and his companions abandoned the vessel and represented themselves as shipwrecked. Aided by contributions they reached London, but suspicions had been aroused, and two were tried and executed as escaped convicts. Others, including Swallow, were sent back to Van Diemen's Land, where another man was hanged, and Swallow survived only to die in imprisonment.

These events harassed all governors, but found Arthur ever inflexible. He systematized. Criminals must, he said, be taught that government was strong; "the main body of convicts were under mental delirium." "As from long experience the Lt.-Gov. is confident that a firm and determined but mild and constant supervision is the very best to be followed in order to remove the infirmity under which *they* labour, it is the treatment he enjoins shall be *uniformly* observed."

In his hands transportation became a philosophic torture to the obstinate. By regular gradations the offending assigned servant encountered flogging,—a road party,—the iron gang,—and the penal settlement. Yet each step could be guarded against by a prisoner; it was his own choice, Arthur told him, which punished him. He discouraged change from one master to another. It destroyed the fate-like march of his system. Under his guidance it progressed as sternly as the car of Juggernaut, crushing only (he said) the victims of their own folly. Successive Secretaries of State recognized the fact that in him they had a strong man equal to any duty in a land where the fortunes of the community were controlled, under the constitution, by the personal qualities of the Governor. Lord Bathurst, Lord Goderich, Mr. Huskisson, Sir George Murray, Lord Goderich a second time, Mr. Stanley, Mr. Spring Rice, came like shadows and departed, and still Colonel Arthur was at his post. Lord Glenelg at last relieved him, but with honour, and he governed afterwards in Canada and in Bombay. Rigid as a rock in doing what he thought his duty, he was more than ordinarily resolute in labouring to ascertain what that duty was. He shrunk from no toil, and welcomed aid from every quarter. Two Quakers, Backhouse and Walker, visited Australia on a mission of benevolence. From hut to hut, from gang to gang of men in chains, from cell to cell they wandered. Backhouse published a narrative in 1843 :³²

“ Our first interview (he said) with Colonel Arthur gave us a favourable impression of his character as a governor and a Christian, which further acquaintance with him strongly confirmed. He took great interest in the temporal and spiritual prosperity of the colonists, and in the reformation of the prisoner population, as well as in the welfare of the surviving remnants of the native black inhabitants. . . . It was gratifying to see the anxiety he exhibited to rule on Christian principles, and to prosecute the work of reformation among the prisoners according to the same unerring standard.”³³

³² “A Narrative of a Visit to the Australian Colonies.” London: 1843.

³³ Colonel Arthur met and did not shrink from the redoubtable Whately, Archbishop of Dublin, who denounced transportation in all its aspects, and wrote strongly in reply to Arthur’s statements. In a “Defence of Transportation” (London, 1835), Arthur, in reply to a letter from Whately to Earl Grey, wound up a forcible pamphlet with the words—if education “be pursued as the grand vehicle of communicating *religious* knowledge,

At the request of the Governor the humane Quakers reported upon what they saw. While thus addressing himself to the task which the penal condition of the island imposed upon him, Colonel Arthur did not neglect the interests of the settlers, and the need of intellectual culture amongst those who were to govern the land in future. He would not yield to the demands of Gellibrand, of Thomas Horne, of T. G. Gregson and others, for representative institutions while the island was but a large gaol. A great meeting was held in 1831, at which Horne (a barrister) revelled in the prospect of prosecution for his opinions. "Let them crush me, and they will associate my name with the record of this meeting, which history will preserve to the latest period of time." He was not persecuted but patronized, and if his name be preserved it will be on some musty record which he signed as a placeman under the government he had denounced. In 1834 the same wild spirit made him talk of the assertion by the hybrid population of their "rights if necessary by force of arms:" and some of his coadjutors demanded that every convict on landing should be set free to join the band of reformers.

Colonel Arthur irritated Horne by declining to recognize, without permission from England, Horne's position as secretary of a political association; and a newspaper (edited by Dr. Ross) ridiculed the ostentatious proceedings of the association. A more sagacious effort was about the same period embarked upon by those who, admitting Arthur's contention that a convict legislature would be shocking, sought the discontinuance of transportation to the colony. In those days, however, its horrors had not awakened public remorse, and the government were not prepared to abandon the unwholesome system in which they were entangled. Colonel Arthur had a staunch supporter in all good deeds in the person of the Rev. W. Bedford, the senior chaplain, who succeeded Mr. Knopwood.

how glorious its results may be. May we not look forward to the time when the increased prudence of the lower orders, no longer degraded by debasing poor-laws, will have effected, under the Divine blessing, such an improvement of their circumstances as to have banished the evils of an extended pauperism, while that 'unbought grace' of life, that cheap defence of persons and property, moral restraint, may be restored to its ancient seat in the hearts of the peasantry of our native land."

The latter, though kind-hearted, was unequal to a task requiring strength, and it was good for the colony when, many years after accompanying Colonel Collins from Port Phillip to the Derwent, he was pensioned, and the earnest Bedford took his place.

The social immoralities which others had viewed with languid disapproval, if not complicity, were abashed when Arthur as Governor and Bedford as preacher addressed themselves to the task of reform. What the latter pronounced from the pulpit it was found that the former would enforce so far as loss of office could enforce it. Bedford assailed the open contempt for the conjugal tie in the lives of many holders of important offices, and when the Governor publicly notified that they could not retain office unless they could do so as reputable persons, there was mingled terror and indignation. In vain the culprits sought to bend the Governor's will. They turned to the resolute chaplain without success. They yielded; and their descendants have reason to bless the order which converted shameless dwelling-places into homes at least formally virtuous. The public admired the courage of the men who assailed vice where "robes and furred gowns" strove to protect it. Arthur did not restrict his sympathies to the Church of England, of which he was a member; and when Sir Richard Bourke, in 1835, proposed to endow various religious bodies impartially in New South Wales, Arthur informed his Council that the views sanctioned by Lord Glenelg were in accord with his own suggestions. The pecuniary grants to the several denominations were increased, and the Governor hoped that such a "distribution of the revenue would suppress every factitious cause of discontent." It was reserved for his successor, Sir John Franklin, to legislate formally upon the subject in imitation of Governor Bourke.

The schools in Van Diemen's Land were an object of deep solicitude with the Governor during his career. He longed to establish such an one as might afford superior culture. In 1819 it is recorded that there were no more than 164 children receiving instruction in the colony. Minor schools of various kinds were formed to meet the pressing wants, and during Colonel Sorell's government a superintendent of schools was appointed, and a monitorial

system was introduced in 1821. In 1834 Colonel Arthur, with the concurrence of Dr. Broughton (then Archdeacon in New South Wales), endeavoured to found a grammar school, the managing body of which was to be composed of important officials. He went so far as to offer the post of head-master to a clergyman³⁴ emigrating to New South Wales in a vessel which touched at Hobart Town. But the offer was not accepted, and eventually the scheme gave way to other plans under Sir John Franklin's guidance. The higher education on which Colonel Arthur had set his heart was not provided in Australia until William Wentworth led the way to it by the establishment of the Sydney University.

When the time arrived for Colonel Arthur to depart, old feelings of opposition were softened, and some of those who had been most acrimonious against him joined in testifying admiration of his character.

An address signed by every member of the Council was formally presented to him, and was acknowledged with emotion.

"To carry into the most complete effect the great object of transportation which has rendered the introduction of some unpopular laws absolutely necessary to suppress the depredations of convicts illegally at large, to form a secure and efficient penal settlement, to conciliate the aboriginal inhabitants and to protect the settlers from their fatal attacks, to encourage pastoral and mercantile pursuits, to foster religion and morals and to provide for the education of the poor, to maintain the laws of the country and firmly to carry into effect the regulations of the Government, have all been measures which have required the most laborious supervision. Yet all these have been far less embarrassing than the anxious duty which devolved upon me for so many years of apportioning the lands of the

³⁴ In his usually accurate "History of Tasmania," the Rev. Mr. West has fallen into error on this subject. He says: "The Rev. Mr. Rusden was nominated first master, but the question of religion was fatal to its success. The school sunk into a private establishment." Colonel Arthur entreated the author's father (Rev. G. K. Rusden, Pembroke College, Cambridge) to accept the post. But he had already made arrangements to settle in New South Wales. He continued his voyage to Sydney in the vessel in which he had sailed from England. He became a chaplain in New South Wales, and officiated for a quarter of a century in the Hunter River district. He had a high opinion of Colonel Arthur, and it was not without compunction that he felt constrained to decline the offer. In a minute laid by Colonel Arthur before his Council, 5th Aug. 1836, he said "the office of head master was offered to the Rev. Mr. Rusden, who declined it."

Crown amongst the settlers according to their respective means of improving them, and of impartially considering their claims in the disposal of assigned servants. . . . In all these matters I have felt the full weight of responsibility in contending with the extreme practical difficulties which have almost daily presented themselves, and which I never could have successfully withstood but from the support I have uniformly received.

. . . . I shall ever most highly appreciate the encouragement I have received, the strength which my government has derived from it, and the gratifying testimonies I have received of feelings towards myself personally since I received the intelligence of His Majesty's intention to appoint my successor. . . . If my labours have been great, so has been my reward. I have witnessed the most extraordinary rise perhaps ever known within so short a period in the value of property. The foundation is now firmly laid, enterprise and the desire to improve have full scope, and their results will be, I anticipate, increasingly developed every year. . . . Having presided over the Legislative Council from the period of its constitution, now ten years ago, I cannot take my leave of you without the most lively emotions, and whilst I am most deeply sensible of your invariable kindness and forbearance towards myself, permit me to request for my successor a continuance of that support which you have so cheerfully and zealously, during so long a period, extended to me.

"Gentlemen, with the most sincere wishes for your future prosperity and happiness, I now bid you farewell."

The material progress had indeed been great. His relative, Mr. Montagu, the Colonial Secretary, compiled tables which showed that during Arthur's rule the revenue had risen from £16,866 to £106,639; the imports from £62,000 to £583,146; the exports from £14,500 to £320,679. The number of mills had been increased from 5 to 47; of colonial vessels from 1 to 71; of churches from 4 to 18; and the population had grown from 12,000 to 40,000 in 1836.⁸⁵

⁸⁵ "History of Tasmania." West. Vol. i., p. 177.

CHAPTER IX.

GOVERNOR DARLING.

GOVERNOR DARLING arrived in New South Wales in Dec. 1825, after touching at Hobart Town and conveying the instructions of the Colonial Office as to the separation of the island government from that of New South Wales. He was a soldier and influenced by military ideas. A presentiment that he would be so influenced seems to have been instinctive with the leaders of the popular party—the emancipists and self-styled patriots. Brisbane had warmed their sympathies by his recent cordiality, and they were in no humour to welcome his supplanter. The incoming Governor was received like the outgoing king :

“ As in a theatre the eyes of men
 Are idly bent on him that enters next . . .
 E'en so, or with much more contempt, men's eyes
 Did scowl on Richard. No man cried, ' God save him ! ' ”

Darling bore with him a Royal warrant appointing his Legislative Council, consisting of the chief military officer (Stewart, who had in that capacity administered the affairs of the colony in the brief interval between the departure of Brisbane and the arrival of Darling); the Chief Justice; Archdeacon Scott; the Colonial Secretary, Mr. Alexander Macleay (who arrived in Jan. 1826, and was to succeed Major Goulburn); John Macarthur; Robert Campbell; and Charles Throsby. The Executive Council was to consist of the same persons, with the exception of the three last-named colonists. It must have been with strange feelings *that Macarthur and Campbell were sworn* (20th Dec. 1825)

as members of the Legislative Council. In 1803 Campbell had been one of the few respected persons who abetted Governor Bligh when, under the guidance of Crossley the convict, Macarthur was lawlessly imprisoned. Campbell had given evidence in favour of Bligh at the trial of Colonel Johnston. In 1825, Macarthur and Campbell were styled "trustworthy and well-beloved," in a warrant under the hand of the King appointing them members of the Legislative Council; and the warrant was subscribed by Lord Bathurst, from whom it had been so hard to wring consent that Macarthur should be permitted to return to his home in 1817. The warrant of 1825 was revoked in 1827, and a new one was issued; but the change was merely formal. Stewart was no longer named in it, but the "officer next in command to the Commander of the Forces" was placed in the Council, and Colonel Lindesay (89th Regt.) in that capacity took his seat. The other members were re-appointed. Soon after Darling's arrival it was thought advisable to present an address to him, and a public meeting was called, at which William C. Wentworth was the moving spirit. He admitted that the new Council was an improvement on its predecessor, but advocated agitation for an elected Assembly, and sounded the popular note of taxation by representation. Darling replied in general terms; and, without committing himself to any party, proceeded with his new Colonial Secretary to introduce administrative reforms which previous laxity had made necessary. In this, as in his task of raising the tone of society, the Governor was to look for aid from the Colonial Secretary, who was noted as a man of science, and in addition to his services under the Crown had been for many years the highly esteemed Honorary Secretary of the Linnæan Society, which unanimously ordered a painting of him by Sir Thomas Lawrence. That two persons freshly arrived from the mother country should concur in removing from the public offices some relics of the convict element introduced by Macquarie and untouched by Brisbane, can hardly be wondered at; yet Darling and Macleay incurred the odium of the emancipists by weeding the departments. The order which they had not found they attempted to secure by checks and counter-checks. They infused a

higher sense of duty among officials. The emancipist and self-styled patriot party turned savagely on the Governor, and Dr. Wardell and William Wentworth ere long vented their fury in the columns of the *Australian*. After this introduction of the Governor, the progress of discovery during his rule must be alluded to.

In 1827, Allan Cunningham combined his botanical researches with exploration. He traversed with six men the affluents of the Nammoy and the Gwydir, discovered Darling Downs, and returned to his starting-point at the head of the Hunter river. Two years afterwards he went to Moreton Bay by sea; and exploring the sources of the Brisbane river, connected his two expeditions, and named Cunningham's (Pass or) Gap in the cordillera near Darling Downs. Darling selected, for the command of another exploring party, Captain Charles Sturt of H.M. 39th Regiment. With this leader Mr. Hamilton Hume was associated. In a time of drought (1828) they started for the interior, in which Oxley had found marshes and expanse of water. They found a waste of dry polygonum scrub with patches of reeds and a small muddy channel to which the Macquarie had dwindled. An attempt by Sturt to follow its course failed. Hume made excursions, and after much hardship the explorers suddenly came upon a large river, which they named the Darling. To their horror they found the water salt. They were in sore straits for themselves and their cattle; and the unerring skill of Hume was never more welcome than when he discovered, not far from their camp, a pool of fresh water which relieved their distress. Striking the Darling in long. 145.33 E., lat. 29.37 S., they descended many miles without finding any alteration in the character of the river. They turned northwards, and again encountered the Darling, salt as before. After four months and a half they returned, having ascertained that the Macquarie and Castlereagh rivers, and, inferentially, the Nammoy, Gwydir, and the Darling Down rivers, flowed into this new great river, now called the Darling, below the confluence of the rivers converging from the slopes of the cordillera.

Sturt was again commissioned in 1829 to explore the more southern rivers. The Lachlan had been essayed vainly by Oxley. Sturt sought the Murrumbidgee, whose

waters, fed from the Snowy Mountains, were to bear him to a new and unexpected terminus. Hume could not accompany him, though asked to do so. Not only his skill in the bush, but his knowledge of the natives caused regret at his absence. On the Darling Sturt and Hume had seen many natives, and no hostilities had taken place. Mr. (afterwards Sir) George Macleay was Sturt's companion and friend in his new undertaking. Forming a depôt on the Murrumbidgee, near its junction with the Lachlan, Sturt went down the river in a boat. They passed the junction with the river which Hume had named after his own father; but Hume was not there to recognize it, and Sturt unfortunately, but unwittingly, discarded Hume's patronymic, and named the river the Murray, in honour of Sir George Murray, then Secretary of State. The boat bore them bravely downwards; they saw hundreds of natives; they were saved from an attack of one tribe by the heroism of another native (of a tribe recently seen), who dashed across the river and arrested the uplifted arm of a leader. They returned in 1830, amidst much privation and in great prostration, and Sturt published a narrative which proved him as modest as brave. They had traced the united Murrumbidgee, Murray, and Darling waters into Lake Alexandrina, and thence to the sea in Encounter Bay. They had connected their journey across the land with the labours of Flinders, and the footsteps of others. They had found on the coast that the natives had seen white men before, and, unlike their brethren in the interior, had been made to dread fire-arms. Sturt's people were watchful and returned safely; and in all his explorations Sturt never took the life of a native. Governor Darling acknowledged his services by an official notice of his exploits, and the Colonial Secretary, Mr. Macleay, had the pleasure to see his son's name included as that of one who had done the State some service in the expedition. A sad fate awaited the next explorer who visited Lake Alexandrina. Captain Barker, a brother officer of Sturt, had succeeded Captain Stirling as commandant at Raffles Bay, and when that settlement was, like its neighbour at Melville Island, abandoned in 1829, Barker was stationed at King George's Sound. Governor Darling instructed him to hand over the

last-named settlement to Captain Stirling, who had become Governor of (Western Australia or) Swan River; and then to make a more accurate survey at Lake Alexandrina than had been possible for Sturt. The gallant Barker, who was reputed to be well acquainted with the aborigines, and kindly disposed towards them, fell a sacrifice to the hatred inspired by less humane visitors. Being the only one of the company who could swim, he crossed the channel, which connects the lake with the sea, alone, taking his compass on his head. His companions saw him no more. Sturt bewailed the loss of one so true and just, so intelligent and dauntless, so kind and indefatigable, and thought it probable that the "cruelties practised by sealers had instigated the natives to take vengeance on the innocent as well as on the guilty." Lt. Kent, the second in command, prevailed upon a sealer at Kangaroo Island to go with him and a native woman to inquire concerning Barker's fate. She was told that he had been speared and thrown into the sea.

Numerous attempts to form settlements during the governments of Brisbane and Darling evinced the desire of English Ministers to exclude foreign nations and furnish fresh outlets for British enterprise. There is documentary evidence to show that to the promptness of Lord Liverpool's Administration it was due that only the flag of England was permitted to float over Australian soil. The traditions of Pitt, who first erected it there, still prevailed in Lord Liverpool's Cabinet, which comprised the great Peel and the brilliant Canning. What Governor King implored the Addington Ministry to do in order to extinguish French pretensions in 1802, while Lord Liverpool (then Lord Hawkesbury) was Foreign Secretary, the same nobleman while Prime Minister sanctioned in 1826, when those pretensions were believed to be recrudescant.*

Early in 1826 Lord Bathurst wrote to Governor Darling. Establishments at Western Port and Shark Bay were contemplated. These, with the post at Melville Island, were to secure the whole territory from the intruding French, who were sending out discovery ships. Darling pointed out that as the western boundary of his government was the

* See above, p. 513 and *note*.

129th degree East Long., "it will not be easy to satisfy the French, if they are desirous of establishing themselves here, that there is any valid objection to their doing so on the West Coast; and I therefore beg to suggest that this difficulty would be removed by a Commission . . . describing the whole territory as within the government." Darling at once sent expeditions to occupy Western Port and King George's Sound. He confidentially enjoined the officers in command to be careful, if they should see the French, "to avoid any expression of doubt as to the whole of New Holland being within this government, any division of it which may be supposed to exist under the designation of New South Wales being merely ideal, and intended only with a view of distinguishing the more settled part of the country. Should this explanation not prove satisfactory it will be proper, in that case, to refer them to this government for any further information they may require."

If the French should be found landed,—“you will, notwithstanding, land the troops (two officers with eighteen rank and file—agreeably to your instructions, and signify that their continuance with any view to establishing themselves, or colonization, would be considered an unjustifiable intrusion on His Britannic Majesty's possessions.”

The French corvette *L'Astrolabe* arrived in Sydney soon afterwards. Darling was informed by her commander that the expedition was scientific only, but he wrote that it was perhaps fortunate that the British ships *Warspite*, *Success*, and *Volage*, were lying in Sydney. That fact, with a knowledge that H.M.S. *Fly* had sailed for Western Port, might make the French captain "more circumspect in his proceedings than he otherwise would have been."

Captain Wright took charge of the settlement at Western Port. Captain Wetherall of H.M.S. *Fly* assisted in forming it. Hamilton Hume was asked to go, but "impaired health prevented his complying." Hovell (his fellow-traveller in 1824) accompanied Captain Wright. Captains Wetherall and Wright furnished exhaustive reports. The former spoke of the "prospect of rendering Port Phillip in some degree tributary to the establishment" at Western Port. He soon perceived that Mr. Hovell was at fault, and reported: "It is very evident that (Western Port) is not the

country described by Messrs. Hume and Hovell, and that they could never have been there, as their accounts are not applicable to a single point either of it or to the anchorage."

Wright wrote (27th March 1827) that the country was scrubby, and that his own and Hovell's researches had failed to reveal the fine pasture land seen in 1824. Hovell had been "occupied twelve days in looking at the country north between Western Port, the mountains, and Port Phillip, but never got to the latter." Wright resigned his charge to his successor, Lieut. Burchell, and Hovell prosecuted his researches, which were duly reported to the Colonial Office. He thought he had found Hume's terminus on the Bay near "a very extensive freshwater marsh, twelve to fifteen miles long, separated from Port Phillip by a narrow ridge or bank of sand not more than from two to three hundred yards wide." This was the Carrum Swamp, which bounded Tuckey's explorations in 1803 under Collins; but though Hovell, in one of his reports (27th March), alluded to Tuckey's narrative, he failed to observe that Tuckey's land journey from Collins' Camp was perforce confined to the eastern shore of Port Phillip, while the journey of Hume was entirely on the west. Having, as he thought, "near the head of the Bay, ascertained the spot which terminated the journey of Mr. Hume" and himself—he returned, unconscious of the fact that between him and any part of the country traversed by Hume ran the everflowing Yarra-Yarra river, and that the waters of Port Phillip lay between him and the place he thought he had reached.

It must seem strange to those who know the country that he could stand on the ridge of sand which he described, near the Carrum Swamp, without recognizing on the opposite western side of Port Phillip the Station Peak of Flinders, close to which he passed with Hume, and which Hume learned was called Willamanata by the natives.

Darling thought Hovell's services of little value. It appeared "that Western Port does not possess the necessary requisites for a settlement," and "should your Lordship consider that the object of taking formal possession has been answered," the persons sent to establish the settlement might perhaps be withdrawn. Lord Goderich

authorized the abandonment of the place, and early in 1828 Darling withdrew the whole establishment. But in Van Diemen's Land John Batman, one of those men who (on account of the faculty possessed by Hamilton Hume of divining their way through unknown tracts) were called "good bushmen," had in 1827 applied for a grant of land at Western Port. He induced Mr. J. T. Gellibrand to join him. They proposed to take live stock to the value of from £4000 to £5000 to the spot where Batman would reside. But Governor Darling wrote: "Acknowledge, and inform them that no determination having been come to with respect to the settlement at Western Port, it is not in my power to comply with their request." Batman, thus foiled for the time, nursed his project until 1835, when he was more successful.

At King George's Sound, Major Lockyer, the commandant, selected the site of Albany, where a military post was kept until it was transferred (1830) from the control of New South Wales to the young colony formed at Swan River in Western Australia.

Captain Stirling, R.N., had joined in exploring expeditions in New South Wales, and had subsequently formed a settlement at Raffles Bay. He had surveyed Swan River in 1827. His report led to a project to form a settlement there. Mr. Barrow wrote from the Admiralty to the Colonial Office (1828), that with Western Port, King George's Sound, and Swan River "on the south and west, and Raffles Bay on the north, I think we may consider ourselves in unmolested possession of the great continent."²

In 1829, Captain Fremantle, H.M.S. *Challenger* (despatched from India to Swan River) formally took possession of "all that part of New Holland which is not included within the territory of New South Wales."

² The Earl of Ripon in 1833 thought the anxieties of 1826 groundless. He wrote: "The present settlement at Swan River owes its origin, you may perhaps be aware, to certain false rumours which had reached the Government of the intentions of a foreign power to establish a colony on the West Coast of Australia. The design was for a time given up entirely on grounds of public economy, and would not have been resumed but for the offer of a party of gentlemen to embark in an undertaking of this nature at their own risk upon receiving extensive grants of land, and on a certain degree of protection and assistance for a limited period being secured to them by the Government."

Financial considerations arrested the proposed official settlement. But private speculators stepped in. Mr. Thomas Peel, with others, offered to provide shipping to carry 10,000 emigrants to Swan River at the rate of £30 a-head. In return they asked for grants of land, of which they calculated the value at 1s. 6d. an acre. They were to receive 4,000,000 acres for £300,000. They offered 200 acres free of rent to each male emigrant. The scheme was not carried out, but it led to another in which Mr. T. Peel was the leader, and of which the Government approved.

Captain Stirling was to be Governor of the first free settlement in Australia. No convicts were to go thither. Immigrants were to receive, in the order of their arrival, grants of land proportioned to the capital they were prepared to invest. They were to satisfy the Governor as to the capital they possessed, and to receive 40 acres for each £3 of invested money; but they were not to receive the grant in fee simple until they had expended at the rate of 1s. 6d. an acre in improvements. There were conditions of reversion to the Crown in case of default of expenditure. To Mr. Peel were assigned a quarter of a million, with possible extension to a million, of acres on condition of taking out emigrants, at a graduated scale, by which for all persons over ten years of age Mr. Peel was to receive 200 acres. The Governor might acquire a hundred thousand acres. He landed on the 1st of June, 1829, to found the new settlement; and before the end of 1830, thirty vessels had arrived with more than a thousand claimants for acres. Captain Stirling did what he could to satisfy them; but what he did was of no avail. In proportion as a man had more land he was in more difficulty as to its use.

Every man's neighbour was in dim distance. Spread over wide tracts, and commanding no labour, the puzzled landholders had neither roads nor markets. They gazed in stupor at their unprofitable wastes. The old problem of labour assumed a new phase under new conditions in a new land. Land—the presumed wealth of the colony—could purchase no labour, and yet land was the commodity with which it had been hoped to buy everything. Con-

tractors, surveyors, and others were to receive payment in the same barren element of exchange. Many immigrants had property of some kind, but few carried with them the means of building houses, or commanding labour. Land in proportion to attracted capital was the loadstone; but the attracted capital in vain sought congenial employment. There was no hope of profit from it. Some settlers fled from a colony whose hardships were intolerable. The few sheep and cattle seemed likely to fall a prey to the teeth of the few colonists, and starvation would ensue. Some who fled retained their grants nominally.

Mr. Peel, after taking £50,000 and 300 servants to the colony, was left without a servant, while his property was wasted; and when it had been wasted, the servants who had abandoned him returned, starving, to demand employment and food. He, the victim of an experiment to which he had so largely contributed, was as helpless as the men who had abandoned him. The inexorable laws of co-relation between capital and labour had never been more notably violated, or more notably avenged themselves. Governor Stirling was driven to seek assistance from England in an emergency which neither he nor his employers comprehended.

The root of the failure was to be explained by a man then rising into notoriety—Edward Gibbon Wakefield. Commencing his career by being convicted of abduction in 1826 (unattended, however, by the coarser constraints sometimes resorted to), this remarkable man became the life of a Colonization Society, whose labours were to influence, though not control, the Colonial Office, the Parliament, and colonists. They furnished ideas; and in a world of red tape and routine, to furnish an idea is to create. Wakefield's first trumpet-sound in the arena of colonization was an anonymous letter,³ published in London in 1829. Grasping the subject with a master hand, embellishing his brochure with touches of power and the raciness of reality, he arrested attention and partly com-

³ "A Letter from Sydney, the principal town of Australasia. Edited by Robert Gouger, together with the Outline of a System of Colonization." London: Joseph Cross, 18 Holborn, 1829.

pelled belief. Society, officials, settlers, labourers, politics were woven into his work "The Opposition," he said,

"consists of emancipated convicts who have obtained wealth and importance; of the children of convicts, and of certain free immigrants—men of fiery, and in many cases of generous, tempers; of whom some cannot tamely brook subjection in their own persons; some hate oppression in the abstract, and some are filled with a high ambition, like that which urged the robber-shepherd to found Rome. These are the leaders of four-fifths of the population. They are bent upon procuring for the colony a government of colonial origin. They want trial by jury and a Legislative Assembly. They talk even of perfect independence. They are rebels, every one of them, at heart; and nothing but a sense of weakness deters them from drawing the sword."

He underrated the prospects of wool-growing. Production, he thought, must soon outpace demand. The latter was then supposed in England to be limited to thirty million pounds, and Wakefield foresaw that Australia would soon produce far more. He proclaimed the evils of the convict system, and the curse it entailed. He depicted a possible "extension of Britain." The crime and misery produced in Britain by excess of people in proportion to territory, might be reduced if not annihilated by a system which would place within reach of British population the territory in the colonies. In one place people hungered for land, in the other land panted for people. He would not make the colonies "new societies, but *extensions* of an old society." If "this plan be too magnificent for execution may we not construct a smaller edifice on this model? In plain English—if the principles here suggested be correct, why should they not be reduced to practice upon whatever scale?"

In an Appendix he supplied terse articles—

1. That a payment in money of — per acre be required for all future grants of land without exception.
2. That all land now granted, and to be granted, throughout the colony be declared liable to a tax of — per cent. upon the actual rent.
3. That the proceeds of the tax upon rent and of sales form an Emigration Fund, to be employed in the conveyance of British labourers to the colony free of cost.
4. That those to whom the administration of the fund shall be entrusted be empowered to raise money on that security, as money is raised on the security of parish and county rates in England.
5. That the supply of labourers be as nearly as possible proportioned to the demand for labour at each settlement, so that capitalists shall never suffer from an urgent want of labourers, and that labour shall never want well-paid employment.

6. That in the selection of emigrants, an absolute preference be given to young persons, and that no excess of males be conveyed to the colony free of cost.

7. That colonists providing a passage for emigrant labourers, being young persons and equal numbers of both sexes, be entitled to a payment in money from the Emigration Fund, equal to the actual contract price of a passage for so many labouring persons.

8. That grants be absolute in fee without any condition whatsoever, and obtainable by deputy.

9. That any surplus of the proceeds of the tax upon rent and of sales, over what is required for emigration, be employed in relief of other taxes, and for the general purposes of Colonial Government.

If Wakefield's belief were true, the principles on which Western Australia had been founded were false. The year 1829 witnessed the publication and the experiment. For this reason they are here placed side by side. The Colonization Society, which sprung from the anonymous author's ideas, will properly be dealt with hereafter.

It is sufficient to mention him now in connection with the occupation of new lands.

While the land of Australia was thus parcelled out, the treatment of its original inhabitants was of the customary kind. On the Hunter River, in former times, the commandant had availed himself of their services in capturing runaways and bushrangers. Backed by a knowledge of his support they had shown a courage and confidence not exceeded by their skill in tracking. The usual injuries by white men produced the usual results.

A native whom the authorities described as Jackey Jackey (with two *aliases*) was seized on the Upper Hunter in the winter of 1826, was taken seventy miles to Wallis Plains (Maitland), and was on the 31st July handed to Lt. Lowe, 40th Regt., the officer in command. His fate became the topic of rumour not altogether condemnatory.

Brave men as well as others had arrived at the cowardly conclusion that the brutalities of the whites were inevitable, and that their consequences must be condoned or neglected by the government. Some were insolent enough to declare that it was the dispensation of Providence that the black race must be "stamped out" by the white.

Darling's own conduct deserves censure. The Attorney-General, Saxe-Bannister, reported (Aug. 1826) that there was a common statement that the military had taken upon

themselves to "put men to death in cold blood, and that the magistrates do not at all interfere." He was convinced that Darling could not be aware of these things. He appealed to him to stop them. Darling did little. The crime had occurred at the Hunter River, and it was to a resident in that district that Brisbane had intimated that if the blacks were shot there was no occasion to report the fact. The natives there were numerous and warlike, however, and to the disgust of some residents seemed disinclined to be shot. Settlers sent to the Governor a petition praying for protection "from the incursions of numerous tribes of black natives, armed and threatening death to our servants" . . . "until the threats and murderous designs of the natives shall have subsided, the lives of our labourers and our property will be exposed to the revenge and depredation of these infuriated and savage people."

Darling replied (5th Sept.) that nothing was to be feared, and the settlers should show no apprehension. "Vigorous measures among yourselves would more effectually establish your ascendancy than the utmost power of the military. . . . I strongly recommend you to unite and take measures for your own defence, and you may be satisfied that in any exertion you may make, you shall receive every necessary support." He observed that some of the memorialists resided in Sydney, and recommended them to live on their properties. "It would have the effect of preventing irregularities on the part of your own people, which, I apprehend, is in many instances the cause of the disorders committed by the natives."

Thus stirred, the settlers obeyed. The natives retaliated. Bannister reported (7th Sept. 1826) that "extremely violent proceedings were going on, on both sides." Darling ordered a detachment of the military to the district, to "punish the natives agreeably to my instructions on this head, which, under present circumstances, will, I have no doubt, prove the most effectual course."

Bannister, "placed in a situation of great difficulty," asked for a copy of the Instructions. He thought "that the indiscriminate slaughter of offenders, except in the heat of immediate pursuit, or other similar circumstances,

requires preliminary solemn acts; and that to order soldiers to punish any outrage in this way, is against the law, which is powerful enough to guard the public peace from any permanent aggression." Darling vouchsafed no reply, and in the following month Bannister was out of office.⁴

The atrocities which occurred can be only faintly pictured by the imaginations of those unacquainted with the characters of the class in whose hands firearms were thus freely placed, and over whose doings there was no control. Bannister, cognizant of the atrocities, was determined to denounce them in England. The Governor thought some explanation expedient, and wrote to the Secretary of State (6th Oct. 1826). He spoke of outrages committed at the Hunter—

"A report having reached me that a native, who was apprehended by the mounted police as having been concerned in the proceedings above alluded to, had been shot while in custody, I immediately gave orders that the matter should be investigated by the magistrates of the district. This order, after some delay, occasioned by the absence of Lieut. Lowe, was acted upon."

Darling brought the matter before the Council with no further result than can be gathered from the following passage in his despatch: "There can be no doubt of the criminality of the natives who have been concerned in the recent outrages, but though prompt measures in dealing with such people may be the most efficacious, still it is impossible to subscribe to the massacre of prisoners in cold blood as a measure of justifiable policy." In one sense, every Governor except Phillip had subscribed to massacres which he did not check or punish, and Darling was no exception to the bad rule.⁵ It is fair to him to mention that when Captain Wright reported (26th Dec. 1826) his arrival at Western Port to form a settlement, he added (after saying that the natives kept aloof): "As I am aware that it is your Excellency's wish to conciliate them as much as possible, I have not allowed them to be pursued or molested in any way."

⁴Saxe-Bannister published documents connected with these events, "New South Wales in 1824-5-6" (Cape Town: 1827).

⁵The author was personally acquainted with many of the aboriginal survivors of the authorized raids in the Hunter River district, and with some of those who were settlers at the time.

The murder of Jackey Jackey, which Governor Darling confessed it was impossible to "subscribe to as a measure of justifiable policy," had been perpetrated with little or no attempt at concealment. Thomas Farnham delivered Jackey Jackey to Lieut. Lowe one evening, and if his evidence, afterwards given, was true, heard Lowe on the following morning order that the prisoner, without trial or investigation, should be shot. Another man said he saw Jackey Jackey tied to a tree and shot. Both witnesses concurred in the statement that three soldiers having fired, the fourth stepped up and put the poor creature out of his misery. The body was buried by two men in obedience to the order of a sergeant. The constable was interrogated by a magistrate (Mr. Close, late of the 48th Regt.), and concealed the fate of the prisoner.

Lieut. Lowe's absence postponed inquiry for a time; but knowledge shared by so many persons could hardly be stifled. Two men, to remove means of proof, removed the body of the murdered man. The man who had buried it saw them do so, and consented not to tell the truth unless put upon oath.

It was not until May 1827 that Lieut. Lowe was put upon his trial in Sydney before a military jury. Dr. Wardell defended him, and contended that the Court had no jurisdiction to try a British subject for an offence against a native. A native was neither entitled to be tried before the Criminal Court as a British subject, nor to a jury *de medietate lingue* as a foreigner. He was beyond the pale of all law, and the inference was that no atrocity against him was punishable. Chief Justice Forbes overruled such wild words, and the trial proceeded. Witnesses for the defence contradicted portions of the evidence.

The Chief Justice told the jury that there was some mystery in the case, but much was open to conjecture. None of the witnesses had been uncontradicted, and all had at different times made different statements. If the jury believed that Lowe had acted as was imputed, they would find him guilty; if they had any doubt arising as to the credibility of the witnesses, they would give the prisoner *the benefit of the doubt*. They did so by retiring for a few *minutes*, and returning with a verdict of Not Guilty.

To vindicate the majesty of the law, a black man was put upon his trial at the same session. As none of his friends were present, and none could have given evidence if present, "Black Tommy" was hanged without delay. The hearts of the white men might accuse them, but legal proof was not available. Amongst those who held the diabolic doctrine that the shooting of a black fellow-creature was not an offence, no witnesses against a white murderer could be found. Perjury was deemed venial in such a case.

It is sad to reflect that early mismanagement at Western Australia caused for a time disgraceful relations between the two races. An accidental publication casts light upon the time. Mr. Moore held a civil appointment at Perth, and was also engaged in pastoral pursuits. He wrote letters to England, which were published, without his revision, as "Letters and Journals" from Swan River.⁶ He thus described the state of affairs in May 1833:—

"A murder was committed by the natives in consequence of the following provocation. Some time ago a man who had come from Van Diemen's Land, when escorting a cart, saw some unoffending natives in the way. 'D—n the rascals,' he said, 'I'll show you how we treat them in Van Diemen's Land,' and immediately fired on them. That very cart, with two men who had been present at the transaction, was passing near the same spot the day before yesterday, when they were met by about fifty natives who had lain in ambush, and the two men were deprived of life so suddenly, that Mr. Phillips (who had been about two hundred yards behind) was hardly in time to see Yagan thrust a spear into one of them. . . . A reward has been offered for the head of Yagan whether dead or alive."

One Midgegoro was taken, and there was "great perplexity as to what should be done with him. The populace cry loudly for his blood, but the idea of shooting him with the cool formalities of execution is revolting." Thus Mr. Moore wrote on the 20th May. On the 22nd, he added, Midgegoro was "shot at the gaol-door by a party of the military. We are all anxious to see how the others will conduct themselves after this execution, *if they discover it.*⁷ . . . there were none of them present at it." On the 27th Mr. Moore, with two others, saw Yagan with several

⁶ London: 1834.

⁷ The italics are Mr. Moore's. This publication excited attention in England; and Captain F. C. Irwin, who commanded the military in Western Australia, published another work in 1835.

natives in sight of the military quarters. Yagan was wary, but bold. To his inquiries as to the fate of Midgegoro Mr. Moore would give no reply. Yagan said he would take life for life. "There is something in his daring which one is forced to admire," Mr. Moore said. Though close to the encampment, neither Moore nor his companions attempted to capture the chief; but gave information after he was gone. A strong band was sent out, but it was not by them he was killed. A white lad, who was received in a friendly manner at the camps of the natives, went behind Yagan and shot him. The assassin threw away his gun, and ran for his life, but Yagan's companions pursued and speared him.

Mr. Moore reported that the man who afterwards preserved the head of Yagan also flayed from the body a portion of the skin. Englishmen might well be shamed by the doings of their countrymen thus made known to them by a gentleman who held a high position in the colony.

Fortunately for the national reputation, the second Governor of Western Australia, Mr. John Hutt, established a new order of things, though not before many dark deeds had been done such as Mr. Moore described.^e

Saxe-Bannister's resignation having been referred to, it may be well to dismiss him from these pages. Chief Justice Forbes owed him ill-will for the advice to the magistrates which (in 1824) excluded ex-felons from jury lists; but Forbes was not paramount with Darling, who, military and loyal, could not tolerate the opprobrious epithets which Forbes was reported to apply to a monarchical form of

^e Colonel Charles J. Napier, to whom the Government of South Australia was offered in 1835, published in that year a work upon Colonization, in which he denounced the treatment of the natives in Western Australia. He narrated how a party of soldiers, with the Governor, slew "from twenty-five to thirty" and "several of the children:"—he described Yagan as the "noble warrior of the Swan River," no less conspicuous "for generosity than for his courage," and added that "to the hanging of *native* murderers, if their sentence was a just one, there can be no objection; but to the *not* hanging of the *settler* murderers, there are very great objections; . . . the savage has no knowledge of our law . . . the settler acts contrary to the laws of his country; knowing what is right he does *wrong*, and does so from a brutal disposition; he therefore appears to be a *fit* subject for the heavy hand of law. . . ."

government. Forbes also associated freely with members of the emancipist party who assailed Darling's alleged severity towards the convict class. It was to himself that Bannister owed his fall. When on good terms with Brisbane, he had thought himself justified in refusing to draft a Bill indemnifying magistrates involved in the "Torture Proceedings." He now told Darling that "if the Governor is doing what seems to the Attorney-General to tend to bring the peace and welfare of the colony into danger, he is bound to state his opinion to the Governor." Darling replied that he would ask his advice on legal matters. "On all others I alone am responsible, and I can have no desire to place you in so unpleasant a predicament as that of giving opinions on subjects with which you have no right to interfere."

Deeming his salary inadequate, and having (he said) no time to eke out his emoluments by practising at the bar, Bannister had tendered his resignation unless the Secretary of State would sanction an increase of salary. Lord Bathurst took him at his word, and announced that "since it appeared to be his wish," a successor had been appointed; and Darling wrote to him:—"The acceptance of your resignation having been notified by the Secretary of State, I shall make immediate arrangements for placing the duties in other hands."

The retiring Attorney-General⁹ having vainly requested the Governor to prosecute the *Australian* newspaper, placed

⁹ Bannister considered himself harshly treated, and printed a defence for private circulation. He was bitterly attacked in Dr. Wardell's newspaper, the *Australian*, and was angry with Darling for declining to institute a government prosecution of the publisher. He had previously (June 1826) taken upon himself to caution the Governor against countenancing the press. Darling, it appeared, had invited Dr. Wardell to Government House. The Governor replied that it was impossible to suppose that the office he held was in any degree under the control, or subject to the animadversions of anyone in Bannister's position. Neither the King nor his Ministers had thought it necessary to prescribe his hospitalities, and, without meaning personal offence, he could not persuade himself that the Attorney-General was invested with any such authority. Darling, in declining to prosecute the *Australian* newspaper, said that the article complained of had not appeared till Bannister's resignation had been notified, and "the government could not interfere in such case without establishing a precedent which might subject it to serious inconvenience." Bannister, irritated at Wardell's unfounded insinuations as to his

his personal effects on board the ship which was to carry him from the colony, spoke (20th Oct.) for nearly six hours in a case in which he prosecuted Howe, the editor of the *Sydney Gazette*, for libel; fought a duel with Dr. Wardell on the 21st, and departed on the 22nd from a wondering society.

The New Constitution Act of 1828 removed the short-lived institution which in 1825 constrained the Chief Justice to resort to an *ex post facto* law. No grand jury was continued or established by the Act 9 Geo. IV. cap. 83. The fifth section enacted that "until further provision be made as hereinafter directed for proceeding by juries, all crimes, misdemeanours, and offences cognizable in the said Courts respectively, shall be prosecuted by information in the name of His Majesty's Attorney-General." Thenceforward grand juries were withdrawn from the land until their reappearance in the youthful South Australia in 1837.¹⁰ The administration of justice became a department of State. The safeguard which Englishmen had fondly cherished as their heritage from the days of Alfred,—which Blackstone believed to be

obtaining his appointment by undue favour, fought his duel with Wardell. It is just to state that in a letter to Darling, written at sea, Bannister regretted that he had not had "courage to refuse" Wardell's challenge. James Macarthur (son of John Macarthur), writing to his brother in England at this period, said:—"Bannister's speech (at Howe's trial) seemed to petrify his enemies, the chief of whom, I need not tell you, is Mr. Forbes. He gave a luminous outline of his public conduct from the first moment of his application for the office until the day of his retirement, in which he clearly showed the punctilious correctness of all his actions, and contrasted them most ably with the conduct of Forbes. On the Torture Indemnity Bill he was most happy both in clearing himself from imputation and in turning the tide of public indignation upon the Chief Justice. There seemed to be but one feeling on this subject in the minds of the audience." (The speech was made two days after the appearance of the already-quoted article in the *Australian*, which admitted that the *ex post facto* law to indemnify tortures was the "most desperate of all desperate powers of legislation.")

¹⁰ South Australia afterwards (1852) abolished them by special enactment. The convenience of administering the law by means of a departmental officer outweighs with an executive government the wider but less visible advantage of interesting the people in every branch of its administration. At a later date the late Mr. Justice Fellows caused permissive provision to be made in a Crimes Act in Victoria, by which a grand jury can be resorted to, but it has been so little used that even the mode of recourse to it has been made a subject of contention. The roots of ancient justice failed to infuse their virtues into the branches of administration.

guaranteed in terms under Ethelred,¹¹—which did not sink with the fall of Harold, and was embodied in the Great Charter as the right of every freeman, in words which the great Chatham pronounced worth all the classics, and the Bible of the English Constitution,—trial by jury in completeness,—was thenceforward indefinitely taken from Englishmen in New South Wales. It is a proof of the sway of custom that no serious effort has been made to restore it. Neither responsible government, nor abuse of power by a government, has to this day roused the people of New South Wales to the evils they undergo by its loss. It is bad to lose a prime guarantee for due administration of the law; it is worse that the people should not be trained from the highest to the lowest in the duty of administering it. The taint has spread downwards and numerous stipendiary magistrates have in great part extruded from petty sessions the unpaid magistrates who once distributed justice and friendly counsel to their neighbours. Official routine has superseded union of feeling. A bond, which was as wholesome for the country gentleman in stirring his sympathies as it was for his poorer neighbours to profit by them, has been rent asunder by the craving for formality and the servility of a government department. But whether Forbes had or had not reason to be satisfied with the extinction of grand juries, there could be no doubt as to the destruction of his devices with regard to common juries at Courts of Quarter Sessions. The argument with which he had overthrown the resistance of magistrates in 1824—that as the Act of 1823 was silent the common law must be held to prevail—was in express words rendered impossible by the Act of 1828. The 17th

¹¹ “*Exeant seniores duodecim thani, et præfectus cum eis et jurent super sanctuarium quod eis in manus datur, quod nolint ullum innocentem accusare, nec aliquem noxium celare*” [circa an. 990]. *Laws of Ethelred*. The reader may find in the great work of Stubbs how under the Norman line the liberties of England were guaranteed by successive kings. In 1194, by the Articles of Visitation, the recognitors (or grand jury) of presentment were specially described. Four knights were chosen from the county. They by their oath chose two lawful knights of each hundred or wapentake. The two so chosen, chose ten knights of each hundred or wapentake, “or, if knights be wanting, legal or freemen,” “so that these twelve may answer under all heads concerning their whole hundred or wapentake.” It was after the visitation of 1194 that the petty jury to traverse the presentment of the grand jury came into use.

section enacted that offences should be tried "before Courts of General and Quarter Sessions respectively in such and the same manner" as that "prescribed with respect to trials before the Supreme Court."

When the new Constitution was proclaimed, a Royal Warrant enlarged the Legislative Council. The number was to be not less than ten, nor more than fifteen. Chief Justice Forbes, Archdeacon Scott, Colonial Secretary Macleay, Attorney-General Baxter, Collector of Customs Cotton, Auditor-General Lithgow, Lt.-Col. Lindesay, were the official members. John Macarthur, Robert Campbell, Alexander Berry, Richard Jones, John Blaxland, Captain Phillip P. King, R.N. (son of the former Governor), and Edward C. Close, one of the worthiest men in the land,¹² were the unofficial gentlemen of the colony. The Governor himself presided over the Council, of which the full number was fifteen. The Royal Warrant provided that in case of death of a non-official member the vacancy should be filled from the following leading colonists:—J. T. Campbell, Hannibal Macarthur (nephew of John Macarthur), G. Wyndham, A. B. Spark, T. M'Vitie, G. T. Palmer, Archibald Bell, William Ogilvie, or William Macarthur (a son of John Macarthur). In Sept. 1829, Archdeacon Scott having retired, his successor, the Rev. W. G. Broughton (who owed his promotion to the great Duke of Wellington), took his seat in the Council, of which for

¹² Edward Charles Close was born 12th March 1790, at Rangamatty, near Calcutta. His father was a merchant in India. He was a post-humous child, and was taken to England when eight years old, and lived with his maternal uncle, Charles Streyneham Colinson, sheriff of the county of Suffolk, at The Chantry, Ipswich. He was gazetted ensign in the 48th Regt., 8th Feb. 1808, with which regiment he commenced and ended his military career. He was present at the battles of Toulouse, Orthes, Nivelles, Vittoria, Albuera, Busaco, and Talavera, and was unhurt. He went to New South Wales with the 48th Regt., 1817, and settled in Morpeth, 1821. He was the first chairman of the Maitland Bench of Magistrates, and the first warden of the Maitland district. He received three public testimonials and addresses while living, and the people of the Maitland district erected a memorial window in St. James' Church, Morpeth, to him after his death. He died 7th May 1866. On one of the Peninsular battle-fields, as he heard the groans of the dying, he resolved that he would, if ever possessed of means, build a church for the spiritual consolation of his fellow-creatures. He lived to fulfil his resolve at *Morpeth*, Hunter River.

many years his talents made him the most distinguished member.

Governor Darling's new Council passed a General and Quarter Sessions Act (29th Sept. 1829), which enacted that "free persons" should be tried "before the Courts of General and Quarter Sessions, and seven commissioned officers of His Majesty's sea and land forces," in like manner to that prescribed in the Imperial Act for the Supreme Court. By sec. 5 of that Act (9 Geo. IV. cap. 83), it was provided that, until other order might be taken, military or naval officers should be the jurors, and in default of the requisite number, seven, the Governor should nominate magistrates to act as jurymen. Thus the emancipist element was entirely excluded from juries at the Quarter Sessions Courts. The local legislature had power to pass jury laws, but the application of juries, even in the Supreme Court, was limited by the Imperial Act to cases in which "either of the parties" in an action might be desirous of having issues of fact tried by a jury constituted under any colonial law or ordinance. The Court, moreover, had power to award or to refuse trial by jury. The Supreme Court was composed of one or more judges and two assessors (magistrates). In all criminal trials the juries were military. If the emancipist party desired to open the door of admission to juries they were compelled to work in the direction of so framing the local jury laws as to serve their purposes. Their hopes rested on the Chief Justice. During the discussion of the Jury Bill, Archdeacon Broughton became a member of the Council (16th Sept.) The Chief Justice was active in modelling the measure. It was referred to a sub-committee (24th Sept.), and was passed (9th Oct.) It provided (sec. 4) that in all actions wherein the Court should award trial by jury, jurors should be residents in or within twenty-two miles from Sydney, having a clear income from real estate of £30, or from personal estate of £300; and that "no man not being a natural-born subject of the king, and no man who hath been or shall be attainted of any treason or felony, or convicted of any crime that is infamous (unless he shall have received for such crime a pardon, or shall be within the benefit of some Act of Parliament, having the force and effect of a pardon under

the Great Seal for such crime), shall be qualified to serve on any such jury." In construing this clause the magistrates excluded all emancipists who had not received a full royal pardon. The emancipist class fumed when they saw that no man who had been convicted was summoned. An order was applied for, calling on the sheriff to show cause against a mandamus to compel him to insert the names of certain emancipists. Wentworth and Wardell argued for the mandamus, against the Solicitor-General on the other side. The application was dismissed on the ground of irregularity, but the Chief Justice allowed it to be made known that, in his opinion, the magistrates were wrong in excluding from the lists persons whose terms of sentence had expired.

It may be mentioned, parenthetically, that in 1830 Governor Darling invited the Council to consider the propriety of introducing generally trial by jury. The Secretary of State wished for their opinions, and Darling was not indisposed to introduce trial by jury. The Council passed an amending bill. There were two dissentients, but the majority would not consent to delay. Disqualifying everyone who had undergone a colonial or second conviction of "treason, felony, or other infamous offence," the bill left all others whose sentences had expired, or who had received full pardons, eligible as jurors. When the magistrates excluded the names of all whose sentences had expired, the Governor had ascertained the opinion of Forbes that persons who had "served their terms of transportation" were eligible as jurors. The opinion was, with important exceptions, confirmed by three judges (Forbes, Dowling, and Burton) who were asked by Governor Bourke in 1834, at the unanimous request of the Legislative Council, "whether a person who has been convicted of a transportable offence, and whose sentence has expired, or been remitted by an absolute or conditional pardon, is legally qualified to sit upon a jury in England." The careful reply which was then furnished was dictated by no political feeling. It analyzed the various enactments in force by the dry light of reason. Free pardons, or a conditional pardon of which the condition had been performed,—*servitude* of punishment inflicted on a person convicted of

felony not punishable with death, remission of sentence ratified by the king,—left the convict eligible, “because such offences create no disqualification, but only incapacity of the offender so long as he is deprived of his liberty.” But persons convicted of perjury under 5 Eliz. c. 14, could only by Act of Parliament be restored to eligibility, and those convicted of transportable offences accounted infamous (such as perjury at common law, subornation of perjury, and forgery in some cases), who had not received free pardon, would not be held eligible in England; nor would those convicted of infamous offences below the degree of felony and not transportable, of the nature of the *crimen falsi*.

With this opinion no man quarrelled. But with the earlier and more sweeping verdict of Forbes many were discontented. Although the local juries were at that time confined to civil issues, it would be difficult to exaggerate the heart-burnings which were created in the community. What! an untainted man sit to dispense justice by the side of an emancipated felon! Flesh and blood would not endure it. Mr. Robert Campbell, jun. (although his father supported Forbes in many matters), protested from the jury-box against the disgrace. He was overruled; but the moral sense of the community recognized that he had reason on his side when the notoriously shameless were seen seated arrogantly by the side of the reputable. The advocates of the emancipist party were driven to allege that, in order to discredit the class, the framers of the jury lists included its specially unworthy members.

A singular phase of opinion was observed for many years. There was a preference amongst litigants for military juries. Their probable ignorance of commercial affairs was assumed to be counterbalanced by their sense of honour and superiority to undue influence. But the leaders of party discarded such considerations. They seized every occasion to increase the rancours which existed. Once when a military jury had concluded its labours, and a civil jury entered the box, the new-comers found that their predecessors had made offensive inscriptions aimed at emancipist jurors and Judge Forbes. Complaint was made, the unknown libellers were censured.

by Judge Dowling, and their handiwork was obliterated. But it was engraven on many minds, and the scars were not removed for years. It is fair to record the fact that the libellers had been provoked by coarse denunciation of themselves as a class.

In response to a despatch from Brisbane, Lord Bathurst (July 1825) directed the Governor to prepare, at "the earliest opportunity," a law to control the press, and insist upon periodic licenses before publication of any newspaper. Darling communicated with the Chief Justice on the subject, and showed him the despatch. Forbes hesitated to certify under the Act 4 Geo. IV. cap. 96, that the issue of a revocable license as suggested by the Governor was not repugnant to the law of England, so far as the circumstances of the colony admitted its application. Without Forbes' certificate (sec. 29) the Governor could neither lay before his Council nor pass into law any measure. He requested the Judge to state how far he felt himself "at liberty to sanction the measures directed by Lord Bathurst." Forbes evaded the question by saying he was "ready to certify any ordinance so far as I am authorized by law." Darling sent him draft Bills, and Forbes declined to certify one which made licenses revocable at the Governor's pleasure. He begged that legislation might be postponed till the law officers in England could be consulted. He was anxious to avoid setting his hand "solemnly to a certificate that a measure recommended by so high an authority as the Secretary of State is repugnant to the law of England." Darling replied that the safety of the colony was endangered by the licentiousness of the press, and duty forbade delay during tedious reference to England. He sent the Bills back as those which His Majesty's Government had directed, and which Forbes as Chief Justice was required to sanction. But Forbes was resolute not to certify a measure which he said was not consistent with the laws of England, and which he knew would subject his intimate associates to the discretion of the Governor. Darling caused Bills to be prepared in a different form. The revocable license was abandoned. On the 24th April 1827, he laid two measures before the Council. One—to prevent mischiefs arising from publications by "persons

not known," and to regulate publications, and restrain "abuses arising from the publication of blasphemous and seditious libels." The other—to impose a duty on newspapers. They were both read a first time on that day. The first measure required that no one should publish a newspaper after the 1st May 1827 until an affidavit had been lodged setting forth the names of the printer and publisher, with the title of the paper and the place of printing. The Colonial Secretary moved that the name of the editor should be inserted in the affidavit. Forbes and Campbell vainly opposed the amendment. A stringent clause was passed to the effect that on a second conviction for publishing a blasphemous or seditious libel, "tending to bring into hatred or contempt the government of the colony," the offender might be banished for such term of years as the Court might order. Forbes trembled for his impetuous friends, Wardell and Wentworth, who might fall within the mesh. He pleaded successfully for postponement till the following day. On the 25th the Council passed the Bill, Forbes being present. The Bill to impose a duty on newspapers was again postponed. On the 2nd May Macleay moved, and Colonel Stewart (Lt.-Gov.) seconded, a proposal that the duty should be fourpence. The Archdeacon moved, and Macarthur seconded, an amendment that it should be sixpence. Fourpence was the sum fixed upon. Forbes was absent. On the 3rd May the Bill was passed, with a third Bill to "prevent the publishing of books and papers by persons not known." Forbes was again absent but he was not idle.

The impost of fourpence was deemed a crushing one upon the publications of his friends. His certificate was required, and he resolved to refuse it. Meantime the Acts had been promulgated. On the 30th May the Council met. Forbes was present with four others; but the Governor sent a message by the Colonial Secretary, regretting that he could not meet the Council. On the 31st neither Darling nor Forbes attended. Again the Colonial Secretary carried the Governor's regrets to five members who attended. The manœuvres which led to the abortive sittings can be surmised by reading the following memorandum which

the Council directed the clerk (Douglass, the friend of Forbes) "to enter in the Council Book."¹³

"It having been communicated to the Council that His Honour the Chief Justice has refused to re-certify the Bill No. 3 for imposing a duty on newspapers, which passed the Council with the blank filled up with the duty of fourpence on the 3rd May, the Council judge it expedient to record the following facts relative to the progress of that Bill through the Council. First, that when the Bill was laid before the Council by the Governor on the 24th April, the Chief Justice being present, the clerk read the Bill, stating that the sum of fourpence was marked on the margin in pencil, to which no objection was made by the Chief Justice. Secondly, that on the 2nd May the Bill was read a second time and the clauses were read *seriatim*. Upon the introduction of a clause for the preventing of the forgery of stamps, the clerk was desired to wait on the Chief Justice at the Court House, where he was presiding at a trial, and request to know if he saw any objection to the insertion of that clause, which the Chief Justice said he would certify. The clerk was desired to summon the Chief Justice and Mr. Campbell to attend the next day. On the 3rd day of May the Colonial Secretary, upon taking his place in the Council, said the Chief Justice was obliged to go to Court, but that he was happy to say he had seen the Chief Justice, who stated to him he had no objection to the Bill."

On the same day a government notice was promulgated to the effect that the publication of the Duty on Newspapers Act was premature, and that the Act was suspended. Forbes had saved his friends from the impost, but had not raised his own reputation. The Council did not meet again for about seven months. It was noticeable that Darling, though thus thwarted by Forbes, did not, like Bligh or Macquarie, rail at thwarts. He maintained a decorous bearing to all. Not even a libel on his brother-in-law (resented by a challenge to Dr. Wardell in March 1827), and the exchange of several shots, provoked the Governor to a display of ill-feeling. A contemporary letter from Macarthur (May 1827) to his son in England explains the matter.

"The Governor maintains a profound silence. . . . Four newspapers are published, all in the convict interest, and the editors are all desperate radicals, alike shameless and unprincipled. Our Chief Justice is their idol, and on him they rely for protection whether their libels be aimed at individuals or against government. Fortunately this dangerous man has reached his mark. . . . Colonel Dumaresq says without reserve that Forbes is the most artful and dangerous man he ever knew. . . . The most intimate companions of Forbes are Wardell, Wentworth, and Dr.

¹³ Votes and Proceedings, New South Wales.

Douglass. . . . He has been heard to say that he would have no objection to sit down with _____, " _____, or _____, or any other emancipist gentleman . . . amongst all respectable persons he is detested. . . . You can have no idea of the operation of these fire-brand papers upon the common people, and every one not connected with the convict interest admits that the most dangerous consequences are to be dreaded. Their present most apparent effect is discontent, determined idleness, and in many cases insubordination and open contempt towards their masters and the magistracy. Forbes did not attend the Council when the Bill was passed. All the other members were unanimous, though several doubt as I do whether fourpence is sufficient to prevent the paper from being bought by the prisoners."

Macarthur's evidence, as an eye-witness, is valuable. There could have been no coolness towards him in Darling's "profound silence," for the *Gazette* shows that in June 1827, Macarthur's sons, James and William, were made magistrates. Though the Governor kept his own counsel he was not blind to the danger of retaining the tool of Forbes in the confidential post of Clerk to the Council. An honourable man of any opinions may be trusted, but in such a position a willing creature without high feelings can hardly fail to be mischievous. As early as Aug. 1826 Lord Bathurst confirmed Douglass in the situation of Commissioner of Requests, which Darling had "selected for him in preference to that of Clerk of the Council." A military *locum tenens* held the latter office for a short time, but it was afterwards filled (in 1828) by the appointment of Edward Deas Thomson, who was for fifty years to fill a foremost place in public life and public esteem in Sydney. Douglass misconducted himself in such a manner that he was content to obey an order of the Governor directing him to leave the colony in May 1828. It is proper to mention that the Law Officers in England thought that Forbes correctly executed his duty in refusing to certify the Licensing Act, and in "acting upon the opinion he had formed" with regard to the Stamp Duty. The Colonial Office, however (sec. 21, 22 of the Constitution Act of 1828), withdrew from the functions of the Chief Justice a power which gave him a veto upon legislation, and which tended to make him a partisan. The feelings of Forbes were perhaps soothed by

¹¹ One of the characters whose ill deeds were exposed by Commissioner Bigge. There is no object in reprinting the name here.

the fact that the withdrawal was not confined to his own case. It extended to Van Diemen's Land. Meantime, though the Stamp Duty Bill was shelved, the laws which had been passed were not allowed to slumber.

The editor of the *Monitor*, Mr. E. S. Hall, was repeatedly convicted, fined, and imprisoned. The publisher of the *Australian* newspaper, in which Wentworth and Wardell gave vent to their wrath, was fined £100 and imprisoned for six months for a statement that in the case of the soldier Sudds, the Governor had substituted his will for the law. The contentions of the time were not limited to the Courts. In the duel between Dr. Wardell and the Governor's brother-in-law, which was fought a few weeks before the Bills to control the press were introduced by the Governor, the lawyer underwent Colonel Dumaresq's challenge, and though both antagonists were grazed by the first discharge, two more shots were exchanged before the seconds could persuade Dr. Wardell to make a verbal apology, and induce the cool but determined Dumaresq to accept it. A turf club of which the Governor was patron was made the conduit of the hot passions of the time. Wentworth and Wardell had, at a meeting of the club in 1827, assailed the Governor. Darling withdrew his patronage. Recriminations were exchanged, and Darling brought his power to bear on those public officials who were members of the club. Too late the club disclaimed the connection with politics which they had sanctioned. Dr. Wardell was prosecuted for a libel stating that the Governor's departure would be hailed with pleasure. By the jury law, unless both parties agreed to have a civil jury, the jurors were military officers. The officers were objected to as under Darling's control. The objection was overruled. The jurors were fruitlessly challenged in "array." The imputations against them for servility were refuted by their conduct. They could not agree upon their verdict. Late on Saturday night they reported that they could not agree, and with consent of all parties they were allowed to depart until the Monday morning, pledging their honour that they would hold no conference about the trial out of doors. On the Monday, still unable to agree, they were discharged. Personal animosity so pervaded Darling's enemies that when a dis-

ordered man, armed with two pistols and a carving knife, assailed him as he was leaving church, there were to be found some who agreed that a Governor was to blame, and that his assailant was aggrieved.

When the Act 9 Geo. IV. cap. 83, arrived in the colony in 1829, Darling was relieved from the necessity of obtaining the Chief Justice's certificate that projected measures were not repugnant to English law. In Jan. 1830 he amended the stringent Newspaper Act of 1827. Banishment was not to be for such term of years as a Court might order, but might be severe.

"If any person shall be legally convicted of printing or publishing any blasphemous or seditious libel, or any libel tending to bring into hatred or contempt the Government of the colony as by law established, or the Governor or Acting-Governor for the time being, or to excite any of His Majesty's subjects to attempt the alteration of any matter in Church or State as by law established, otherwise than by lawful means, or to adopt any illegal proceedings, and shall after being so convicted offend a second time and be legally convicted, such person shall on such second conviction be adjudged to be banished from New South Wales for such term of years, not less than two, nor more than seven, as such Court shall order."

For publication after such second conviction there was a fine of £100 for each offence. One can understand the wrath of publishers at such an enactment, and their determination to wage war against Darling by impeachment in England. The Home Government thought the Act too harsh, and (27th Sept. 1831) Darling carried a short measure repealing the portion of it which related to banishment. Publichouses; the administration of justice; a census; dividing fences; pounds; the Orphan School lands; and the control of convicts, formed the basis of Darling's legislation. Brisbane's Act legalizing notes payable in Spanish dollars was abrogated by an Act (1826) "to promote the circulation of sterling money of Great Britain in New South Wales."

A celebrated Act, known as the Bushranging Act, dealt, in April 1830, with the crimes of "robbery and house-breaking, and the harbouring of robbers and housebreakers." It was introduced and was passed in one day (21st April 1830), when one Donohue and his accomplices were at large. Chief Justice Forbes moved the necessary suspension of the Standing Orders. Suspected persons might be

apprehended without a warrant, and detained pending proof, of which the onus was on themselves, that they were wrongly suspected. Anyone carrying arms might be arrested. Anyone suspected of carrying arms might be searched. General warrants to search any houses might be granted by any magistrate; constables might break in and enter anywhere with such warrant by day or night, and on reasonable cause might seize firearms and arrest inmates. Persons found with firearms, and not accounting for them to the satisfaction of a magistrate, were guilty of misdemeanour, and liable to three years' imprisonment. All were bound to assist in carrying out the law; which might be pleaded in all suits against functionaries, and gave them treble costs if the appellant should fail. Robbers and housebreakers were to be executed on the day next but two after sentence. The audacity of the bushrangers seemed to justify inordinate powers on the part of the police, and the end was in a few months obtained. The criminal classes for long years associated Darling's name with oppression. It could not be denied that severity was called for at his hands. Bushranging had assumed alarming proportions. At one time in the Bathurst district more than fifty desperadoes collected together, and a regular but indecisive engagement took place between them and the settlers at Campbell's river. The police afterwards suffered loss in an encounter with them.

A reinforcement of the mounted police under Lieut. Lachlan Macalister hastened from Goulburn and found the bushrangers at the Lachlan river; Macalister was wounded, but the bushrangers were not subdued. A detachment of the 39th Regt. (marched from Sydney at the first intimation of the gathering of the banditti) arrived and the gang surrendered. They were taken to Bathurst, where ten of them died on the scaffold. Outrages occurred in other districts. Persons were robbed close to the principal settlements. Donohue, long noted in tradition, established himself as a terror in the land not far from Sydney. Governor Darling's firmness rose with the occasion. Chief Justice Forbes yielded to the time and was obsequious.¹⁵

¹⁵ John Macarthur to his son, 20th May 1830: "The Chief Justice is very humble and cringing. . . . The effects of the Act have already

The Robbery and Housebreaking Act (21st April 1830) gave unexampled powers to the authorities. Donohue and his companions after severe encounters died red-handed or on the scaffold. Two of them, Walmsley and Webber, stopped the venerable Marsden. While his daughter emptied his pockets to satisfy the thieves, the old man seriously warned them against their occupation. If they pursued it he should "next see them on the scaffold." His words were prophetic. In a few days he attended Webber at his death; Walmsley gave evidence and was pardoned. The soldier-corps of mounted police, though few in number, did yeomen's service throughout the country during this terrible time. Every settler kept himself in readiness to resist attack.

Norfolk Island had recently been re-occupied as a penal settlement, and a daring outbreak occurred amongst the prisoners in 1827. They had intended by a simultaneous dash to surprise the garrison, seize the arms, and possess the island. Fifty of them secured their guards and overseers as a first step. Four soldiers passing casually towards the hospital were chased, and only one escaped to warn the officers. The insurgents then fled to the small Phillip Island, some miles distant, taking arms with them in three boats, and leaving only one disabled boat at the settlement. On the following day the boat was repaired, and the commandant with a few soldiers pursued the run-aways. After some firing, he killed three, captured eleven men, and returned to Norfolk Island with the boats in which the insurgents had fled. There were pigs and goats on the small island to support life, but by degrees in subsequent visits, the commandant recaptured all the prisoners without any loss to the attacking force. A vessel carrying

been magical, and I think I shall be enabled to write you in about ten days that peace and security are once more enjoyed here. I am preparing two other important bills to regulate free and ticket-of-leave men, which will put these men under so wholesome a state of restraint that we shall soon become an altered community." Donohue was shot by a soldier in 1830. Webber was hanged in Jan. 1831. Dr. Wardell met his death at the hand of a bushranger in 1834. He found three men on his grounds; and, though unarmed, tried to drive them before him. One of them was reckless and shot Wardell. At his trial the murderer terrified the spectators by vile language, struck his fellow-prisoner in the dock, and was with difficulty secured by six constables.

convicts to Norfolk Island in 1827 was seized by them; they compelled the master to navigate her. Intending to go to South America they touched at the Bay of Islands. Two whaling vessels were there. Their captains suspected the newcomers. The missionaries summoned the Maoris. The whalers fired upon the convicts, who surrendered, and were guarded by the Maoris until they could be sent back to Sydney.

The case in which Governor Darling's severity was most persistently impugned, and which has afforded to some persons their standard for judging him, was his conduct towards two soldiers, Sudds and Thompson, of the 57th Regt. When Darling arrived in Sydney (Dec. 1825) he found a disposition amongst some of the soldiery to quit the service in order to become convicts. So captivating had the rewards of felony become under Macquarie's sway that soldiers were known to commit crimes in order by means of conviction to join the ranks of felons.

The new Governor issued an order (2nd Jan. 1826) to check intimacy between convicts and soldiers. Of the former were many thousands, of the latter 1500, in the colony. In April 1826 two men mutilated themselves for the purpose of obtaining their discharge. Each of them underwent the loss of an arm in consequence of the self-inflicted injuries. The Governor, instead of discharging them, detached them as Pioneers at a distant penal settlement. Five men of the regiment had already committed robberies or maimed themselves, when (Nov. 1826) Sudds and Thompson openly committed a robbery to procure their discharge. They were sentenced by the Quarter Sessions to transportation for seven years. The Governor commuted the sentence to labour on the roads in chains; and, to "render their removal from the corps as impressive as possible,"¹⁶ caused it to be effected in the presence of the troops instead of in the gaol. Stripped of their uniform, clad in convict garb, with iron collars on their necks, and irons weighing about fourteen¹⁷ pounds rivetted

¹⁶ Gov. Darling to Earl Bathurst, 4th Dec. 1826. The sentence did not relieve the men from further military service.

¹⁷ It was asserted by some persons that the irons weighed 28 lbs.; but the Colonial Secretary (Macleay) invited the editor of the *Australian* to examine them (Dec. 1826) and they were found to weigh 13 lbs. 12 ozs. respectively.

round their ankles, they were drummed out of the garrison and marched to the gaol. Suds was alleged to have been unwell at the time; he was admitted to the gaol hospital; his irons were removed. The medical officer reported that the poor man refused all sustenance except a little tea, declared he would never work in irons, and wished himself out of the world. He became delirious (26th Nov.), was sent to the general hospital, and died on the following day. The medical officer could find "no apparent disease" to account for the death.

Thompson underwent some portion of the sentence, and Dr. Bowring (Sept. 1835) presented a petition from him to the House of Commons for redress. The Governor reported that much as the death of Suds was to be regretted it could not be imputed to severity; "none was practised or intended." But soon he was himself accused of brutality. When other causes of difference arose the sufferings of Suds were brought forward against the Governor.

Wentworth revelled in denunciation, and threatened impeachment. As Thompson, the surviving sufferer, was in good health, it would have been difficult to prove that the ordeal through which he passed was necessarily fatal, and the contemplated impeachment served no other purpose than to envenom the shafts of Darling's enemies. Wentworth nevertheless (March 1829), when other quarrels had occurred, wrote a letter of impeachment to the Secretary of State. The Executive Council investigated Wentworth's charges in May 1829.¹⁸ Archdeacon Scott, the Colonial Secretary, and Colonel Lindsay examined the superintendent of the agricultural (convict) establishment at Emu Plains; a ticket-of-leave holder who was overseer of an ironed gang; Dr. Mitchell, the much respected surgeon of the General Hospital in Sydney; a solicitor; the Governor of the Sydney Gaol; and Captain Robert Robison, of the New South Wales Royal Veteran Company. The last-named, who was a friend of Wentworth, before signing his evidence, "submitted his dissent as to the propriety and competency of the present tribunal to enter upon the matter." Darling sent the proceedings of the Council with a report to the Secretary of State.

¹⁸ Parliamentary Paper, 1835, vol. xxxix.

In England the cases of Sudds and Thompson were investigated on several occasions. Lord Goderich in 1827, and Sir George Murray in 1829, inquired into them. The former thought Darling blameless and persecuted, the latter that there was no ground for complaint against him. In 1830 the Attorney and Solicitor General, Scarlett and Sugden (afterwards Lords Abinger and St. Leonards), examined the case, and advised that there was no ground for the proceeding against General Darling.¹⁹ Yet the case was brought before Parliament subsequently. Robert Robison was in 1825 captain on half-pay in the 17th Light Dragoons. In that year he was appointed to the command of "out pensioners," or "the New South Wales Royal Veteran Companies." In 1828 he was brought before a court-martial on eight charges, for insubordination, disobedience, and other matters, and found guilty on four, and in part guilty of three other, charges. He was sentenced to be dismissed.

The finding was confirmed in England in 1829 and promulgated in the colony in April 1830. As Robison's friend Wentworth knew Sir James Mackintosh, it was hoped that Mackintosh would take up the case in Parliament; but Mackintosh having died, Dr. Lushington in 1833 presented a petition from Robison to the House of Commons, and asked for the minutes of the court-martial. Mr. Robert Grant, Judge-Advocate-General, defended the court, and Dr. Lushington's motion was rejected after a debate in which Sir H. Hardinge and Sir James Scarlett supported Mr. Grant, and Daniel O'Connell opposed him. Robison wrote a voluminous letter to Lord Althorp, "as the chief Minister of the Crown in the House," to contravene Mr. Grant's speech. Lord Althorp replied that he was sorry to be obliged to say that Robison had failed to answer Mr. Grant's speech.

Robison sent a memorial to Lord Hill, Commander-in-Chief. One peer and twenty-seven members of the House of Commons, including O'Connell, supported it. It was fruitless. Meantime Darling was proceeding against Robison for libel. Robison then determined to carry the war into his enemy's camp. O'Connell (Aug. 1834) pre-

¹⁹ Speech of Sir H. Hardinge in Parliament, 20th Aug., 1835.

sented a petition in which Robison accused Darling of various misdoings, and in particular of brutality to Sudds and Thompson. He reported the weight of the irons put upon them as in his opinion thirty pounds. He was probably ignorant that they had been weighed in Sydney. Mr. O'Connell promised to take the matter up in the following session, unless some other member would do so. Meanwhile Robison (11th Dec. 1834) was found guilty of libel, and judgment was delayed (by reason of affidavits put in by Robison) until the 15th June 1835, when Lord Denman, and Justices Littledale, Patteson, and Williams sentenced him to four months' imprisonment in the Marshalsea. "On the whole of this matter" (the Court said with reference to Sudds and Thompson) "we can see no reason for censuring the conduct of General Darling."

Not daunted by this judgment, Mr. Maurice O'Connell moved (30th July) for a select committee to inquire into the conduct of Darling while Governor of New South Wales as regarded Sudds and Thompson and other matters. His speech was violent. Mr. Joseph Hume supported him. Sir George Grey contended that the legality of the sentence on Sudds and Thompson was not a matter which the House could deal with. Mr. Cutlar Fergusson, the new Judge-Advocate-General, objected (like his predecessor) to interference with the finding of the court-martial on Robison. O'Connell stormily denounced the treatment of Sudds, and aided by the votes of those whom on another occasion he called "base, bloody, and brutal Whigs," O'Connell prevailed. By 55 votes against 47 the motion was carried. The committee contained the names of Mr. W. E. Gladstone, Daniel O'Connell, Sir John Hobhouse, Dr. Bowring, Dr. Lushington, Henry Lytton Bulwer, Sir Henry Hardinge, Joseph Hume, and others. Lord J. Russell succeeded in carrying an instruction to the committee which withdrew from their purview the court-martial on Robison, although Maurice O'Connell fought hard for the privilege of examining Darling's conduct with regard to that court. There was hot strife in the committee. Sir Henry Hardinge protested against converting it into a criminal court where General Darling was charged with murder or manslaughter and where witnesses could not be

examined on oath. It was "the worst and most democratic Star-Chamber that ever existed." Maurice O'Connell had caused heavy irons to be made as a pattern of those used in Sydney. Sir H. Hardinge described him as "the member who conducted the prosecution," and indignantly told the House that he would not continue to attend the committee unless he could be assured by the Speaker that there was any precedent for a select committee trying a man for murder. On the 1st Sept. Mr. Tooke brought up the report of the committee. It stated that

"The conduct of General Darling with respect to the punishment inflicted on Sudds and Thompson was, under the peculiar circumstances of the colony, especially at that period, and of repeated instances on the part of the soldiery of misconduct similar to that for which the individuals were punished, entirely free from blame, and that there appears to have been nothing in General Darling's subsequent conduct in relation to the case of the two soldiers, or in the reports thereof which he forwarded to the Government at home, inconsistent with his duty as a public functionary, or with his honour as an officer and a gentleman."

Dr. Bowring and other members of the committee were displeased with the report.²⁰ On the 10th Sept. he presented a petition from the soldier Thompson, averring that he had reached London too late to appear before the committee, and praying for an opportunity to make known the injury he had sustained from confinement "in irons of a cruel and unprecedented form and weight." Dr. Bowring arraigned the report; but Lord Dudley Stuart, who had voted for the inquiry, confessed that as the evidence proved that Darling was not aware of the illness of Sudds, and as the irons used were neither cruelly heavy nor calculated to inflict torture—he did not think Thompson's evidence could rebut that which had been received. Mr. Freshfield, a member of the committee (33 in number), stated that there were only three dissentient voices on the acquittal of General Darling. Thompson's petition was ordered to lie on the table. General Darling was received at Court, was knighted, and honoured with the Grand Cross of the Order of Hanover. Robison printed the various debates on his case with explanatory notes, and Darling circulated the judgment of the King's Bench under which Robison was

²⁰ Saxe-Bannister placed charges against General Darling in the hands of Mr. Maurice O'Connell during the sitting of the committee.

imprisoned, and in which Darling's conduct with regard to Sudds and Thompson was pronounced undeserving of censure.

Governor Darling proved at a very early period that he was no respecter of persons. In 1827, in a Public Order referring to "an individual" whose convict servants had been withdrawn by an order of one of a bench of magistrates, the Governor announced, to prevent misunderstanding on a point of so much importance to the inhabitants and the prisoners of the Crown, that he had been instructed that the local government was not precluded from making any necessary regulation "respecting the re-assignment of the service of convicts," and that the Governor, "empowered to assign that service, is fully competent to modify" it "as justice and good policy may require."

If convicts should be insufficiently fed or clothed, improperly treated, or suffered to work abroad or go at large, their masters were liable to lose them. The Governor's enemies styled such an announcement tyrannical because it recognized his power to recall prisoners who had been assigned or transferred to their wives or friends, and who might desire to remain in such nominal bondage.

Previous to the introduction of the bill for restraining the press there was a questioning of Judge Stephen which deserves to be recorded. He had, in discharging prisoners brought before him under the Habeas Corpus Act, declared that he deemed their rights as "sacred in the eye of the law as those of freemen;" and Governor Darling inquired whether the report of his remarks was correct. Stephen disclaimed accountability to the Governor for his judicial exercise of his functions, and requested that the letter of inquiry, with the reply to it, might be forwarded to the Secretary of State. The *Australian* newspaper was not slow to comment on the wretched state of "vassalage" to which it was sought to reduce a British judge and the Courts of Judicature.

In 1828 Darling appointed a board to assist him in determining on applications for grants of land, which became oppressively numerous as immigration and population increased. The earliest grants had been coupled with conditions of residence, cultivation, reservation of timber

for naval purposes, and quit-rents of 6d. per 30 acres (the usual grant) in cases of emancipists, and 2s. per 100 acres from free settlers, after ten years.

Macquarie slightly varied the early conditions. Brisbane withdrew the cultivation clause, and made settlers maintain a convict servant for each 100 acres granted to them; and in 1823 he made his grants liable to a quit-rent of 15s. for each 100 acres.

In 1824 the Colonial Office issued new regulations. Immigrants might receive four square miles (or 2560 acres) as a grant. They might furthermore buy land.

In 1826 further regulations offered a return of the purchase-money of land to those who received assigned servants, the maintenance of each convict being valued at £16 sterling a year, and soon afterwards special regulations invited military and naval officers to settle on terms which gave free grants for twenty years' service, and kindred advantages to junior officers. Grants of land were also given to native-born young women on the occasion of their marriage. The discovery that the Governor's grants of land were informal, because issued not in the king's, but in their own names, created anxiety in New South Wales, as well as in Van Diemen's Land, and much time elapsed before doubts were set at rest.

The offers of 1826, coupled with the impulse given to free immigration by Bigge's report and by the condemnation of Macquarie's ideas, attracted immigration. Public attention was stirred by Sturt's successful river expedition. Swan River rapidly absorbed some 4000 people. But the grantees could not command labour. Owners of hundreds of thousands of acres were deserted by armies of hired servants. Inextricable confusion followed. Starving labourers clamoured for bread, after abandoning their contracts. The proprietor of a territory could neither draw income nor cultivate it. Little Van Diemen's Land sent food and clothing, and carried away labourers. Swan River pined, and her population dwindled to 1500.

A territory thus occupied was but a feast of Tantalus. The disappointment of the guests was only not perpetual because colonists were not like Tantalus—immortal. They could die, therefore, if they did not depart. The Colonial

Office was at its wit's end. But the new prophet, Gibbon Wakefield, was ready with his racy periods and sagacious insight. Lord Goderich could not comprehend the heart of the matter, but he could play with its outside. *Hærebat in cortice*. He issued new regulations abolishing free grants, and fixing an upset price of 5s. an acre. All lands were to be sold by auction.²¹ There was a reservation of the precious metals and of some minor rights, by the Crown. Although these regulations reached the colonies before Darling's retirement, the consideration of their working must be deferred. Before his departure he discontinued the penal establishment at Port Macquarie, and allowed settlers to proceed thither.

Amongst the principal events during his rule may be reckoned the construction, by Mr. Busby, of a tunnel to convey water from the Botany Bay Swamps, and supersede the use of the reservoirs called tanks used in earlier days to hoard the water which crept to the bay near Pitt Street. The mountain road from the Hawkesbury (at Wiseman's Ferry) to the Hunter was completed.

A season of depression followed the excitement of immigration and free settlement under Brisbane, and a severe drought in 1828-9 brought about a financial crisis. Prices fell. Live stock purchased three or four years before were sacrificed at less than a tithe of their original cost. Free immigration was arrested, and from 1828 to 1830 not more than 2000 souls, including children, arrived. A scarcity of grain compelled the government to reduce the rations prescribed for assigned servants, and made the name of Darling odious to convicts. Rain came to drop fatness into the earth, and the crops of 1830 demanded more reapers than the government could afford to aid the settlers. A revival of immigration and good seasons restored all languishing interests.

The condition of the legal profession was considered by the judges in 1829. It was formally divided by a rule made

²¹ It is perhaps worth mentioning that, in 1826, Lord Bathurst directed Governor Darling to grant 10,000 acres of land to the late Governor (Brisbane) "in addition to a primary grant of the same amount." The original grant was not selected by agents until 1833, and was soon sold. Governor Gipps in 38 objected to the issue of the additional grant.

by the Supreme Court, subject to the pleasure of the Crown. All existing practitioners were allowed to elect whichever branch of the profession they might prefer to follow in the future. Admission to the bar was to be given only to those duly admitted in the courts in the United Kingdom; and attorneys were in future only to be enrolled on proof of such admission, or of having served five years in an attorney's office in Sydney, or in the Supreme Court.

Barristers had petitioned for the change, while attorneys had opposed it. The judges had not the vigour to carry out their own order, until their ranks were strengthened by the arrival of Judge Burton. With his moral support the rule was enforced in 1834.²²

A case tried in 1827 was discussed in every household in the colony; and perhaps deserves to be chronicled. Frederick Fisher, an emancipist, lived at Campbell Town in the same house with George Worrell. In July 1826, Fisher's sudden disappearance was made known. No inquiry was instituted, and it was suggested that as the man had only a conditional pardon, not available in England, he had gone there clandestinely, as other men were known to have gone. About ten days after the disappearance, Worrell assumed possession of Fisher's property, and in various ways hinted that Fisher had left the colony. He sold Fisher's horses, and received money due to Fisher from neighbours. One of the witnesses, Samuel Hopkins, swore that no inquiry at all was "set on foot about Fisher's disappearance."

A terrified man named Farley startled the neighbourhood by declaring (Oct. 1826) that he had seen Fisher's ghost on a fence at the corner of a paddock that had belonged to Fisher, and near Worrell's house. His story was told to a magistrate. A constable was sent for. Two native blacks assisted in the search. Blood was on the rail where Farley saw, or thought he saw, the ghost. In the direction in which the vision had pointed, the black, Gilbert (according

²² Mr. Justice Therry in his "Reminiscences" (London: 1863) confessed that Burton's decision of character was needed to enforce the rule. He adds that the change was advantageous to the profession and to the public, and that "from that time the profession greatly improved in general estimation" (p. 341).

to the constable's evidence), went into a water-hole (or pool), "and took a cornstalk, which he passed over the surface of the water, and put it to his nose, and said he 'smelt the fat of a white man.'" The blacks led the constable up the creek till they came to another creek, "and went up that for about forty rods, when a black man put a rod into the ground and said, 'there's something here.'" There a body was found, and identified as Fisher's. Worrell was apprehended, and at first endeavoured to throw the crime upon four men living on his farm. At the trial no evidence was admitted as to the vision seen by Farley; but it is impossible for men, even when charged by a judge, to exclude from their minds what seems to them portentous. The seizure of Fisher's property, however, by Worrell; the finding on land in his occupancy of the dead body of the man who, according to Worrell's statements, had gone away; the conflicting tales told after the body was found were, perhaps, deemed circumstantial proofs. He was found guilty, confessed his crime, and was hanged (5th Feb. 1827) three days after conviction. The story has been often told erroneously, and has been woven into fiction. These facts are compiled from the notes of Chief Justice Forbes, who presided at the trial, with the exception of the references to the apparition, which, although it led to the search for Fisher's body, could not be alluded to in a Court of Justice, nor be adduced as evidence.²³ Nothing was ever elicited to account for the vision which Farley described, or to suggest that he previously suspected foul play on the part of Worrell or others.

Schools of a higher order than the colony had previously seen were set on foot. In 1830, Mr. Lang, the Scotch minister, went to England, and stirred up some of his countrymen to emigrate to the new land of Goshen. He worked out a scheme for establishing a college under his own guidance. A Sydney college had been founded locally by a company with a capital of £10,000, and the founda-

²³ The Campbell Town ghost-story, like many others, was garbled in narration. In the text, current rumours have been corrected by comparison with the words of a trustworthy informant, a medical man, who lived long in the neighbourhood, and attended Farley on his deathbed. He often conversed with Farley on the subject of the vision which scared him.

tion-stone was laid by the Chief Justice (26th Jan. 1830). Lang was connected with the project, but longed to found an academy under his own control. The difficulty was in procuring funds. Already he had quarrelled with some of his early patrons. He speculated on the powers of negotiation in England, which he had employed for his own advantage in 1825. He was courteously received, and Lord Goderich accorded to him an extension of leave of absence, which he was sufficiently Erastian to ask for. Concealing the fact that a college had been founded, and urging the destitution of the colony in moving terms, he persuaded Lord Goderich to direct the payment from the Colonial Treasury of £3500 to himself and his coadjutors for the establishment of an "Australian College." To further his plans, Lord Goderich advanced him in England £1500 to pay for the passages of Scotch workmen to erect the buildings. They were selected by Lang himself, who returned triumphant. Aware that his devices would give umbrage to those with whom he had professed to co-operate in founding the Sydney College, he screened them from the public gaze. He, who had been indignant with Mr. Wemyss for not resorting to publicity about the Scots church in the first instance, discovered that it was undesirable with regard to a college. He wrote to John Macarthur (14th Nov. 1831): "May I request your patronage and assistance in carrying into effect the plans I have put into operation? . . . Most people would have called a public meeting to have had the principles publicly recognized, but I have so often seen public meetings in Sydney wander into the discussion of subjects altogether irrelevant . . . that I think it high time to attempt the doing of something without a meeting at all." He wished for a council of seven gentlemen. "May I request that you will do me the honour to form one of that number should you deem it expedient to lend the institution your patronage?" Macarthur took no part in the matter, and from that date the pen which had formerly praised²⁴ him was employed in a different manner.

²⁴ In 1827, Lang wrote: "As I have already experienced the benefit of your friendly advice and valuable influence oftener than once, I beg you will permit me to draw upon you in a similar way once more." The subject was the preparation of a memorial for the Secretary of State.

The promoters of the Sydney College censured him in 1832 for intriguing against its interests, and founding another under his own control. They cited against him their own prospectus, written by himself, to the effect that the success "of the institution was no longer problematical." Lang's defence was ambiguous. Having persuaded Lord Goderich that to procure the college he must have the immigrants, he told the shareholders that to procure the immigrants he was obliged to put forward the scheme of the college.

General Darling's government closed about forty years after the foundation of the colony; and the first immigrants rapidly disappeared as their children passed into middle age. The links which bound the memory of all to the pilgrim fathers were broken in every grade of society.

D'Arcy Wentworth ended his bustling career in 1827 at the age of sixty-five years, leaving a son whose name was in the mouths of all. Oxley the explorer, the friend of Flinders, passed away. Bungaree, a native, whom Flinders was allowed to take as a companion in exploration, and whom he extolled as "brave and worthy," was gathered to his fathers. Mr. Balcombe²⁵ the Colonial Treasurer died in 1829, and was succeeded by Mr. C. D. Riddell. Captain Piper,²⁶ whose accounts were in disorder, was superseded in his position as "Naval Officer," and his duties were undertaken by Mr. J. T. Campbell, under the style of Collector of Customs. Mr. Mackaness the Sheriff, whose presiding at a public meeting in 1827, of an imputed inflammatory character, was condemned, was removed from office, and Mr. Macquoid, a Java merchant, took his place. The extension of commerce and of pastoral pursuits, which had dated from the adoption of Mr. Bigge's recommendations, and was aided by geographical discoveries, necessitated an increase of civil establishments; and many new officials appeared upon the scene. A Registrar of the Supreme Court was appointed in the

²⁵ Mr. Balcombe had served at St. Helena while Napoleon was a prisoner there, and one of his family published *Reminiscences of the captive*.

²⁶ In 1836, Captain Piper was applied to by James Mudie, author of "The Felony of New South Wales," for a certificate of character, and gave one.

person of Mr. Manning. Mr. Roger Therry became Commissioner of the Court of Requests. Mr. Raymond became the postmaster. Mr. Laidley arrived as Commissary-General.

A new order of things had sprung up; but some of the old names of the colony were in high repute; and sons of honourable character were rising to bear the banner of their fathers. A singular refraction of distant fame glints through the ordinary social record of Sydney, when one sees that there was public mourning for the death of Bishop Reginald Heber in whose diocese Australia was included.

When Governor Darling left the colony the population of New South Wales was estimated to be 51,155. The ordinary revenue was about £100,000. The wool export was nearly a million and a-half pounds. Oil was exported to nearly the amount of £100,000, while the total imports were nearly £500,000. When the Governor was about to depart, having held office about six years, there was an unexpected display of feeling. Chief Justice Forbes, in the name of the Legislative Council, presented a farewell address, signed by himself and the other members. They dwelt on the good feeling between the Governor and the Council; they assumed their full share of responsibility for the measures enacted; they pointed out with pride the advancement towards trial by jury, and the gradual substitution of Legislative enactments for Executive proclamations. Of the Bushranging Act they said, "The expediency of the act of vigour has in the event been proved by the restoration of general tranquillity." Internal security, the development of internal resources, increasing commerce, showed that the groundwork of prosperity was already laid. Collectively and individually they expressed their "unabated esteem" for His Excellency.

Darling replied in cordial terms to this and other addresses, from the Executive Council, the civil officers, and the clergy, magistrates, landholders, and merchants. But though Chief Justice Forbes might relent—might become spokesman of goodwill—though all voices concurred in tribute of grateful praise to the Governor's wife, William Wentworth, surrounded by wild spirits, and urged on by

the sympathies of the emancipist party, which contained so many elements of evil omen, scorned the weakness of reconciliation or forgiveness. He invited a large party to rejoice at the departure of their foe. An ox was roasted whole at his grounds at Vacluse. The worsser spirits of those assembled there wound up their orgies by carrying the bullock's head in token of triumph, in noisy procession in Sydney, parading it through the streets, and exhibiting it under the cabin-windows of the ship in which the Governor's family were about to sail. An illumination of the town was proposed, but rejected by the good sense of the community. An opposition newspaper was conspicuous in exhibiting its solitary flames. The coarse display at Darling's departure was long a charge against Wentworth's judgment and taste.

Col. Lindesay, of the 99th Regiment, assumed the reins of government until the arrival of General Bourke, who had been appointed Governor.