





HISTORICAL RECORDS
OF
AUSTRALIA.

COMMONWEALTH OF AUSTRALIA.

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HISTORICAL RECORDS

OF

AUSTRALIA.

SERIES I.

GOVERNORS' DESPACHES TO AND
FROM ENGLAND.

VOLUME XII.

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INTRODUCTION.

WILLIAM STEWART.

WILLIAM STEWART was born at Reay in the year 1769. He was the younger son of William Stewart, of Caithness, Scotland, and a grandson of captain Donald Stewart, of Appin, who had been a loyal supporter and an officer in the army of Prince Charles Edward, the pretender.

On the 10th of March, 1794, Stewart obtained an ensigncy in the 101st regiment, and, on the 1st of September in the following year, he purchased the rank of lieutenant. Upon the reduction of the 101st regiment in 1796, he was transferred to the Buffs or 3rd regiment of foot, with which he served for thirty-five years. For the first seven years he was employed in the West Indies, and, under Sir Ralph Abercromby, was present at the capture of the islands of Grenada, St. Vincent, and St. Lucia. In the year 1799, he was stationed with the regiment on the island of St. Kitts. In the year 1801, he served in the expedition under lieutenant-general Sir Thomas Trigge and rear-admiral Duckworth, against the Danish and Swedish islands of St. Bartholomew, St. Martin, St. Thomas, and Santa Cruz, which were successively captured. After his return to the island of St. Kitts, where the headquarters of his regiment were stationed, he was specially selected as one of one hundred men to serve in the expedition against the island of St. Eustatia, which was captured. For these services, he was appointed secretary to the civil and military government of the island of St. Kitts, which post he held until the return of his regiment to England after the peace was concluded at Amiens in 1802. In the meantime, he had obtained the rank of captain by purchase on the 25th of January, 1799. From the end of the year 1802 to the year 1805, he was stationed first in the island of Jersey, and afterwards in Ireland. On the 14th of March, 1805, he purchased his majority, and, during that year, commanded the first battalion of his regiment in Hanover, when it formed part of the army under Lord Cathcart. He returned to England in the spring of 1806, and was sent again to Ireland. In the beginning of the

year 1808, the 3rd regiment was employed as a garrison on the island of Madeira, but, in the following autumn, was transferred to the army in Portugal. During the Peninsula war, Stewart was for four years in command of a regiment, and occasionally of a brigade, under the immediate orders of major-general (afterwards Lord) Hill. When he first arrived in Portugal, he was appointed lieutenant-colonel commanding a Portuguese battalion of light infantry, the 5th Caçadores. During the whole campaign of the year 1810, he was in command of this corps, and served with it at the battle of Busaco. Immediately after this battle, "he was employed with it in covering the retreat of Lord Hill's corps, when the army retired to the lines in front of Lisbon." In the year 1811, he was present at the battle of Albuhera with the 3rd regiment. This regiment was the first to be engaged, and suffered severely; upwards of six hundred men and eighteen out of twenty-five officers were killed, wounded, or missing. Stewart himself was slightly wounded, and his horse was shot under him. For his services in this battle he received a gold medal, and for his general services in the Peninsula he was promoted, on the 16th of August, 1810, to the rank of lieutenant-colonel, "at the united recommendation of Lords Hill and Beresford, supported by that of His Grace the Duke of Wellington." He remained in the Peninsula until October, 1812, when he returned to England. In the year 1814, he commanded the first battalion of his regiment, which was on service in America. In the spring of 1815, a treaty of peace was concluded with the Americans, and the 3rd regiment was ordered to join the army in Flanders. While the regiment was at sea, the battle of Waterloo was fought. When Stewart and his regiment landed at Ostend in July, they were attached to the army of occupation in France, where they remained until the year 1818. They were then transferred to Ireland, where they were stationed for the next three years. On the 12th of August, 1819, Stewart obtained the rank of colonel by purchase.

In the beginning of the year 1821, the 3rd regiment was ordered to proceed to New South Wales, by detachments, as guards over convicts. The first detachment arrived in New South Wales in March, 1822, and the last in August, 1823. On the 24th of June, 1823, colonel Stewart, as commanding officer, submitted a memorial to the commander-in-chief, H.R.H. the Duke of York, soliciting the

appointment of lieutenant-governor in New South Wales, which had formerly been conferred on the senior military officer in the colony. This request was granted, and a commission as lieutenant-governor was issued, dated 4th September, 1823. Stewart's departure from England was delayed, and, before his arrival in the colony, this commission was revoked in order that new instructions might be issued to associate others with him in the administration of the government. These instructions* were dated 1st January, 1825, and authorised Stewart to administer the government with the concurrence and advice of the two senior members of the legislative council. Stewart sailed from England on board the *Asia*, transport ship, on the 26th of October, 1824, and arrived in the colony on the 29th of April following, in command of a detachment of the 57th regiment. Prior to leaving England, Stewart, in the month of April, 1823, had shipped forty fine-woolled merino sheep for the colony, which he had purchased from the flock of the Marquis of Londonderry, in anticipation of receiving a land grant in the colony, which, however, was refused by Sir Thomas Brisbane.

On his arrival in the colony, Stewart assumed command of the military, and took his seat as a member of the first legislative council, by virtue of a warrant† dated 16th November, 1824. Sir Thomas Brisbane did not approve of Stewart's appointment to act as governor in his absence. When, in May, 1825, Brisbane received notice of his recall, he purposely delayed his departure, as he considered‡ that "many years' acquaintance with Colonel Stewart has convinced me how incompetent he is to have the reins of so difficult, so delicate, and so arduous a Government entrusted to his care."

When Brisbane sailed from the colony in the ship *Mary Hope*, on the 1st of December, 1825, Stewart assumed the government, subject to the advice of the chief justice, Francis Forbes, and the archdeacon, T. H. Scott. During the eighteen days in which he administered the government, Stewart had little opportunity of making any changes, or of disproving Brisbane's adverse criticism or confirming Darling's favourable opinion of his abilities as an administrator. His most important act was the issue of a proclamation,§ dated 16th December, 1825, for the establishment of

* See page 466, volume XI. † See page 424, volume XI.

‡ See page 589, volume XI. § See page 91.

post offices and regulation of the rates of postage. This was the executive act which brought into operation the last statute, No. XXIII, 6 George IV, passed during the administration of Sir Thomas Brisbane on the 22nd of November, 1825. Lieutenant-general Ralph Darling arrived in the harbour during the evening of the 17th of December. Two days later Darling took the oaths of office as governor, and Stewart's brief administration terminated.

Governor Darling held a good opinion of Stewart, and appointed him a member of the land board and the board for general purposes. Stewart, by virtue of his office as lieutenant-governor, was also a member of the executive and legislative councils. On the 10th of October, 1826, Governor Darling promised Stewart a grant of 3,200 acres on the river Macquarie, with immediate possession. This grant was called Mount Pleasant, and was confirmed by Sir George Gipps by deed, dated 2nd December, 1839. It is situated in the neighbourhood of the city of Bathurst.

In the year 1827, Stewart left the colony to take command of the 3rd regiment in India, where he was stationed in the presidency of Bengal. He retained this command until after he received news of his promotion, on the 22nd of July, 1830, to the rank of major-general.

In the year 1832, he retired from the army, returned to the colony of New South Wales, and settled on his estate at Mount Pleasant, where he died on the 8th of April, 1854, aged eighty-five years. He was buried on the summit of Mount Pleasant, from which the estate derived its name.

RALPH DARLING.

LIEUTENANT-GENERAL RALPH DARLING was the seventh governor of the territory of New South Wales, and the first governor of the island of Van Diemen's Land, which was proclaimed a separate and independent government on the 3rd of December, 1825. Although holding two commissions as governor of two distinct administrations, Darling exercised no jurisdiction* in the island of Van Diemen's Land, and a lieutenant-governor administered its government by virtue of the provision in Darling's commission

* See page 40.

in case of his death or absence from the said island, which was similar to the provision in his commission as governor of the territory of New South Wales.*

In Darling's commission, and during his administration, important changes were made in the claims of the British crown to territorial jurisdiction in the island continent of Australia. In the commission,† the western boundary of the territory of New South Wales was moved six degrees of longitude to the westward. The object of this alteration was to include the newly-formed settlement on Melville island. In the year 1826, when a settlement at King George's sound was proposed, a tentative claim‡ to jurisdiction over the whole island continent was made by Governor Darling.

The years of Governor Darling's administration formed a stormy epoch in the history of the colony, and may be compared with those of William Bligh (1806-8). During both terms, the colonists were in a state of unrest, new methods and changes were ordered by the colonial office, and the governor who was instructed to carry them out was unsuited; in one case he was an autocrat of the quarter-deck, and in the other a strict military disciplinarian with long experience at the Horse Guards, London. Many false and malicious misrepresentations were made against both governors, which resulted in investigations by a military court martial and by a select committee of the House of Commons respectively, and both governors were exonerated.

The period of Governor Darling's administration is remarkable for the financial crises in the year 1826; for the collapse of the mania for speculation in live stock, and the ruin of many colonists; for the occurrence of a drought lasting three years in many of the settled districts; and for the bitterness created by the excessive freedom of criticism of the government and individuals practised by the colonial press. In many spheres of action considerable development was accomplished. A second colonial bank, the bank of Australia, was established; a chamber of commerce was founded in Sydney; the Australian agricultural company commenced operations on a grand scale, and had a large influence on the pastoral position in the colony; the movement to obtain an elective legislature became a subject of practical politics; the first

* See page 106. † See page 100. ‡ See page 701.

steam boat was built; large schools were developed; the Australian subscription library was formed; and the knowledge of the country was enlarged by the discoveries of Allan Cunningham and Charles Sturt.

Governor Darling, by character and training, was little suited for the government of a colony whose inhabitants were emerging from a period of long subservience, and were agitating for an extension of the meagre civil rights then granted. He was honourable and careful to a degree, but was cursed with a small mind, and displayed a woeful want of magnanimity. His long training at the Horse Guards in London had made him precise and methodical, and the attention he gave to small details often made him overlook the larger problems of his government. He was a strict disciplinarian, and, as he had long learned to give implicit obedience to his superiors, he expected a like obedience from his subordinates, and was intolerant of any criticism of his orders or administration. These peculiarities gave scope for the malice of his enemies, who condemned the whole of his administration, and made him, at the date of his departure, the most unpopular of the governors who had administered the colony. He, however, created order out of chaos in the public departments of the colony, although these reforms were somewhat marred by excessive detail, checks and counter-checks, which were inclined to delay and clog the wheels of government.

Ralph Darling was one of three brothers who attained high rank in the army. His brothers were major-general Henry Charles Darling, who was appointed lieutenant-governor of Tobago in 1831, and major-general William Lindsay Darling, a Peninsula and Waterloo veteran. Their father was Christopher Darling, who had been promoted from the rank of sergeant-major to the adjutancy of the 45th regiment of foot.

Ralph Darling was born in the year 1775, and "is said to have been at one time employed in the custom house in the island of Grenada." On the 15th of May, 1793, he was appointed an ensign in his father's regiment, which he joined in the following August. He soon saw active service in the island of Grenada, and was engaged in the suppression of the insurrection of negroes, who, under the leadership of the brigand Fidon, had murdered the principal white men, including the governor, Hone. On the 2nd

of September, 1795, he was promoted to the rank of lieutenant, and in the following January he was transferred as adjutant to the 15th regiment of foot, which was stationed on the island of Martinique. In the month of August, 1796, he was appointed military secretary to Sir Ralph Abercromby, and subsequently acted in the same capacity to general Graham, when in command on the island. In the month of September, 1796, he obtained a company in the 27th Inniskillings. In the following year he volunteered in the expedition against Trinidad. He acted as military secretary to generals Morshead and Cuyler, when each held the command in the West Indies; and he returned to England with general Cuyler, and was appointed his aide-de-camp when in command at Brighton. In the month of January, 1799, he went to the West Indies as military secretary to lieutenant-general Sir Thomas Trigge, and continued to hold this post until his return to England in 1802. During this period, he took part in the capture of Surinam, in the year 1799, and of the Danish and Swedish islands in the West Indies, in the year 1801. On the 2nd of February, 1800, he obtained his majority in the 4th West India regiment, and, on the 17th of July, 1801, he was appointed lieutenant-colonel in the 69th regiment of foot. After his return to England, he was appointed, in July, 1803, assistant quartermaster-general in the home district. In the year 1805, he went with the 69th regiment to India. In the following year, he returned to England, was transferred to the 51st regiment of foot, and was appointed principal assistant adjutant-general at the Horse Guards. In the year 1808, he went on active service with the 51st regiment to Spain, and commanded that regiment when it formed part of Sir John Moore's army at Lugo and in the retreat to and battle of Corunna; he received a medal for his services at this battle. After serving as deputy adjutant-general in the Walcheren expedition, he resumed his post at the Horse Guards, and, in the year 1814, became deputy adjutant-general. In the meantime, he had received the rank of brevet-colonel in 1810, and of major-general in 1813. In the month of April, 1815, he wrote a personal letter to the Duke of Wellington, applying for employment in the army in Belgium. The duke was surprised at this application from an officer at the Horse Guards, and replied that it was impossible for him "to recommend officers for employment, with whose merits I am not acquainted, in preference to those to whose services I am so much indebted."

In the year 1818, Darling was appointed to relieve general Hall in command of the troops on the island of Mauritius, and he held this command until the year 1823. After his arrival on the island, he acted as governor until the administration was resumed by Sir Robert Farquhar, in July, 1820. During the eighteen months of his government, Darling became very unpopular by his arbitrary actions and by his stern suppression of the slave traffic. He and his immediate predecessor, general Hall, virtually abolished this traffic by sending all persons participating to England for trial, according to instructions they had received from Earl Bathurst.

The command of the troops in Mauritius marked the conclusion of Darling's military services. These were distinguished by his staff work, his knowledge of military procedure, and his profound respect for discipline, rather than by renown and deeds of prowess on active service. This reputation was the subject of comment in the colony before his arrival in New South Wales.

In the year 1824, he was selected to succeed Sir Thomas Brisbane as governor of New South Wales, and in the month of November he petitioned for an increase of the salary of the governor. Although Darling had been selected for some months, Sir Thomas Brisbane was not notified of his recall until Earl Bathurst wrote his despatch* dated 28th December, 1824. Darling sailed for the colony from Portsmouth in the ship *Catherine Stewart Forbes* on the 29th of July, 1825. In the previous month of May he was promoted to the rank of lieutenant-general. During the months which intervened between the dates of his appointment and departure from England, Darling devoted his energies to the acquisition of a knowledge of the colony, and to the perusal of despatches to and from the colonial office.

Governor Darling's arrival in the colony was inauspicious. The official landing was postponed for twenty-four hours owing to the inclemency of the weather, and was marked by no expressions of popular approval. The feeling of the colonists was well described in the issue of the *Sydney Gazette* dated 22nd December, 1825. "It was remarked, after the ceremony of His Excellency's landing was concluded, that there had been none of those expressions of joy, for which the multitudes of Old England are characterized

* See page 429, volume XI.

—we mean to say there was little or no cheering. This circumstance therefore requires explanation. The people of this Country, while they are grateful, are at the same time thoughtful. Gratitude, in fact, is the result of reflection, and it is not usual for us, in this land, to express our applause one day and retract it the next; there is a certain candour of character." When Governor Bligh arrived, the people shouted, as "no one was allowed to think under pain of condign punishment." During the interregnum (1808-9), "people were kept from reflexion by increasing excitement," and they cheered. At the time of the arrival of Governor Macquarie, "reason then began to dawn" and the populace cheered in order to cultivate his good opinion. When Sir Thomas Brisbane landed, "the people were neither in the humour to shout nor to cheer," as they felt they had lost a benefactor in Governor Macquarie. On the arrival of Governor Darling, the people regretted the loss of Sir Thomas Brisbane. "Having heard of the new Governor from a variety of sources, and His late Excellency having spoken in terms of the most flattering admiration, and the present being an eventful era in the annals of our history, instead of shewing forth her gratitude for benefits and favours prospectively conferred by the usual English manifestation of cheering—ALL AUSTRALIA MUSED!"

The feelings thus expressed were strongly held by a new party which had formed in the colony, consisting of persons born in Australia. For many years all of colonial birth had been held in contempt. This feeling was well shown by Hamilton Hume in his letter* to Earl Bathurst, dated 20th April, 1826, when he stated that he presumed, "*altho' an Australian,*" he was capable of leading the expedition to Port Phillip in 1824; and by James and William Macarthur in a memorial to Earl Bathurst, dated 17th August, 1826, when they stated that they felt "*assured the mere circumstance of having been born in New South Wales will not preclude them*" from receiving larger grants of land. The native-born Australians keenly felt the injustice of the bestowal of the principal offices of government and of all large grants in the colony on immigrants. Of this party, and about this date, W. C. Wentworth, born at Norfolk island in 1793, was rapidly winning fame as an advocate in the law courts and as a public man; William Sherwin obtained his diploma from the college of surgeons after he had studied and served his apprenticeship to a

* See page 655.

surgeon in the colony; and Hamilton Hume, associated with W. H. Hovell, had pioneered the overland route to Port Phillip. The dissatisfaction of native-born Australians was mentioned in the public address* to Governor Darling on his arrival, and was thus early brought into prominence.

By his commission and instructions, Governor Darling was charged with the initiation and enactment of many important changes in the Australian colonies. First and foremost was the establishment of a separate and independent government for the island of Van Diemen's Land and its dependencies, and the appointment of an executive council to assist in the government of the new colony. This change was made effective by Darling in a proclamation dated 3rd December, 1825, when he visited Hobart on his voyage to New South Wales. The second important change was the limitation of the governor's freedom of action in his own government by the appointment of an executive council, which consisted of the lieutenant-governor, the chief justice, the archdeacon, and the colonial secretary, with the governor as president. The governor was given the power to suspend and appoint members of this council, but he was instructed to act subject to its advice, except in cases of emergency. This council was a strong support to the governor, and problems of all kinds were submitted to its consideration. On the arrival of Darling, the legislative council, which had been established under Sir Thomas Brisbane, was further enlarged. Instead of the nomination of five officials as formerly, the council consisted of four official members, the lieutenant-governor, the chief justice, the archdeacon, and the colonial secretary, and three private members, John Macarthur, Robert Campbell, senior, and Charles Throsby. The functions of the legislative council were clearly defined in the governor's instructions.† This enlargement of the council was a most important step in the development of the system of administration. For the first time, persons who had no official status, but possessed large personal interests in the colony, were allowed to participate in the government, although the preponderance of voting power was possessed by the nominee officials. Another important change was made in the provision for a vacancy in the office of governor. If a duly commissioned lieutenant-governor was not available at the time of such vacancy,

* See page 144. † See page III.

instead of the government devolving on the senior military officer, as formerly, the administration was to be undertaken by the senior executive councillor, provided that such councillor was not the chief justice or the archdeacon. This enactment marked the passing of the last important link with the old semi-military form of government, and virtually completed the process which had been commenced by the abolition of the office of the judge-advocate, and the reform in legal procedure in 1824. The last survival of the old system of government which remained after Darling's arrival was the employment of naval and military officers as jurors on the trial of all informations prosecuted before the supreme court.

Governor Darling held the administration of the government until the 22nd of October, 1831, when he sailed for England *via* Canton, "his ordinary term of service having expired." In the month of September the issue of the London *Gazette* dated 27th April had been received in the colony. It contained the announcement of the appointment of major-general Richard Bourke as governor to succeed Darling, who at once commenced preparations for his departure. Darling received three addresses of farewell. The first was from the legislative council, and commented principally on the control exercised by the legislature for the first time over taxation, formerly levied by proclamation, and on the freedom of the deliberations of the council from interference by the governor. The second was from twenty-nine of the principal civil officers, and with little comment bade him farewell. The third was from the clergy, magistrates, merchants and landholders, and contained congratulations of a vague and general character. Darling's departure was marked with unseemly demonstrations by the opposition party. W. C. Wentworth organised a fête in his grounds at Vaucluse to celebrate the occasion, to which all and sundry were invited.

The stormy character of Darling's administration had made him many enemies. His conduct was criticised in parliament, and on the 30th of July, 1835, it was ordered "That a Select Committee be appointed to inquire into the Conduct of General Darling, while Governor of New South Wales, particularly with reference to the grants of Crown Lands made by him, his treatment of the Public Press, the Case of Captain Robison, and the New South Wales Veteran Companies, and the alleged instances of cruelty

towards the soldiers Sudds and Thompson and other persons, and to report thereon to the House." Eight days later, a committee of thirty-two was appointed, which, after taking evidence, submitted the following report, dated 1st September, 1835:—

"Your Committee have inquired into the cases of the Soldiers Sudds and Thompson, and, in support of the Charges preferred against General Darling in reference to those individuals, examined Captain Robison, Norman M'Lean, and Dr. Douglass, being the only Witnesses tendered to Your Committee. They also had recourse to the several Papers on the subject laid upon the Table of The House; but they did not deem it necessary to call for any Witnesses in explanation or defence of the Conduct of General Darling.

"Under these circumstances, Your Committee, without entering into any detailed statement of the Evidence, or of the grounds on which they have arrived at the conclusion, beg to report to The House their Opinion, 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 in question 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.

"Your Committee having read the Petition of Mr. Robert Dawson, which has been referred to them, are of opinion that it contains matter which cannot be investigated by this Committee with advantage, the subject being more cognizable by the Colonial Office.

"No Evidence was tendered to your Committee in support of the remaining Charges comprised in the Order of reference."

Subsequent to his government of New South Wales, Darling was not again actively employed. On the 2nd of September, 1835, he was created a knight grand cross of the royal Hanoverian Guelphic order (G.C.H.). The bestowal of this honour indicates

that the colonial office considered he was innocent of the charges of misgovernment made against him. On the 23rd of November, 1841, he was promoted to the rank of general, and held in succession the colonelcies of the 90th, 41st, and 69th regiments of foot.

On the 2nd of April, 1858, he died at the age of eighty-two years at his residence, Brunswick-square, Brighton, England.

Notes on the administration of Governor Darling will be found in the introductions to succeeding volumes.

FREDK. WATSON.

August, 1919.

DESPATCHES.

HISTORICAL RECORDS

OF

AUSTRALIA.

SERIES I.

MR. E. BARNARD TO GOVERNOR DARLING.

7th January, 1825.

1825.
7 Jan.

[*A copy of this despatch, acknowledged by Governor Darling, 2nd May, 1826, is not available.*]

UNDER SECRETARY HORTON TO GOVERNOR DARLING.

(Despatch per ship Catherine Stewart Forbes*; acknowledged by Governor Darling, 6th May, 1826.)

My dear Sir,

Downing Street, 15th June, 1825.

15 June.

I am directed by Earl Bathurst to bring under your consideration the case of Charles Nye, a convict at New South Wales, as detailed in the enclosed letter to Mr. Holme Sumner.

Papers *re* case
of Charles Nye.

I am, &c.,

R. W. HORTON.

[Enclosure.]

CHARLES NYE TO MR. G. HOLME SUMNER, M.P.

Hon'd Sir, Sydney, New South Wales, 8th November, 1824.

With feelings of sincere gratitude and respect, I presume to bring to your remembrance an object perhaps little deserving of your compassion, or entitled to your excuse for this encroachment on your attention. Gratefully sensible I must ever be of your kindness, though unhappy that it has been attended with disappointment and vexation to myself.

Urged by the goodness of your Heart and a desire to ameliorate my unfortunate Condition, you were pleased to address a letter to Mr. Wilmot Horton, stating therein some circumstances that led you to consider favorably of me, and consequently to solicit his recommendation to Sir Thomas Brisbane in my behalf. In that letter was, I believe, an Enclosure from the Right Honble. Henry Goulburn to his Brother in this Colony. The Under Secretary of State in compliance with your humane solicitation addressed a dispatch† in August, 1823, to His

1825.
15 June.
—
Papers *re* case
of Charles Nye.

Excellency the Governor of this Colony which was received in April following. This communication* was however neglected, if not suppressed, and to an accidental circumstance alone did I in July last come to a knowledge of its existence; for here I must with pain remark that it is two years since I heard from my friends, though I had been led to expect that exertions were making on my account from the information of Lieut. Sterling of the Buffs, and James Hall, Esqr., R.N. I lost no time in Petitioning the Governor: a Copy of my Application accompanies this letter marked No. 1; this I submitted in a Letter No. 2 to Major Goulburn. The Governor's Memorandum No. 3 ensued. After a Months elapse and being pressed by me, Major Goulburn addressed the Governor, No. 4, in reply. The evasion, in this letter, is I apprehend too glaring to need any comment. The Governor returned the Correspondence to Major Goulburn enveloped in a Memorandum No. 5; to which No. 6 was the reply or rather evasion.

Finding myself thwarted in every way by such unreasonable if not inhuman opposition, I wrote a letter No. 7 to the Private Secretary of His Excellency. This drew from His Excellency the letter No. 8 to Major Goulburn, to which an answer, No. 9, was returned. This leading to no result, I determined on an interview with the Governor, and prepared a Petition No. 10 to hand to him. The Conversation on that occasion was in substance as follows. That he, the Governor, had addressed several letters to Major Goulburn on my account: That he had received unsatisfactory and evasive answers in return: That he referred to him as the head of the department I served in, and expected the proper report: That he considered himself placed in an awkward predicament, and was reluctant to extend any indulgence to me without his apparent concurrence. I observed to the Governor that it was to be lamented that I should be a sacrifice to Major Goulburn's want of generosity or candour; that he could tax me with no indiscretion or misconduct: that the fact of my being in his Office for a space of four years was, I humbly conceived, a circumstance of itself sufficiently recommendatory, that I had served the term limited by his (the Governor's) order, No. 11, for the minor indulgence of a Ticket of Leave, which placed me as it were out of the pale of Major Goulburn's controul, and gave the Governor an independent authority of any other testimony or courteous consideration. I endeavoured to extort a promise from His Excellency that if he could not comply with my application at that time, that he would allow me to calculate on his acquiescence hereafter; this he evaded, and recommended me to take up my Ticket of Leave (which it is

* Note 2.

to be understood I am by right entitled to) and so ended an interview mortifying to me, and I think I may say without disrespect, not very creditable to him, who admitted the exertion of his prerogative to depend on a Subordinate's approval. To obtain a Ticket of Leave a preparatory Certificate, No. 12, must be furnished. A Copy of this is annexed merely to shew that Major Goulburn, however inimical to my prospects and happiness, has in this very Document certified everything of my conduct and character to render me a deserving object of the Under Secretary of State's recommendation in its fullest extent. I accordingly took up my Ticket of Leave, No. 13, which is a very uncertain indulgence, its cancellation being liable to every imaginary offence or unfounded caprice, and the influence of the unjust and oppressive.

Thus Sir, have your humane endeavours been frustrated and rendered of no avail; the fond expectations of my friends disappointed, and additional disregard and injustice hurled at myself. To what I am to ascribe this inhumanity I know not. If my exertions have been "*excellent*" and my Conduct "*moral*," why should I be denied that boon, which is the incentive to, and should be the reward of, good conduct.

I feel, Sir, I have made an unwarrantable trespass on your time, and perhaps may have expressed myself with too much familiarity and freedom, when I consider whom I address; but justice to myself, sir, and gratitude and duty to you, require that I should inform you of the regard that is paid to a solicitation strengthened by the honor and respectability of a Member of Parliament, and the Official recommendation of an Under Secretary of State.

The Law in its clemency has limited my disgrace to a term, thank God, of no long duration; but when bondage and disappointment, when exclusion and derision are my lot, it requires a degree of patience and submission to endure, which the total disregard of my hitherto good conduct makes me almost despair of possessing. But, Sir, though I go unrequited and unrewarded, though my prospect is uncheering and uncertain, I shall ever retain a grateful sense of the goodness you intended me, and endeavour by my future conduct to merit a continuance of it. Recommending my poor Mother (to whom I ascribe your kindness to me) to your favour and protection, and respectfully soliciting a humane remembrance of an object sensible how much he is

With all possible respect and deference, &c.,

CHARLES NYE.

P.S.—I take the liberty to enclose a few lines to my Mother, which I hope you will pardon.

1825.
15 June.
Papers *re* case
of Charles Nye

[Sub-enclosure No. 1.]

THE HUMBLE PETITION OF CHARLES NYE.

1825.
15 June.
Papers *re* case
of Charles Nye.

To His Excellency Sir Thomas Brisbane, K.C.B., &c., &c., &c.
Respectfully Sheweth:

That Petitioner arrived in this Colony on the Ship *Agamemnon* in September, 1820, having been tried at London in February preceding, and sentenced to Seven years Transportation.

That Petitioner, from the day of his landing, has been employed as an Assistant Clerk in the Colonial Secretary's Office, in which situation Petitioner trusts he may without presumption assert that he has acquitted himself satisfactorily and that his conduct is liable to no one exception.

That Petitioner has reason to suppose that interest has been made with His Majesty's Government at Home for Petitioner's Pardon, and that instructions have been transmitted to this Colony for the extension of such indulgence to him.

That Petitioner is led to believe such is the fact from the circumstance of Lieut. Sterling of the Buffs, (who has a knowledge of Petitioner's friends), having, as he condescendingly informed Petitioner, received similar advice: and by the recent arrival of James Hall, Esqre., Surgeon, R.N., Petitioner is further confirmed in his belief.

Petitioner therefore respectfully approaches Your Excellency with his request that should instructions have been received from His Majesty's Government respecting Petitioner, that Your Excellency will graciously please to bestow that great and merciful indulgence on him, which will restore him his lost station in Society, which Petitioner humbly trusts Four Years correct though humble duty in an Executive Department of Your Excellency's Government may give him some claim to, independent of the expected recommendation from Home.

And Petitioner as in duty bound will ever Pray.

Sydney, July, 1824.

CHAS. NYE.

[Sub-enclosure No. 2.]

CHARLES NYE TO SECRETARY GOULBURN.

Hond. Sir,

Sydney, 26th July, 1824.

I beg most respectfully to request that you will be pleased to lay the enclosed Memorial before His Excellency The Governor, to certify whom of my correct Conduct and Service in your Department, I hope I may venture to solicit your recommendatory Certificate.

I beg leave to subscribe myself, &c.,

CHAS. NYE.

[Sub-enclosure No. 3.]

MEMO.

"Major Goulburn is requested to report on his (Charles Nye's) Conduct." T.B.

1825.
15 June.Papers *re* case
of Charles Nye.

[Sub-enclosure No. 4.]

SECRETARY GOULBURN TO SIR THOMAS BRISBANE.

Colonial Secretary's Office,

Sir, 26th August, 1824.

In returning to you the accompanying private communication from Mr. Wilmot Horton, soliciting some indulgence to be extended to Charles Nye in case he has merited your favourable consideration by his good conduct, and transmitted to me by Your Excellency for my remarks thereupon, I am pleased to be able to observe that the above mentioned individual has been in this office since my arrival in the Colony, and richly deserves the character of being a most excellent Clerk.

I have, &c.,
F. GOULBURN.

[Sub-enclosure No. 5.]

MEMO.

"The Governor begs to be informed, if Major Goulburn will recommend Charles Nye for a Pardon or other Indulgence.

"T.B."

[Sub-enclosure No. 6.]

SECRETARY GOULBURN TO SIR THOMAS BRISBANE.

Colonial Secretary's Office,

Sir, 2nd September, 1824.

Referring to the Memorandum that enveloped the accompanying Enclosures received yesterday, I beg leave to acquaint Your Excellency that I had the honor to address to you on the 26th Ult. a Special letter upon the subject of Charles Nye, a Clerk in this Office.

I have, &c.,
F. GOULBURN.

[Sub-enclosure No. 7.]

CHARLES NYE TO MAJOR OVENS.

Sir, Sydney, 20th Sept., 1824.

I trust I shall not be considered as impatient nor indiscreet in respectfully soliciting through yourself the determination of His Excellency the Governor with regard to a recommendation* from the Under Secretary of State, dated in August, 1823, and received so long since as *April* last, which communication, grounded on the humane interference of an eminent Member of Parliament, instructed His Excellency to extend to me *any* Indulgence I might *merit*.

* Note 2.

1825.
15 June.
Papers *re* case
of Charles Nye.

Four Years' diligent duty in a Public Department, through the early part of which, receiving no Salary, I had to struggle with indigence and want, is a Merit, combined with unexceptionable conduct, that led me, I hope not presumptuously, to be sanguine of His Excellency's favorable consideration; and that it would induce him to remit the unexpired term (now little more than two years) of my ignominious Sentence, thereby restoring me that Liberty and happiness of Mind, which sincere sorrow for its loss and Years of probationary Conduct have, I hope, made some atonement.

Apologizing, Sir, for an intrusion, which however I am eager to believe you will forgive on the reflection that it is the restoration of the dearest right I can enjoy that has impelled me to it.

With the greatest Respect, &c.,

CHAS. NYE.

[Sub-enclosure No. 8.]

SIR THOMAS BRISBANE TO SECRETARY GOULBURN.

Sir, Government House, Parramatta, 24th Sepr., 1824.

Referring to your letters of the 26th Ult. and 2d Inst. in the case of Charles Nye, a Clerk in your Office, I am induced to write you again respecting him, as I am apprehensive you have misunderstood my object in regard to him, which was to be informed whether, from his moral character and uniform, regular and orderly Conduct, he had claim to a greater indulgence than he now enjoys; whereas by the tenor of your letters relating to him you seem to have considered my only object was to ascertain if he was a good Clerk, which was not my intention.

I have, &c.,

THOS. BRISBANE.

[Sub-enclosure No. 9.]

SECRETARY GOULBURN TO SIR THOMAS BRISBANE.

Colonial Secretary's Office,

Sir, 25th September, 1824.

In answer to Your Letter of yesterday, I do myself the Honor to acquaint you that no instance of immoral conduct on the part of Charles Nye, since I arrived in this Colony, has come to my knowledge.

I have, &c.,

F. GOULBURN.

[Sub-enclosure No. 10.]

THE HUMBLE PETITION OF CHARLES NYE.

To His Excellency Sir Thomas Brisbane, K.C.B., &c., &c., &c.

Respectfully Sheweth:

That Petitioner presumes his Name is familiar to Your Excellency, having in July last trespassed on Your Excellency for some Indulgence: the repetition of which Petitioner is fearful

may savour of importunity and impatience, did not circumstances, too tedious for recital to Your Excellency, exist for its excuse.

1825.
15 June.

Papers re case
of Charles Nye.

That Petitioner cannot plead ignorance of the condescending trouble Your Excellency has taken in his behalf, and for which Petitioner begs to express his sincere gratitude, and advances the hope that the information, Your Excellency has received to recent enquiries, may prove so satisfactory as to induce Your Excellency to consider him a deserving object of your clemency; which withheld will render fruitless those paternal exertions which brought Petitioner under Your Excellency's notice, and be a source of unavailing regret and sore disappointment to Petitioner and those afflicted Friends, who long ere this have consoled themselves, that the consequence of their affectionate endeavours has been the total emancipation of Petitioner from his unhappy and degraded situation.

That Petitioner having fulfilled the term (and that too in a situation liable to the strictest observation) required by Your Excellency's Order entitling him to a Ticket of Leave, presumes in the most respectful manner to state this fact, not as a title to but as a testimony of desert and an introductory voucher to justify Your Excellency in conferring on Petitioner a higher Indulgence, which his diligent and moral conduct for Four Years may seem to entitle him to.

Petitioner, therefore, most earnestly implores Your Excellency not to procrastinate a decision of vital importance to himself, and gratifying tidings to his relatives: for which mark of Your Excellency's gracious consideration, they with Petitioner will ever Pray.

Sydney, 6th October, 1824.

CHARLES NYE.

[Sub-enclosure No. 11.]

Government Order, 7th Novr., 1822.

To Convicts under Sentence of the Law

For	{	Seven Years	}	who	during	{	Four	}	have	served	{	One	}	Master
		Fourteen Years					Six					Two		
		Life					Eight					Three		

faithfully

Tickets of leave will be issued on producing the required Certificate.

[Sub-enclosure No. 12.]

CERTIFICATE FOR CHARLES NYE.

WE hereby Certify that Charles Nye, who came by the Ship Agamemnon which arrived in the Year 1820, has not been convicted of any Crime or Misdemeanor in this Colony, but is to our

1825.
15 June.
Papers re case
of Charles Nye.

certain belief an honest, sober and industrious character having served faithfully in the Colonial Secretary's Office from the 29th September, 1820, to the 14th October, 1824.

F. GOULBURN, Resident Magistrate.

I know nothing to the prejudice of Charles Nye.

RICHD. HILL, Resident Clergyman.

F. GOULBURN, Master.

[Sub-enclosure No. 13.]

TICKET OF LEAVE FOR CHARLES NYE.—440/1374.

Colonial Secretary's Office, 14th October, 1824.

IT is His Excellency the Governor's pleasure to dispense with the attendance at Government work of Charles Nye, who was tried at London G.D., 17th February, 1820, Convict for Seven Years, arrived per Ship Agamemnon, Surtees, Master, in the year 1820, and to permit him to employ himself (off the Stores) in any lawful occupation within the district of Sydney for his own advantage during good behaviour or until His Excellency's further pleasure shall be made known.

By His Excellency's Command,

F. GOULBURN.

Description.

Name	Charles Nye
Native Place	London
Trade	Merch't's Clerk
Age	28 years
Height	5 feet 9 ins.
Complexion	fair ruddy
Hair	light Brown
Eyes	light Hazel

General Remarks.

Granted in pursuance of the Government and General Order of the 7th November, 1822. R.C.

UNDER SECRETARY HORTON TO GOVERNOR DARLING.*

Sir, Downing Street, 15 June, 1825.

Mr. William Sharpe will have the Honor of delivering this letter to you, and, Having been strongly recommended to Earl Bathurst by Sir Alexander Hope, I am to desire that you will make to Mr. Sharpe, on his arrival in New South Wales, a Grant of Land in proportion to his means of cultivating it, with any facilities which you may have it in your power to afford him in the selection of the same.

I have, &c.,

R. W. HORTON.

Recommendation of W. Sharpe for land grant.

EARL BATHURST TO GOVERNOR DARLING.

1825.
30 June.

(Despatch No. 1, per ship Catherine Stewart Forbes.*)

Sir, Downing Street, 30th June, 1825.

The dilapidated state of the Government House at Sydney having been brought under my consideration,† and as I deem it very essential to the Public Service that His Majesty's Representative in that distant quarter of the World should be accommodated with a convenient and suitable Residence, I have to authorize the construction of a new Government House, should you find, on your arrival in the Colony, that the old Building is not in an habitable state and that it does not admit of being repaired; or you will consider yourself at liberty to convert into a permanent Residence for the Governor the Gothic Building, erected by General Macquarie for Stables, if the latter measure should be found practicable and more economical. Although I am induced under the circumstances of the case to waive the Regulation, which requires that an estimate and plan should be first submitted for the consideration of His Majesty's Government before any new work of that description is undertaken, I have to direct that you take the earliest opportunity of sending home an Estimate of the Expencc of the Building, which it may be intended to erect; and I need not point out to you the necessity of your limiting the expenditure on this account within the narrowest possible limits, that may be consistent with your suitable Accommodation.

New residence
to be erected
for governor
at Sydney.

I have, &c.,

BATHURST.

MR. E. BARNARD TO GOVERNOR DARLING.

30th June, 1825.

[Copies of three despatches of this date, acknowledged by Governor Darling, 9th February, 1827, are not available.]

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 2, per ship Catherine Stewart Forbes.*)

Sir, Downing Street, 1 July, 1825.

1 July.

By information received from Lt. Governor Arthur, dated 27 October last, a Copy of which I enclose, it appears that Conditional Emancipation had been extended by the Governor of New South Wales to Bartholomew Broughton, lately employed as Clerk to the Public Treasurer and Naval Officer at Van Diemen's Land. I beg to acquaint you that it has not been confirmed by His Majesty, as, taking into consideration the charges which have in a late instance been preferred against

Refusal of
conditional
pardon for
B. Broughton.

* Note 1. † Note 4.

1825.
1 July.

him, and the offence for which he was originally transported, it is deemed that he is an object altogether undeserving of such an indulgence.

I have, &c.,

BATHURST.

[Enclosure.]

[A copy of the despatch from lieutenant-governor Arthur to Earl Bathurst will be found in a volume in series III.]

MR. E. BARNARD TO GOVERNOR DARLING.

1st July, 1825

[A copy of this despatch, acknowledged by Governor Darling, 9th February, 1827, is not available.]

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 3, per ship Catherine Stewart Forbes*; acknowledged by Governor Darling, 2nd March, 1826.)

Sir,

Downing Street, 4 July, 1825.

The access, which you have had to my correspondence with Sir Thomas Brisbane, will have made you fully aware of the circumstances connected with the case of Dr. Douglass, and the footing upon which he is to be placed with respect to an appointment in case of his being able to clear himself of the charges† which have been alledged against him. As considerable doubts have arisen as to his eligibility for the situation of Clerk of the Council, You will not consider yourself bound by my former Instructions‡ to place Dr. Douglass in that Office, but as possessing a discretionary power to make any other arrangement for providing Dr. Douglass with an appointment, which you may deem expedient under the circumstances of his case.

I am, &c.,

BATHURST.

GOVERNOR DARLING TO UNDER SECRETARY HORTON.‡

(Acknowledged by under secretary Hay, 8th July, 1825.)

Sir,

54 Jermyn Street, 4th July, 1825.

I beg leave to enclose the Copy of a Letter, which I have received from Mr. Thomas, respecting an Establishment, which it is proposed to form in New South Wales for improving the breed of Horses in that Colony and Van Diemen's Land. As this measure will I conceive supersede the Necessity of Sending out Horses on Account of Govern't and is in every respect most desirable, I shall, without entering into the merits of the question, Confine myself to requesting to be honored with the Necessary Authority to carry the proposed measure into effect.

I have, &c.,

RA. DARLING.

4 July.
Instructions
re official
appointment
for
H. G. Douglass.

Proposals of
B. B. Thomas
re horse,
cattle, and
sheep breeding.

[Enclosure.]

1825.
4 July.

MR. B. THOMAS TO GOVERNOR DARLING.

Sir,

E.2 Albany, 30th June, 1825.

In consequence of the interview you were so kind as to afford me the other day, I have the honor with your permission to submit to your consideration the following proposal.

Proposals of
B. B. Thomas
re horse,
cattle, and
sheep breeding.

Some friends of mine (one of them a Lt. Colonel of Dragoons, and who understands the breeding of Horses, having a large and expensive Establishment of that kind in this Country) have solicited me to undertake the management of a Breeding Stud* in New South Wales. The general outline of our plan is to send out this Autumn Thirty six Brood Mares, stunted to the finest Stallions of England, of the thoroughbred Yorkshire and Flanders Breed, with Four of the finest thorough bred Stallions and Four Flanders. By this Plan, the produce of the Mares, soon after their arrival, will give the Colony the most approved sorts of each Blood.

We also propose to send out Bulls and Cows of the most esteemed Breed in this Country, as well as a flock of Merino, South Down, and Leicester.

Our great object is to lay a foundation of the finest and most approved Breeds of every description of animal useful to the Colony, which we mean to increase by yearly importations from England.

We have already insured the most valuable Servants with their families, who are conversant in every branch of husbandry, and should take out all necessary Implements of Agriculture.

It is my intention to accompany the Establishment and to superintend the management of it with a view to residence there, which I feel myself qualified for, having been in the Dragoons near Twelve Years and often embarked with Horses, and having all my life attended the veterinary school.

As this undertaking must necessarily be attended with a very great outlay of Capital and risk, which will eventually prove of the greatest possible benefit to the Colony, I trust that the Government will not think us unreasonable in asking for at least a Grant of *Twenty thousand Acres*, which the Stud during the progress of breeding will contribute so largely to bring into a state of cultivation.

I beg to add that the parties are men of the highest respectability and considerable property, and that the number, including myself, is confined to six.

Trusting that this Proposal will meet with your approbation, and that you will be kind enough to favor me with an early reply at your leisure,

I have, &c.,

B. B. THOMAS.

* Note 7.

1825.
4 July.

GOVERNOR DARLING TO UNDER SECRETARY HORTON.*
(Acknowledged by under secretary Hay, 15th July, 1825.)

Sir, 54 Jermyn Street, 4th July, 1825.

Accommoda-
tion for
governor on
ships of war.

I request you will be so good as to obtain from the Admiralty an order to the Captains of the Navy, who may be stationed at New South Wales, to furnish me with a passage on board the Ships under their command, whenever the public service may render it necessary for me to apply for such accommodation.

It has been suggested to me to obtain an order to this effect previous to my leaving England, as a means of preventing any misunderstanding on the subject, and the inconvenience which the public service might in consequence experience.

I have, &c.,

RA. DARLING.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Catherine Stewart Forbes†; acknowledged by Governor Darling, 20th December, 1826.)

8 July.

Sir, Downing Street, 8th July, 1825.

Additional
land grant for
T. Icely.

I am directed by Earl Bathurst to transmit to you the accompanying Copy of a letter which has been addressed to his Lordship by Mr. Thomas Icely, with an enumeration of the Capital now employed and which he is about to invest with a view to Agricultural objects in New South Wales; and I am directed by his Lordship to acquaint you that, as he considers every encouragement ought to be given to persons embarking a Capital of the magnitude which Mr. Icely states it to be his intention of employing, his Lordship is willing to sanction an extension of Mr. Icely's original Grant, not, however, in proportion to the Capital he has already laid out, but according to the additional means which he has at his disposal; and you will be guided in this, as in every other case (unless specially excepted), by the principles laid down in the Instructions‡ which have been conveyed to your Predecessor upon that subject.

I am, &c.,

R. W. HAY.

[Enclosure.]

Mr. THOMAS ICELY TO EARL BATHURST.

My Lord, 10 Fenchurch Buildings, 23rd June, 1825.

Having completed a very extensive purchase of Merino Sheep, Horses and Horned Cattle, in this Country, as well as having embarked a capital exceeding Thirty thousand pounds (£30,000) in Mercantile and Agricultural speculations in New So. Wales, I most respectfully solicit your Lordship will be pleased to make me an order for a Grant of Land, with those

Application of
T. Icely for
additional
land grant.

* Note 6. † Note 1. ‡ Note 8.

indulgencies which have been extended to persons employing a large Capital emigrating to that Colony, to enable me to enlarge my present establishment for the Growth of fine Wool. The statement, which I have the honor to annex, will afford the proof of my having (as I am led to believe) applied as large a capital to the objects above mentioned as ever yet embarked by any Individual connected with New South Wales.

1825.
8 July.
Application of
T. Icely for
additional
land grant.

I beg leave to say I shall be ready to give any and every explanation, which your Lordship may be pleased to command, and most respectfully to assure Your Lordship that I am willing to rest the merits of my present application on the ground of its being perfectly correct in all points.

With very great respect, &c.,

THOMAS ICELY.

[Sub-enclosure.]

A STATEMENT of Stock and Capital employed by Mr. Icely in his Agricultural Establishment at Bathurst* in New South Wales. Capital invested by T. Icely in N.S.W.

1,500 Improv'd Merino Sheep @ £3 each	£4,500
420 Head of horned Cattle £7	2,940
19 Brood Mares @ £40	760
15 Young Horses £20	300
Buildings erected on Farm, Implements of Husbandry, working Horses, Bullocks, etc.	1,500
	£10,000

Stock shipped on Board the ship Colombia for the Improvement of the Breed of the Colony. Stock shipped by T. Icely for N.S.W.

144 pure Merino Sheep with every expence attached to them on Landing @ £20	£2,880
1 Thorough Bred Mare	200
6 Head of devonshire cattle @ £30	180
Corn Mill, 4 Horse power, complete	220
Thrashing Machine and Sundries	200
	£3,680
at present in the Colony	£10,000
ready to sail for do.	3,680

Total Amount embarked in Agriculture, Grazing, etc. £13,680

UNDER SECRETARY HAY TO GOVERNOR DARLING.
(Despatch per ship Catherine Stewart Forbes.†)

Sir,

Downing Street, 8 July, 1825.

I have had the honor to receive and lay before Earl Bathurst your letter of the 4th Instant, enclosing one which you had received from Mr. Thomas respecting an Establishment, which he proposes to form in New South Wales, for improving the breeding of horses in that Colony and Van Diemen's Land.

Approval of
application
from
B. B. Thomas.

* Note 9. † Note 1.

1825.
8 July.
Approval of
application
from
B. B. Thomas.

It appears that there are five Gentlemen desirous of associating themselves with Mr. Thomas with a view to this undertaking, and that they will be satisfied with a Grant of 20,000 Acres from Government to commence their operations.

As the Colony cannot but derive considerable benefit by the introduction of a breed of horses of the description of those which it is proposed to send there, and by which the objects pointed out by Mr. Commissioner Bigge in his agricultural Report* are likely to be accomplished, the measure is one to which Lord Bathurst is disposed to give his concurrence; and you will therefore consider yourself authorized to reserve a Grant of Land in favor of the Parties to the extent mentioned by them, of which reservation you will make them in the first instance a Grant of 5,000 Acres, afterwards extending the Grant to 10,000, to 15,000, and ultimately to 20,000, or even beyond, according as the extent of their operations may render necessary, the land thus to be granted being of course liable to the conditions with respect to Quit Rent, etc., to which all Lands are now subject in both Colonies.

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

UNDER SECRETARY HORTON TO GOVERNOR DARLING.
(Despatch per ship Catherine Stewart Forbes.†)

9 July.
Land grant
to Wilson.

Sir, Downing Street, 9th July, 1825.

Dr. Wilson having resigned in favour of Lieut. Ogilvie, R.N., his claim to a Grant of Land in Van Diemen's Land, consisting of 2,000 acres, which had been originally granted to Lieut. Ogilvie's Brother, and of which Dr. Wilson had subsequently come into the possession, I am directed by Earl Bathurst to desire that the Land, which appears to have been reserved for Dr. Wilson in New South Wales, consisting of as many acres as were given over by him to Lieut. Ogilvie in Van Diemen's Land, may be confirmed, that Gentleman having expressed the wish of fixing himself there in preference to the latter Colony.

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

EARL BATHURST TO GOVERNOR DARLING.
(Despatch No. 4, per ship Catherine Stewart Forbes†; acknowledged by Governor Darling, 4th February, 1826.)

11 July.
Instructions
re police
department.

Sir, Downing Street, 11 July, 1825.

With reference to my Dispatch to Sir Thomas Brisbane, dated the 2nd January, 1825, Communicating to him the appointment of Captain Rossi as Superintendent of Police in New

* Note 10. † Note 1.

South Wales, I now do myself the honor of acquainting you that if, on your arrival in the Colony, you should be enabled to adopt any preferable arrangement for the discharge of those duties, at the same time having it in your power to provide for Captain Rossi by appointing him to another situation without diminishing his present emoluments, you are hereby authorized to carry into effect any change of that nature which in your opinion might prove beneficial to the Interests of the Colony.

I am, &c.,

BATHURST.

1825.
11 July.
—
Instructions
re police
department.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Catherine Stewart Forbes.*)

Sir,

Colonial Office, 11 July, 1825.

I do myself the honor, by the direction of Earl Bathurst, to transmit to you the accompanying application from Mr. John Cogill, who is desirous of receiving a further Grant of Land in New South Wales, and I am to acquaint you that, provided he shall appear to you to be deserving of this Indulgence, his Lordship sees no objection to the extension of Mr. Cogill's original Grant, in proportion to the additional means at his disposal and on the principles laid down in Earl Bathurst's Instructions.†

Application of
J. Cogill for
additional
land grant.

I have, &c.,

R. W. HAY.

[Enclosure.]

MR. JOHN COGILL TO EARL BATHURST.

No. 4 Alfred Place, Blackfriars Road,

My Lord,

4th July, 1825.

Having laid out a considerable capital in Agricultural speculations, and in the purchase of pure and improved Merino Sheep, Horned Cattle and Horses in New South Wales, I most respectfully solicit that your Lordship will be pleased to make me an order for a Grant of Land, with those indulgencies which have been extended to Persons employing a large Capital, on Emigrating to that Colony, to enable me to enlarge my present Establishment for the growth of fine wool.

The statement, which I have the honor to annex, will afford the proof of my having laid out as large a Capital for the objects above mentioned, as Persons in general emigrating to that Colony. And I beg leave to say I will be ready to give any and every explanation which your Lordship may be pleased to command, and I do most respectfully assure your Lordship that I rest the merits of this present application on the grounds of its being perfectly correct in all points.

I have, &c.,

JOHN COGILL.

* Note 1. † Note 8.

[Sub-enclosure.]

1825.
11 July.
Capital invested
by J. Cogill.

A STATEMENT of Capital and Stock now employed by Mr. John Cogill on his Agricultural Establishment in the County of Camden, New South Wales.

800 Improved Merino Sheep at £4	£3,200
30 pure Do. Do. £20	600
250 Head Horned Cattle £7	1,750
4 Brood Mares £50	200
Building and fencing on the farm, Implements of husbandry, Working Cattle, etc.	1,000
	<hr/>
	£6,750
Have now made arrangement to carry out from this country—	
30 pure Merino Sheep at £20	600
2 Blood Horses £200	400
	<hr/>
	£7,750

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 5, per ship Catherine Stewart Forbes*; acknowledged by Governor Darling, 8th and 11th May, 1827.)

Sir,

Downing Street, 12th July, 1825.

I have had the honor to receive a Dispatch from Sir Thomas Brisbane dated the 15th January last, No. 21, enclosing for my perusal a collection of Newspapers published in New South Wales, in order that I may be enabled to judge how far the abolition of the restrictions, which formerly existed on the freedom of the press in that Colony, is calculated to promote the welfare of His Majesty's subjects resident there.

It is unnecessary that I should make any particular comment upon the contents of these Newspapers. It is however impossible not to perceive, from the most cursory examination of them, that the entire exemption of the Publishers from all restraint of the Local Government must be highly dangerous in a Society of so peculiar a description.

I should, however, be unwilling (even while the Convict population preponderates so greatly in Numerical amount over that of the Free Settlers) to subject the Editors of these publications to restrictions at variance with the spirit of the law in force in the Mother Country. But you are aware that, even in England, no person enjoys that absolute discretion with regard to the publication of Newspapers, which, as I collect from Sir Thomas Brisbane's Dispatch, is claimed by the Editors of the Journals which he has transmitted. Various restraints on this liberty have been imposed by the Acts of Parliament, 38th Geo. 3rd, cap. 78, and 60th Geo. 3rd and 1st Geo. 4th e.g. By referring to

* Note 1.

12 July.
The freedom
of the press.

those statutes you will observe that the names of the Printers, Publishers, and Proprietors, must be delivered on oath at the Stamp Office, and printed in every successive Newspaper; and that the Publishers must enter into a Recognizance, or Bond to the Crown, with two sureties, for the securing the payment of any Fine which may be imposed upon him upon conviction for a blasphemous or seditious libel.

I should apprehend that for reasons which it would be needless to point out, neither of these Acts of Parliament extends to New South Wales; but I am not aware of any reason why you should not, with the advice of the Legislative Council of that Colony, promulgate a Law to the same effect, and extending somewhat further the principles which those Acts of Parliament have sanctioned.

You will therefore avail yourself of the earliest opportunity of proposing to the Legislative Council the enactment of a Law founded in general upon the provisions of the Statutes to which I have referred. You will further propose it to be enacted that no Newspaper be published without a licence to be applied for to the Governor; but such licence should in no case be made to continue in force for more than one year from its date; and that it be made resumable before the expiration of the year, if an order to that effect be issued by the Governor with the advice of his Executive Council, the reason for every such order of resumption being first duly entered on the Minutes of Council and transmitted for His Majesty's information through one of His principal Secretaries of State by the first opportunity. You will further propose that every such licence should be, *ipso facto*, forfeited upon the conviction of the Publisher, Printer, or Proprietor for any blasphemous or seditious libel. The licence ought, as in England, to bear a Stamp; but, as it is resumable, with a Duty not exceeding one Pound, and each number of each successive Newspaper ought also to be subjected to a Stamp Duty. The produce of the duty, thus to be raised, would most properly be declared applicable to the defraying the charges of printing public Acts, Proclamations, and Orders. The Colonial Treasury might thus be relieved from the charge, unexpectedly thrown upon it, by the Government Printer having been deprived of the exclusive right of publishing a Colonial Newspaper, in consideration of which he was formerly content to execute this branch of the public Service without a direct pecuniary compensation. In fixing the amount of the Stamps, you will therefore so regulate the scale of the duty, that the produce of it may be adequate to provide for this charge.

I have, &c.,

BATHURST.

1825.
12 July.

Restrictions
imposed on
press in
England.

Suggested
legislation re
press in colony.

Proposed
licence for
publication of
newspaper.

Stamp duty
to be imposed.

UNDER SECRETARY HAY TO GOVERNOR DARLING.*

1825.
12 July.

Sir,

Downing Street, 12th July, 1825.

Recommendation of H. Mackenzie for land grant.

I am directed by Earl Bathurst to recommend to your protection the bearer of this letter, Mr. H. Mackenzie, whose name has been brought to his Lordship's favorable notice by Sir James Mackenzie and Sir Hugh Jones, and to request that Mr. Mackenzie may receive a Grant of Land on his arrival in the Colony proportioned to his means of bringing the same into cultivation.

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

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 6, per ship Catherine Stewart Forbes†; acknowledged by Governor Darling, 5th May, 1826.)

14 July.

Sir,

14th July, 1825.

Commission and general instructions for Darling.

I have the Honor herewith to transmit to you a Commission under the Great Seal, appointing you Governor of the Colony of New South Wales, with your general Instructions under the King's Sign Manual, with an additional Instruction, under the Sign Manual, authorizing you to affix the Great Seal of your Government to Letters Patent for Incorporating Trustees for the management of the Clergy and School Estates in New South Wales. I have also the Honor to transmit you a Warrant, signed by the King, for appointing a Legislative Council in New South Wales in pursuance of the Act 4th Geo. 4th, c. 96.

Additional instructions.

I am now, by His Majesty's Commands, to communicate to you such further Instructions for your guidance in the Administration of the Government, as could not with propriety be embodied in your general Instructions.

A. Macleay appointed colonial secretary.

Mr. McLeay, having been recently appointed to the Office of the Colonial Secretary of New South Wales, will immediately proceed to the Colony. As discussions‡ have lately arisen in New South Wales respecting the relative duties of the Colonial Secretary and the Governor, and it is highly necessary to prevent the recurrence of any similar controversy, you will understand, in addition to those functions which under your general Instructions are specially committed to the Colonial Secretary, he is to conduct, under your direction, all Official Correspondence in the Colony, and is to act on all occasions as the general medium of Communication, through which your orders are to be signified either to the community at large, or to private persons. He is also

Duties of colonial secretary.

* Note 3. † Note 1. ‡ Note 11.

to render to you his Assistance in the various details of your Administration on every occasion, on which you may require such assistance, and in the manner which you may think fit to prescribe.

1825.
14 July.
Duties of colonial secretary.

As however you will remain exclusively responsible for every Act, which may be done by your Authority, and in your name, the Colonial Secretary will have no pretension to controul your Judgement or to direct your decisions in any particular case.

Among the powers, which have been exercised by your Predecessors, is that of erecting Corporations by instruments passed, for that purpose, under the Great Seal of the Government. It is His Majesty's Pleasure that you should not, on any occasion, make such a grant, until you have transmitted to me a Draft of it for his consideration, and have received from me an express authority for proceeding to issue Letters Patent accordingly.

Restriction of governor's powers.

His Majesty's Revenues in the Colony of New South Wales are in general derived from four distinct sources. They are, first, the duties levied under the 3d Geo. 4th, Cap. 96, on Rum, Tobacco and other imported goods; secondly, the casual Revenue of the Crown derived from Quit Rents, from the Sale of Government Lands, and from Fines, forfeitures, and other similar sources; Thirdly, such Duties as, in pursuance of the Powers granted by Parliament, the Legislative Council may think proper to impose; and Fourthly, the money annually voted by Parliament in aid of the Civil Establishment of the Colony.

Sources of colonial revenue.

Of these four sources of Revenue, the two first named are entirely unappropriated. The Duties to be voted to the Legislative Council must be specially applied to such purposes, as shall be prescribed by the Act imposing the duty; and the Money, voted by Parliament, is always the subject of specific appropriation.

Appropriations for specific services.

The Money arising from those various sources of Revenue is either received by the Colonial Treasurer, or by the Commissary, or Deputy Commissary General, the latter Officer drawing Bills upon the King's Agent in England for the amount of the Sums voted by Parliament. It will be your duty to receive, from each of these Officers, a Monthly Report of the Cash or Government Bills in their Hands. They will not be at liberty to issue any money for the Public Service, except in obedience to such Warrants as may be addressed to them by you for that purpose. That part of His Majesty's Revenue, which is appropriated either by Parliament or the Legislative Council to any specific purpose, you will of course apply to that service only. That portion of the Revenue, which is not so appropriated, you will apply to

Instructions re financial administration.

1825.
14 July.

Instructions
re financial
administration.

the Public service of the Colony in pursuance of such general or special Directions you may receive from me or from the Lords Commissioners of His Majesty's Treasury.

As it will be highly important for you to know to what extent you are to be personally responsible for the due administration of the Revenue of the Colony under your Government, I have the Honor to inclose,* for your information and guidance, the Copy of a Minute, which the Lord Commissioners of His Majesty's Treasury have recently transmitted to me on that subject.

Proposed
appointment
of land board.

In executing the powers, granted to you by your Commission and Instructions, for the sale and granting of the Waste Lands of the Crown within your Government, it may probably be found convenient to Establish a Land Board for your assistance, to whom you may refer Applications for Grants of Land, and from whom you may receive Reports on the various Claims of the different Applicants. If the pressure of Public Business should render such an Establishment necessary, you will be authorized to constitute a Board of this nature to consist of not more than three Persons, who must be permanently resident at Sidney. Gentlemen engaged in any Public Offices, the duties of which may afford them leisure for such employment without prejudice to the Public Service, should in preference be selected as Members of this Board. You will be at Liberty to grant to each of the Members a remuneration for his services not exceeding one Hundred Pounds per annum; you will lay down such general Rules for their guidance in the dispatch of business, as occasion may from time to time require. This Establishment, however, is not to be formed, unless experience should prove that it would be essential to the dispatch of this important branch of Public business with regularity and method. So soon as the division of the Territory of New South Wales into Counties, Hundreds and Parishes has been carried into effect, you will issue a distinct commission of the Peace for each County, appointing in each County, to the Office of Custos Rotulorum, such of the Local Magistrates, as may appear to you most to deserve the confidence of His Majesty's Government. It being an object of the highest importance in New South Wales to maintain an active and efficient Police, His Majesty has been pleased to appoint an Officer to discharge the duties of Superintendent of Police in the Town of Sydney. It will be the duty of this Officer to frame, under your sanction, the general Rules of Police, which are to be observed in the various Towns of the Colony, and to superintend the execution of them in the town of Sydney. He will sit daily to receive from the Constables, who may be appointed as a Watch and Ward for the Town and its precincts, a verbal Report

Commission
of peace in
each county.

Appointment
and duties of
superintendent
of police.

*. Note 12.

of all material incidents, which may have arisen. During certain hours of the day, his Office will be kept continually open for receiving Complaints against disorderly and Riotous Persons, and for performing the ordinary duties of a Justice of Peace. This Officer will also make to you Periodical Reports, at such short and stated intervals as you may find the most convenient, of the state of the Police of the Town and Neighbourhood, and of the methods, which may be most conveniently adopted for diminishing the Expence or improving the efficiency of the Establishment.

1825.
14 July.
Appointment
and duties of
superintendent
of police.

Upon the important subject of Convicts, the manner in which they should be employed and disposed of, and the remission or mitigation of their sentences, it has not been found practicable to comprize, in your general instructions, such Rules as it will be necessary to lay down for your guidance. For the present, therefore, I must refer you to the various dispatches from this Office, which have been addressed to your predecessors in the Government on this subject, and especially to those, in which he has been directed to form a new Establishment at Norfolk Island, or at any other more convenient spot, for the reception of Convicts of the worst description. I hope, at no distant period, to be able to transmit to you such full directions for your guidance on this branch of your Public duties, as the magnitude and importance of the subject will require.

Management
of convicts.

In reference to the discussions, which have recently taken place in the Colony respecting the manner, in which the Native Inhabitants are to be treated when making hostile incursions for the purpose of Plunder, you will understand it to be your duty, when such disturbances cannot be prevented or allayed by less vigorous measures, to oppose force by force, and to repel such Aggressions in the same manner, as if they proceeded from subjects of any accredited State.

Treatment of
aborigines.

On receiving over the Administration of the Government from your immediate Predecessor in Office, you will take possession of all the Public Dispatches, which have been addressed to him or his Predecessors; and you will understand that the present and every other Public Dispatch, which may be addressed to yourself, as Governor of New South Wales, is carefully to be deposited in the Government House, and preserved for the information of those who may hereafter succeed to the same office.

Custody and
preservation
of public
despatches.

I have, &c.,

BATHURST.

[Enclosures Nos. 1, 2, and 3.]

[Copies of the commission and instructions will be found on page 99 et seq.]

[Enclosure No. 4.]

1825.
14 July.Warrant for
appointment
of legislative
council.

WARRANT APPOINTING MEMBERS OF COUNCIL.

GEORGE R.

TRUSTY and Well beloved, We greet you well. Whereas, by an Act of Parliament, passed in the fourth year of our Reign, intitled, "An Act to provide, until the first day of July, 1827, and until the end of the next Session of Parliament, for the better Administration of Justice in New South Wales and Van Diemen's Land, and for the more effectual Government thereof, and for other purposes," It is, amongst other things, enacted that it shall and may be lawful for Us, Our Heirs and Successors, by Warrant, under Our or Their Sign Manual, to constitute and appoint a Council, to consist of such Persons, resident in the said Colony, not exceeding seven, nor less than five, as We, Our Heirs and Successors, shall be pleased to appoint; and, upon the Death, removal or absence, of any of the Members of the said Council in like manner to constitute such and so many other person or persons, as shall be necessary to supply the vacancy or vacancies. And Whereas, in pursuance of the said Act, and in execution of the powers thereby vested in Us in that behalf, We did, on or about the 16th day of November, in the fifth year of Our Reign, by a Warrant* under Our Royal sign Manual, constitute and appoint Our Trusty and Well beloved William Stewart, Esquire, Our Lieutenant Governor of Our Settlements in New South Wales. And Our Trusty and Well beloved Francis Forbes, Esquire, Our Chief Justice of Our said Settlements, and Our Trusty and well beloved the Reverend Thomas Hobbes Scott, Archdeacon of the Archdeaconry of Our said Settlements, and Our trusty and well beloved Frederick Goulburn, Esquire, Our Colonial Secretary of our said Settlements, And Our trusty and well beloved James Bowman, Esquire, the principal Surgeon of Our said Settlements, to be the Members of the Council of Our Colony of New South Wales during Our pleasure. And whereas We have thought fit to revoke Our said Warrant, and the appointment of the several persons aforesaid as Members of the said Council: Now We do hereby, in pursuance of the said Act of Parliament and in execution of the power and Authority thereby vested in Us, as aforesaid, revoke the said Warrant, bearing date the 16th day of November as aforesaid, and the Appointment of the several Persons, therein named, as Members of Our said Council. And We do hereby nominate, constitute and appoint Our Trusty and well beloved William Stewart, Esquire, Our Lieutenant Governor of Our said Settlements, Our trusty and well beloved Francis Forbes, Esquire, Our Chief Justice

* Note 13.

of Our said Settlements, Our trusty and well beloved the Venerable Thomas Hobbes Scott, Archdeacon of the Archdeaconry of Our said Settlements, Our trusty and well beloved Alexander McLeay, Esquire, Our Secretary of Our Settlements, Our trusty and Well beloved John McArthur, Esquire, Our trusty and well beloved Robert Campbell, Senior, Esquire, And Our Trusty and well beloved Charles Thoresby,* Esquire, to be the Members of Our Council of Our said Territory of New South Wales and its Dependencies during Our pleasure. And We do hereby Authorize, and require, and command them to do all such Acts and Deeds, Matters and Things, as under and by virtue of the said Act of Parliament, may lawfully be done and performed by the Members of Our said Council; and, in case of the death, resignation or departure from Our said Territory of the said William Stewart, Francis Forbes, Alexander McLeay, or either of them, We do hereby constitute and appoint such other person or persons, as shall have lawfully succeeded to Our said Lieutenant Governor, Our said Chief Justice, or Our said Colonial Secretary, in their or any of their Offices, to Act as and be, for and during Our Will and Pleasure, a Member or Members of Our said Council in the place and stead of the person or persons, to whose Office or Offices, he or they may have so lawfully succeeded, as aforesaid. And We do hereby declare, and it is Our Will and Pleasure, that these presents shall take effect at and from the time, when the same shall be actually received in Our said Colony of New South Wales by Our Governor, or Acting Governor thereof for the time being, and not before; and that, until these presents shall be so received by him, Our said former Warrant and the several appointments, thereby made, shall be and continue in force and effect, as fully as if these Presents had not been made, anything, herein before to the contrary, contained in any wise notwithstanding. Given at Our Court at Carlton House, the 17th day of July, One Thousand, eight hundred and twenty five in the sixth Year of Our Reign.

By His Majesty's Command,

BATHURST.

MR. CHARLES PERRY TO GOVERNOR DARLING.

(Per ship Catherine Stewart Forbes.†)

Sir,

Colonial Office, 14th July, 1825.

Lord Bathurst having recommended Mr. Edward Smith Hall‡ to the notice of Governor Macquarie, which recommendation did not reach New South Wales until he had quitted the

Recommendation of E. S. Hall.

* Note 14. † Note 1. ‡ Note 15.

1825.
14 July.
Warrant for appointment of legislative council.

1825.
14 July.

Colony, his Lordship desires me to name Mr. Smith Hall to you as a person entitled to any consideration or attention, which you may have it in your power to show him.

I have, &c.,

CHARLES PERRY.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Catherine Stewart Forbes.*)

Sir,

Downing Street, 14 July, 1825.

Recommendation of G. B. Clay for land grant.

I have received Earl Bathurst's directions to bring under your favorable notice Mr. G. Bertie Clay, son of Captain Clay of the Royal Navy, who is about to proceed to New South Wales as a Settler; and I am likewise directed by his Lordship to request that you will make to him a Grant of Land, in proportion to his means of cultivating the same; and as Mr. Clay is the son of an Officer who has served for twenty five years in His Majesty's Navy, you will afford him every assistance in your power, without any inconvenience to the Interests of other Individuals.

I am, &c.,

R. W. HAY.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Catherine Stewart Forbes.*)

15 July.

Sir,

Downing Street, 15th July, 1825.

Refusal of accommodation for governor on ships of war.

I have laid before Earl Bathurst your letter of the 4th Instant, in which you request that an order may be obtained from the Admiralty to the Captains of the Navy, who may be stationed at New South Wales to furnish you with a passage on board the Ships under their command, whenever the public service may render it necessary for you to apply for such accommodation. His Lordship has directed me to acquaint you in reply, that he is unwilling to make the application above alluded to to the Admiralty, as, except in very special cases, that Board objects to giving such a general order; and his Lordship conceives it to be the less necessary, as the Vessels at the disposal of the Colonial Government, though not of the largest class, will yet, he apprehends, be found sufficient for your purpose and for the conveyance of your family should it be required.

I have, &c.,

R. W. HAY.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

1825.
15 July.

(Despatch per ship Catherine Stewart Forbes.*)

Sir,

Downing Street, 15 July, 1825.

I am directed by Earl Bathurst to transmit to you copies of three letters addressed by Mr. Alexander Riley† to Mr. Wilnot Horton, soliciting a Grant of Land for himself and two nephews in New South Wales. By those letters, and the reply which has been given to them, you will perceive the objects which Mr. Riley has in view, and how far Lord Bathurst is willing to assist him with the means of accomplishing his undertaking, and his Lordship has therefore only further to request that you will direct a Grant and reservation of land to be made to Mr. Riley in conformity with the promise held out in my letter above alluded to.

Application of
A. Riley for
land grants.

I have, &c.,

R. W. HAY.

[Enclosure No. 1.]

MR. ALEXANDER RILEY TO UNDER SECRETARY HORTON.

Sir, 11 Panton Square, Haymarket, London, 9th June, 1825.

I take the liberty of representing to you that, having been many years resident in New South Wales, I have been induced, from my experience of the climate and pasture, to make arrangements for procuring, without limit to cost, Two Hundred of the finest fleeced Sheep obtainable in Saxony, for transmission to Port Jackson, which my agents have at length, under many difficulties, fortunately succeeded in selecting from the most celebrated flocks in the Electorate.

Saxon sheep
procured for
colony.

The objects, I have before me in this undertaking, are the hopes of largely contributing to lay the foundation of enabling the Territory to as speedily eclipse the German, as it has already successfully vied with the Spanish Wools. To forward the accomplishment of so desirable a result, I shall in January next begin breeding from the pure ewes in distinct flocks, and, at the same time, commence ennobling the produce of a Thousand of the best ewes at present procurable in the Colony; furnishing also, after the first season, such other Sheepholders in the Settlements, as are desirous of improving their Wools, with Rams of the full Electoral Blood.

Objects of
importation.

I am persuaded to present these prospects to your notice from the incapability, I feel of adequately accomplishing them without a much greater extent of grazing Land than I at present possess, which, from the considerable expenditure attending the outset and progress of my measures, I shall be unable to afford purchasing, not hoping for any remunerating profit from the Saxon Sheep under Eight or Ten Years, as I cannot estimate their cost

Application for
land grant.

* Note 1. † Note 16.

1825.
15 July.

Application for
land grant.

Quality
of sheep.

Career of
A. Riley
in colony.

Proposed
area of
land grant.

alone on landing at Port Jackson at less than Four Thousand Pounds; and, under such circumstances, I venture to solicit your favorable recommendation to the Rt. Honble. Earl Bathurst that he would be pleased to permit me a free Grant of Land of such amount, as it may be judged proper to extend, in support of the most extensive undertaking yet attempted by an Individual.

The qualities of the animals I have imported so far exceed even my own most sanguine expectation, that I cannot refrain requesting you to take the trouble of inspecting the samples of their different fleeces; they have been examined by the first Judges, who have pronounced them to be the most superior yet seen in this country; and I should be proud, if you shall see it proper to depute any persons to see the Sheep previous to their early embarkation, that an adequate opinion may be formed by His Majesty's Government of the future result to be expected from my humble endeavors.

In the hope it may not diminish your favorable view of my solicitation, I beg permission to acquaint you that I discharged the duties of a Magistrate in the Colonies fourteen years, and that, during that period, I was honoured with the several acknowledgements of Governor King, Lieut. Governor Patterson, and General Macquarie, of services I had rendered the Settlements; permit me further to assure you that, in my long residence in the Colonies of Van Diemen's Land and New South Wales. I was not otherwise an idle inhabitant, having, previous to my leaving there, expended Ten Thousand Pounds in Building at Sydney, and in the purchase, improving, and in Buildings on my Land; and that, including this amount, I have now the full Sum of Twenty four Thousand Pounds engaged in the interests of the Territory, not looking to my present engagements with the Saxon Sheep.

I have, &c.,

ALEXR. RILEY.

[Enclosure No. 2.]

MR. ALEXANDER RILEY TO UNDER SECRETARY HORTON.

Sir, London, 62 Haymarket, 10th June, 1825.

In consequence of the interview you favoured me in reference to my application, made yesterday's date, for a Grant of Land in New South Wales, permit me to solicit that you will recommend to the Rt. Honble. Earl Bathurst to be pleased to permit a Grant of five Thousand (5,000) Acres without purchase on the principle stated in the Regulations,* dated at the Colonial Office, November, 1824, to be effected in my favor through my Agent at Sydney, with a reservation of Five Thousand additional acres adjoining the same, if such contiguity should appear desirable on fixing the situation of the Land, so that I may be

* Note 17.

enabled, as early as I may have occasion, to be also put in possession of this additional allotment on the terms equally provided in the above mentioned Regulations.

1825.
15 July.

Having superintended the education of two Nephews* expressly to enable them to proceed to New South Wales as Agriculturists, and they having through their Father, now residing at Sydney, property sufficient to enable them to respectably enter on their destined profession, I take the further liberty of soliciting a Grant of Two Thousand Five Hundred (2,500) Acres for each of them on terms, similar to those, affecting the Grants I have prayed for myself; and, as I am persuaded their Father will possess them both with full means of spiritedly following up their Colonial pursuits, that they may also have the same quantity of 2,500 Acres reserved, adjoining each of their first Grants, so that they may hereafter be enabled, under the Governor's sanction, to purchase the same as early as it may become desirable to them.

Land grants
requested for
E. and G. Riley.

The father of these young men and myself having considerably improved Lands in the Colony, it will be greatly facilitating their and my own views, if you should confer on me the additional obligation of recommending his Lordship to permit instructions to be given that the above Grants and reservations shall be allotted as near to these possessions as the present state of the Settlements will permit.

Proposed
location
of grants.

I have, &c.,

ALEXR. RILEY.

[Enclosure No. 3.]

MR. ALEXANDER RILEY TO UNDER SECRETARY HORTON.

Sir, London, 62 Haymarket, 11 June, 1825.

In reference to the letter, I had the honor of addressing you yesterday, suffer me to make you the particular request that you would be pleased to recommend to the Rt. Honble. Earl Bathurst to permit the Five Thousand Acres I have solicited to be reserved adjoining the same quantity of Land, of which I have prayed an immediate Grant, may be held open to my future purchase at the same rate of Valuation, as that which may be affixed on the first allotment. I will in addition confess I am extremely anxious to urge your interesting yourself so far in my favor as to prevail on having extended to me the more desirable privilege of having the whole 10,000 Acres at once granted, from the extent of the operations I have in contemplation; and I request to submit to your consideration, in viewing such a wish, that the value of the property, I shall directly introduce in the Colony, will exceed the total amount that can be charged on the whole of the Land in question; and that the nature of that

Special
conditions
proposed for
land grants.

* Marginal note.—Edward and George Riley.

1825.
15 July.

property, at the same time that I acknowledge I sanguinely hope it will ultimately benefit my own family, will also be the means of materially advancing the general interests of the Territory in a proportion far exceeding any other species of Capital that could be introduced into it.

I have, &c.,

ALEXR. RILEY.

[Enclosure No. 4.]

UNDER SECRETARY HAY TO MR. ALEXANDER RILEY.

Sir,

Downing Street, 14th July, 1825.

I am directed by Earl Bathurst to acquaint you, in reply to three separate communications, which you addressed to Mr. W. Horton under date the 9th, 10th and 11th of June, that his Lordship has no objection to authorize a grant of 5,000 Acres to be made to you in New South Wales, as there is no doubt that the Stock, which you are about to send out to the Colony, is of value to entitle you to that Indulgence. His Lordship will also direct a reserve of 5,000 Acres, adjoining the Land which may be thus allotted to you, to be marked out, to be permanently granted to you as soon as you shall have proved, to the satisfaction of the Government, that this additional quantity of Land is necessary with a view to the successful prosecution of your objects.

With respect to the Land, which you solicit for your two Nephews, his Lordship can only give a discretionary power to the Governor to make to each of them a Grant, in proportion to the means which they may respectively possess of bringing the same into cultivation, whenever they shall have attained the age, which is necessary to qualify them to hold the same.

I have, &c.,

R. W. HAY.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Catherine Stewart Forbes*; acknowledged by Governor Darling, 30th October, 1827.)

19 July.

Sir,

Downing Street, 19th July, 1825.

I am directed by Earl Bathurst to transmit to you the accompanying copies of a correspondence with Mr. J. Blaxland, landed proprietor in New South Wales, relative to certain complaints which he has alleged against the Colonial Government; and I am to request that you will, as soon after your arrival in the Colony as circumstances will admit of, report to me on such grounds of his complaint as appear to require elucidation.

I have, &c.,

R. W. HAY.

Land to be granted to A. Riley.

Grants proposed for E. and G. Riley.

Report required re complaints of J. Blaxland.

[Enclosure No. 1.]

1825.
19 July.

MR. SAMUEL BLAXLAND TO EARL BATHURST.

My Lord,

Walmer, near Deal, 15th Febr., 1822.

Having received from my brother, John Blaxland of New South Wales, who was encouraged by His Majesty's Government in 1806 to go out with his family as Settlers to that Colony, the Copy of a Memorial given in to the Commissioner J. T. Bigge, Esqre., on the subject of the losses and grievances, which he had experienced from a want of that support and assistance, which he was entitled to receive from the Governor, as essential for his successful establishment in the Colony and the furtherance of the intentions of His Majesty's Ministers,

Memorial of
J. Blaxland to
J. T. Bigge.

I have now the honor, with every consideration of respect, to lay before your Lordship the different heads, on which he grounds his hopes, and which, I have reason to believe, will be borne out by the Report of the Commissioner sent out to investigate the state of the Colony.

First. A number of his horses having strayed to the Government Lands, the Governor would not allow him to send after or collect them by his own Servants, but gave them in charge to the Constables, who were little interested in the search for them; and they have never been recovered to him; he estimates his loss in the value of these horses at £1,200.

Alleged loss
of horses by
J. Blaxland.

Second. The loss on giving up the lease of one Acre of Land in the town of Sydney,* wanted for public purposes, the Governor engaging to remunerate him for the same, which has never been fulfilled, £400.

Losses alleged
by surrender
of lease;

Third. A considerable loss, experienced by the Governor having allowed his brother Gregory Blaxland's men to be victualled from the store to his prejudice, after having given notice that the partnership, which had existed at one time between them, was then dissolved.

in assigned
servants;

Fourth. Having communicated officially with the Governor in regard to the selection of his allotment of Land, and having stated to him the selection he had made, and having every reason to believe, by official letters on the subject (copies of which I possess), that the Governor had consented to the same, he cleared or felled the Timber from Sixty Acres of the said Land and was afterwards not permitted to retain it, he estimates this loss at £210.

in improving
lands;

Fifth. A very serious loss, agreeable to a statement given to the Commissioner, arising from the Governor not having fulfilled that part of his contract with His Majesty's Government, by which he was to have been furnished in part with Mechanics,

and through
want of
mechanics.

* Note 18.

1825.
19 July.

in the number of men allowed him, the non-fulfillment of which obliged him to hire them at a great expence, the difference of which he states at £3,840.

Request for
compensation.

My Lord, My brother has repeatedly, though ineffectually, made Remonstrances to Governor Macquarie on the foregoing subjects, which he contends for only as his right; and now that your Lordship has an opportunity, by the return of the Commissioner, to investigate the justice of them, I have a full confidence in your Lordship's decision that a fair and equitable Remuneration will be made to him when due.

With praying Your Lordship's full consideration of the same,

I have, &c.,

SAML. BLAXLAND.

[Enclosure No. 2.]

UNDER SECRETARY HORTON TO MR. SAMUEL BLAXLAND.

Sir,

Downing Street, 7th Octr., 1823.

I am directed by Lord Bathurst to acknowledge the receipt of your applications of the 15th Feby., 1822, and the 15th June last, soliciting a decision on the different subjects of complaint, which your Brother, Mr. John Blaxland, has preferred against Governor Macquarie, namely:

Complaints
preferred
against
Governor
Macquarie.

First. The refusal of Governor Macquarie to allow sufficient time to recover several Horses, which had been sent from his Estate on the Nepean River to graze on some unoccupied Pastures on the Western side, by which he suffered severe loss.

Second. Having deprived Mr. Blaxland of a Grant of Land, which was required for the use of Government under a promise of an equivalent allotment in the Town of Sydney, which promise was not performed.

Third. Having declined to interfere in a dispute between Mr. John Blaxland and his Brother Gregory, respecting the services of Convicts, assigned to them and victualled by Government.

Fourth. Having refused to include, in Mr. Blaxland's Grant, 60 Acres of Land, on which the Timber had been already cleared, previous to its admeasurement.

Fifth. Having declined to comply with repeated Applications for Convict Mechanics.

Denial of
J. Blaxland's
grounds of
complaint.

With respect to the first Charge, it appears, from the Documents transmitted, that Prohibitions had been repeatedly published in the Sydney Gazette in 1814 to deter any person from sending Horses or Cattle to graze on the Lands in question. In defiance of which notice, your Brother sent over above 30 Horses in the same year, and neglected to avail himself afterwards of a

pass, which was to continue in force for Six Months, and which had been granted to him for the purpose of recovering them. Lord Bathurst, therefore, cannot admit that there is any ground for estimating the Loss incurred at the rate stated by Mr. Blaxland, nor that any charge of oppression is made good against the Governor for his refusal to give Passes, after your Brother had neglected to avail himself of those which had been previously granted.

With respect to the Second Charge, I have to inform you that the ground, which is, in this instance, the subject of Complaint, was resumed for Government Purposes; and, as nothing had been built on it, Lord Bathurst can only consider that Mr. Blaxland is entitled to any other vacant allotment in the Town of Sydney, subject of course to the ordinary condition of Building, which claim appears to have been allowed by the Governor.

In answer to the Third Complaint, Lord Bathurst cannot but approve of the refusal of Governor Macquarie to interfere in a dispute between the Messrs. Blaxlands, relative to the distribution of the Convicts, assigned to them by Government, as they were at that time carrying on Business in partnership; and, although your Brother John was in England, yet as he had authorized his Brother Gregory to receive the Convicts as his Agent during his absence, it could not be expected that the Governor should interfere in any private difference that might exist between them.

The Fourth Charge appears equally groundless; and Lord Bathurst cannot sanction any remuneration for the Expence of Timber, cleared beyond that already granted out of the Police Fund for that purpose. Neither does his Lordship admit any Claim for Loss in consequence of the delay occasioned in putting in Crops, etc., nor that there is any ground of complaint against the Surveyors, as it clearly appears that they were only guided in the direction, which was given to the Boundary Line of the Estate by a reference to the existing Regulations and the interest of Mr. Blaxland himself.

In the Fifth and last Charge, namely, the Want of Mechanics, your Brother has only shared the inconvenience felt by every other description of Settlers in the Colony from the want of them.

Upon a fair consideration of the above charges, Lord Bathurst does not feel that there is any ground of complaint against Governor Macquarie; and his Lordship, at the same time, directs me to acquaint you that, in the perusal of the Correspondence which passed between your Brother and the Governor upon the different Subjects, above alluded to, he could not help remarking

1825.
19 July.

Denial of
J. Blaxland's
grounds of
complaint.

1825.
19 July.

expressions of violence, into which Mr. Blaxland has been betrayed, which were altogether improper in themselves, and but little calculated to produce a compliance with his request.

I am, &c.,

R. WILMOT HORTON.

[Enclosure No. 3.]

MR. JOHN BLAXLAND TO EARL BATHURST.

My Lord, New South Wales, Newington, 26th July, 1824.

Allegations
of misrepresentation.

Having received your Lordship's answer to the complaints, I had the honor to submit to Mr. Bigge, the Commissioner, while in this Colony, praying for redress, and, by your Lordship's reply, there appears to have been some misrepresentation on the different subjects, induces me again to trespass on your Lordship's time.

Loss of horses.

1st. That my Horses were put over the River Nepean before any order was issued forbidding any persons going or Stock being sent there, or it would not have been required of me to solicit a pass from the Governor to go after them for I should never have dared put them there in defiance of a publick order. Many persons had Stock grazing at the time my Horses were sent, and, if any statement has been made to the contrary, it must have originated in mistake, as the Governor never suffered his orders to be disobeyed.

That every exertion was made to recover the Horses during the time the passes were in force; but, the Country being so very Mountainous and so many difficulties presented themselves to the Men sent in pursuit of them that all our attempts were fruitless; and I trust on a further view of the subject your Lordship will consider me entitled to some redress.

Compensation
for land
resumed.

2nd. That when I asked Mr. Oxley, the Surveyor General, for one Acre of Land in the Town of Sydney* for the one taken from me, he said there was not so much unlocated. That I requested permission to have land as an equivalent, but was refused notwithstanding the Governor promised me a remuneration.

Convicts
assigned.

3rd. That the term of partnership had expired before I requested Governor Macquarie to prevent Gregory Blaxland continuing drawing Rations from His Majesty's Stores for Men whose services belonged to me, he having had a number of Men Victualled according to his agreement. The Governor was the only person I could apply to, he having controul over the Stores, and I had hoped would have shown a disposition to rectify all abuses.

Measurement
of land grant.

4th. Governor Macquarie did promise me my land to be measured in two alotments, which I considered would have been much to my intrest.

* Note 18.

I never wished to impute any blame to the Surveyors, as they only performed their Instructions from the Governor, but I have suffered very severe losses from the great delay and the changeableness of the Governor's mind.

1825.
19 July.

5th. This charge will I hope be considered by your Lordship as operating very differently than in the light it is at present viewed, as I must beg leave to state to your Lordship the circumstances under which I came to the Colony.

That, at the time Lord Hobart held the honorable situation your Lordship now fills, it was a wish of the late Sir Joseph Banks to send out some practical Farmers to this Colony, and I was asked whether I would venture to undertake so bold a step.

Agreements
made for
settlement
in colony.

That I was introduced to Sir Joseph who very kindly settled all my agreements for me with His Majesty's Ministers, for the late Lord Castlereigh and Mr. Windham were severally in the situation your Lordship now fills, before it was finally arranged.

That the inducements held out were liberal in the extreme, and I am perfectly satisfied intended by them to be carried into effect on my arrival in this Colony; but unfortunately for me, the Governors have acted contrary to my agreements, and opposed the intentions of His Majesty's Ministers in every respect; the consequences have been I have had every impediment thrown in my way, which has occasioned various appeals to your Lordship and nearly ruin to myself.

Non-fulfilment
of agreements.

But the Mechanics were a part of my original promise. I was to have them to erect my Buildings and to assist me in carrying on so extensive an undertaking. I must therefore beg leave to remark to Your Lordship that I do not stand on the same footing with other Settlers in the Colony, as I was the first who ventured to come, and I had that faith in the promises held out by His Majesty's Ministers that I could not for a moment doubt their being carried into effect. I gave up a very lucrative concern in England on the faith of the above mentioned promises, and no Individual has ever brought (even to this day) so large a Capital into the Colony, as upwards of £20,000; under all these circumstances, I trust your Lordship will afford me redress, and, as my Cattle, Sheep, and Horses have now increased so much, I find the land I possess inadequate to their support, and as part of the Cow-pasture has lately been located, may I beg of your Lordship to suffer me to have Land there, as an equivalent for the great loss I have sustained.

Request for
compensation.

I have, &c.,
J. BLAXLAND.

1825.
19 July.

[Enclosure No. 4.]

UNDER SECRETARY HORTON TO MR. JOHN BLAXLAND.

Sir,

Downing Street, 11 July, 1825.

Letter
acknowledged.

I have received the directions of Earl Bathurst to acknowledge the receipt of your letter of the 26th of July last, in reply to one which by his Lordship's direction I had addressed to your Brother Mr. Sl. Blaxland on the 7th October, 1823, on the subject of certain complaints, which you had preferred against the late Governor Macquarie.

Responsibility
for loss of
horses.

In the additional observations you have brought under Lord Bathurst's notice, you admit with reference to the first subject of complaint that many persons had stock grazing on the unoccupied pastures on the Western side of the Nepean River at the time your horses were sent there. As no complaints have been addressed by those persons to Lord Bathurst, although they must have had the same grounds for so doing, had the period granted by Governor Macquarie been insufficient for recovering their Cattle, his Lordship can only suppose that, if your Cattle were not taken up within the given time, the loss of them must be attributed to a want of diligence or exertion on your part or on that of your Agents and not from any fault of the Colonial Government.

Compensation
for resumption
of land.

Upon the second subject of complaint, namely your not having received an equivalent allotment of Land for that which you have been required to relinquish for the use of the Government, I am directed to state that a reference will be made to the Governor to enquire into the circumstances of the transactions, with a view of ascertaining the nature of the equivalent which was promised to you, and the reasons which may have prevented a compliance with it. But, until this information shall have been received, Lord Bathurst is unable to come to a satisfactory decision on the merits of this particular feature of your case.

Complaint
re assigned
servants.

With respect to the Third subject of complaint, I am directed to observe that, owing to the lamented decease of General Macquarie, the facts cannot now be correctly ascertained. But Lord Bathurst is disposed to consider that, if the abuse of which you complain did really exist, the Government rather than yourself were the parties aggrieved.

Allocation of
land grant.

As the justice of the 4th subject of complaint rests on the promise, which may have been made to you by the late Governor Macquarie, and depends also upon whether it preceded the clearing of the land in question, Lord Bathurst, in the absence of any information on your part or the production of any Documents which might establish that point, cannot come to a different

decision than that which has been already communicated to you in answer to your first petition. But, on this point also, the Governor will be instructed to furnish me with a Report.

1825.
19 July.

With reference to the concluding part of your letter, I am directed to observe that, whatever may have been the special Indulgences held out to you by His Majesty's Government, when you first determined upon emigrating to the Colony, it does not appear from anything which you have stated in your letter that those Indulgences were not afforded to you for a considerable time after your first arrival there.

Indulgences
granted to
J. Blaxland.

They could not, however, be continued for an indefinite period without prejudice to other persons, who, having contributed to the prosperity of the Colony, were equally entitled to a participation in the advantages which belong to their situation there; and his Lordship cannot therefore admit that you have any just cause of complaint because the Government were unable to supply you with the number of Artificers for which you might have had occasion.

I am directed by Earl Bathurst further to acquaint you that, as his Lordship cannot discover any particular grievance of which you have had reason to complain, his Lordship cannot on that account sanction any Grant of Land being made to you. But I am desired to add that his Lordship has no objection to authorize your receiving a Grant, provided the property which you already possess is deemed insufficient for the support of the stock, which you have at present belonging to you, and that the Capital, which you have at your disposal, is applicable to the cultivation of a larger Grant.

Question of
additional
land grant.

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

GOVERNOR DARLING TO UNDER SECRETARY HAY.

(Acknowledged by under secretary Hay, 20th July. 1825.)

My dear Sir,

Jermyn Street, 19th July, 1825.

There is a point of some importance, which I hope will be taken into Consideration by the time I shall have the pleasure of seeing you to-morrow, which is the extent to which I am to act on the promises made by my Predecessors of giving Grants to Individuals? I understand that many have been placed in temporary possession of Land, and have gone to some Expence in clearing it and putting up the Buildings necessary for their Establishments. As this has taken place, previous to the existing Regulations for the payment of a Quit Rent, etc., I beg to be informed as the Individuals in question may, and not without

Land grants
promised
by former
governors.

1825.
19 July.
Land grants
promised
by former
governors.

reason, consider it a hardship, if this regulation be enforced, whether the Grants in these Cases are to be made without reference to it?

There are also persons, who have received promises of Land, but who have not gone to any Expence in preparing it for Cultivation, or, in some cases, taken possession of it, who may also consider the promises made to them, though certainly with less reason, as binding on the Government. I, therefore, beg to be informed, previous to my departure, how I am to act with respect to the claims of this latter Class? I have, &c.,

RA. DARLING.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(A private letter per ship Catherine Stewart Forbes.*)

20 July.
Discretionary
power for
governor.

My dear Sir,

Colonial Office, 20th July, 1825.

I find on enquiry that your Instructions do not provide for the cases specified in your letter of the 19th Instant. In those cases, as well as in the others, which you have adverted to, it will be necessary for you to be guided by your own judgement, and upon a review of the circumstances, by which each particular case is distinguished.

I have, &c.,

R. W. HAY.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(A private letter per ship Catherine Stewart Forbes.*)

22 July.
Particulars *re*
L. Halloran.

My dear Sir,

Colonial Office, 22d July, 1825.

Dr. O'Halloran, a Convict at New South Wales, whose sentence of Transportation is now about expiring, has memorialized Lord Bathurst for some Indulgence or assistance being shewn to him, and his application has been strongly recommended to Lord Bathurst by Lord Gifford, who, when a boy, was placed at a school, at that time kept by Dr. O'Halloran near Exeter, and his Lordship has therefore naturally felt some Interest in his Welfare, notwithstanding the Conduct, which has brought Dr. O'Halloran to his present condition. Having referred to Mr. Hobhouse for Information respecting some part of Mr. O'Halloran's Conduct, he has sent Lord Bathurst the enclosed answer; and, under the circumstances of peculiar baseness alluded to by Mr. Hobhouse, it is impossible for Lord Bathurst to think of doing anything for him; and his Lordship has therefore desired me to put you in possession of these particulars, in order that you may be aware of all the circumstances of his case, and the sentiments entertained by Lord Bathurst with respect to him.

I have, &c.,

R. W. HAY.

* Note 1.

[Enclosure.]

1825.
22 July.

EXTRACT of a private letter from Mr. Hobhouse to Earl Bathurst, dated Whitehall, 19th July, 1825.

Particulars re
L. Halloran.

“DR. HALLORAN was transported in September, 1818, for seven years, so that his term is nearly expired. His sentence proceeded upon a Conviction for forging a Frank of Sir William Garrow; but the object of the Forgery was not to save the pence, but to accredit himself with Dr. Forester as a Curate, in which object he succeeded, and caused, in Dr. Forester’s Parish (as he had before done in some others), great confusion in respect to marriages, etc., he not being ordained, but having forged letters of Orders; and the Counterfeit Plate, from which they were printed, was found at his lodgings, when they were searched on his being apprehended.

“On his voyage, he made unfounded charges of the basest nature against the Captain of the Convict Ship, which were investigated by a Court of Enquiry at Sydney, which, on the 8th of July, 1819, adjudged them to be groundless; Halloran’s Ticket of Leave was suspended, and he soon afterwards made a written apology to the Captain.

“If I mistake not, there was at an earlier period some representation against Halloran from the Cape; but of this I do not know the particulars.”

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 7, per ship Catherine Stewart Forbes.*)

Sir,

Downing Street, 26 July, 1825.

26 July.

I have to call your attention to the situation of the Lieutenant Governor of New South Wales at present held by Lieut. Colonel Stewart of the Buffs. The officer who has been usually appointed to that situation is the Senior Lieut. Colonel commanding one of the two Regiments of Infantry stationed in that Colony, and he holds his commission as Lieut. Governor so long as his Regiment continues to be stationed there.

Appointment
to office of
lieut.-governor.

The inconvenience resulting from this arrangement is obvious, namely, that in case of the absence of the Officer holding the commission of Lieut. Governor, either from the removal of this Regiment or from other unavoidable circumstances, the duties of Lieutenant Governor cannot be discharged, until another Officer proceeds from England to fill that appointment, with respect to whom the like inconvenience may occur.

Under these circumstances, I am to direct that, in case of the death of the Officer who may fill the appointment of Lieut. Governor, or in the event of his being ordered from the Colony

* Note 1.

in the course of service, the senior officer in that Colony, being of the Rank of a Field Officer, should be appointed to succeed to that Office, until the pleasure of His Majesty, signified through the Secretary of State, be known, or unless you should see any especial reason for making a different selection.

I have, &c.,

BATHURST.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(A circular despatch per ship Catherine Stewart Forbes*; acknowledged by Governor Darling, 26th July, 1826.)

Sir,

Downing Street, 26 July, 1825.

Much inconvenience having been experienced from the want of some uniform mode, in which all Official communications should be addressed to this Department by those employed under it, and the private directions, which have been issued on this subject, not having been permanently followed in many instances, I am directed by Earl Bathurst to convey to you the following Instructions relative to the forms to be observed in your Official correspondence with this Department.

1st. You will number your Dispatches, beginning at the commencement of each year with No. 1, and proceeding with the numbers successively to the end of the year.

2nd. You will take especial care that each Dispatch and letter of a public nature shall be docketed. The docket of a dispatch to consist of the name of the place where it was written, its date, your own name, the number of its Enclosures, if any, and a short abstract of its contents.

3rd. Should you have occasion to address letters to this Office on subjects not immediately connected with the series of your Official Correspondence, but which are not of a private and confidential nature, you will not number such letters, but will mark them "Separate." If, however, you find occasion to write on subjects which are strictly of a private nature and intended only for the consideration of the Chief Secretary and Under Secretaries of State, you will not number such Letters, but will mark them "Secret and Confidential"; but it is distinctly to be understood that no letters for this Department are to be so marked, excepting such as are of so private a nature, as to prevent their being deposited with propriety among the Archives of this Department, and that all other letters be so deposited.

4th. You will as far as possible confine each Dispatch to one subject; and whenever you may be obliged to deviate from this Instruction, or are compelled to go into any lengthened detail, you will affix in the margin of each new paragraph a summary of its contents.

* Note 1.

1825.
26 July.

Appointment
to office of
lieut.-governor.

Instructions
re official
correspondence
of governor.

5th. In submitting enclosures in your Dispatches, you will state briefly in the body of the Dispatch the contents of each of the Enclosures, at the same time directing attention to such points contained in them as may appear to you to be particularly deserving of notice.

1825.
26 July.

Instructions
re official
correspondence
of governor.

6th. On the 1st January, each year, you will acquaint His Majesty's Secretary of State for the Colonial Department with the number of Dispatches and letters, which you may have addressed to this Department during the preceding year, with copies of the dockets of each dispatch and letter.

You will consider these Instructions as superseding any former directions upon the subject, which may have been given for the separate headings of the different subjects of your Colonial correspondence.

I have, &c.,

R. W. HAY.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Catherine Stewart Forbes*; acknowledged by Governor Darling, 8th February, 1827.)

Sir, Downing Street, 26th July, 1825.

With reference to the letter,† of which you have been already furnished with a copy from Captain McArthur, respecting the Establishment of a Yeomanry Militia in New South Wales, I am directed by Earl Bathurst to request that you will give the Plan therein proposed full consideration on your arrival in the Colony, and report to his Lordship the result of your opinion.

Proposed
yeomanry
militia in
colony.

I have, &c.,

R. W. HAY.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(A private letter per ship Catherine Stewart Forbes.*)

My Dear Sir, Col. Office, 26th July, 1825.

Mr. Wilmot Horton has just received the enclosed Letter from Lord Fitzroy Somerset on the subject of your desire to have the assistance of Engineer Officers, by which you will perceive the reasons which prevent the Duke of Wellington from meeting your wishes.

Proposed
employment
of engineer
officers in
N.S.W.

I remain, &c.,

R. W. HAY.

[Enclosure.]

LORD FITZROY SOMERSET TO UNDER SECRETARY HORTON.

My dear Mr. Horton, Ordnance Office, 25th July, 1825.

I have laid before The Duke of Wellington your letter of the 9 inst., containing Copies of two Letters, which you had received from Lt. General Darling, on the subject of his desire to have the assistance of Engineer Officers in New South Wales; and I am directed in reply to transmit to you, for Ld. Bathurst's

1825.
26 July.

Proposed
employment
of engineer
officers in
N.S.W.

information, the Return of the Officers of that Corps by which it will be seen that, with a few exceptions, they are already in Employment, and that those few are barely sufficient for the reliefs and other incidental Services which must be attended to.

Under these circumstances, it appears to the Duke of Wellington to be impossible to meet General Darling's wishes.

Yours faithfully,

FITZROY SOMERSET.

[Sub-enclosure.]

Return of corps
of royal
engineers.

RETURN of the state of the Corps of R^l Engineers shewing how they are employed, etc.

84 Pall Mall, 18th July, 1825.

	Colonels.	Lt. Colonels.	Captains.	Subalterns.	Total.	Remarks.
Employed	8	17	66	87	178	Although by this Return there appears to be 17 officers unemployed, it must be remarked that it is not beyond the number, usually allowed for reliefs for Foreign Stations; nor can many of them at the foreign Stations be at present relieved from the pressing demands for Officers.
Under Orders for different Stations ..	..	..	3	2	5
Vacancies at the Stations .....	..	..	..	6	6
Sick	1	4	4	3	12	
Leave .....	..	1	2	1	4
Unemployed	7	3	7	..	17	
Total strength of the Corps	16	25	82	99	222	

D. G. ELLICOMBE, Lt.-Col., R. Engineers.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 8, per ship Catherine Stewart Forbes.*)

27 July.

Commission
and
instructions *re*
government of
V. D. Land.

Sir,

Downing Street, 27 July, 1825.

With reference to my Dispatch of the 14th July transmitting two separate Commissions, one constituting you Governor of New South Wales, the other Governor of Van Diemen's Land, I deem it necessary to acquaint you, in order to prevent any misapprehension on your part as to the object with which those two Commissions have issued, that, excepting in the case of your being actually present in Van Diemen's Land, you will not consider yourself authorized to Act under the Commission which constitutes you Governor of the Island, it being intended that the two Colonies of New South Wales and Van Diemen's Land should be henceforward distinct and separate Governments.

* Note 1.

It will, therefore, be your duty, on arriving at Van Diemen's Land, to deliver over to the present Lieut. Governor, Colonel Arthur, the Instructions which accompany that Commission itself in order that he may be guided in the administration of the affairs of that Island according to the directions therein contained.

1825.
27 July.

Commission
and
instructions re
government of
V. D. Land.

I have, &c.,

BATHURST.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 9, per ship Catherine Stewart Forbes.*)

Sir,

Downing Street, 28th July, 1825.

28 July.

I do myself the honor to transmit to you herewith for your information and guidance the Copy of an Order of His Majesty in Council, dated the 14th June last, whereby the Island of Van Diemen's Land and any Islands, Territories or places adjacent, is constituted into a separate Colony† independent of the Government of New South Wales, conformable to the provisions of an Act passed in the fourth year of His Majesty's Reign.

Separation
of colony of
V. D. Land.

I have, &c.,

BATHURST.

[Enclosure.]

ORDER IN COUNCIL.

At the Court at Carlton House, the 14th June, 1825.

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

WHEREAS, by an Act of Parliament, made and passed in the Fourth year of His Majesty's Reign, intituled "An Act to provide until the first day of July, One thousand, eight hundred and twenty Seven, and until the end of the next Session of Parliament, for the better administration of Justice in New South Wales and Van Diemen's Land, and for the more effectual Government thereof, and for other purposes relating thereto," it is amongst other things enacted, That in case it shall at any time seem fit to His Majesty, His Heirs and Successors, to constitute and erect the Island of Van Diemen's Land, and any Islands, Territories or Places thereto adjacent, into a separate Colony, independent of the Government of New South Wales, it shall and may be lawful for His Majesty, His Heirs and Successors, by any Order, to be by Him or Them issued, by and with the advice of His or Their Privy Council, to commit to any Person or Persons within the said Island of Van Diemen's Land and such Islands, Territories or places as aforesaid, such and the like powers, Authorities and Jurisdictions, as by virtue of that Act, or of any other Act of Parliament, are or may lawfully be committed to any Person or Persons within the Colony of New

Order-in-council
separating
governments
of V. D. Land
and N.S.W.

* Note 1. † Note 20.

1825.
28 July.

Order-in-council
separating
governments
of V. D. Land
and N.S.W.

South Wales and its Dependencies, subject nevertheless to all such and the like Restrictions, Provisoos and Declarations, as are thereinbefore made and contained; And it is further enacted that thereupon the Appeal, thereinbefore granted to the Governor of New South Wales and its Dependencies, from the Judgments, Decrees, Orders and Sentences of the Supreme Court of Van Diemen's Land, shall cease and determine; and that, from and after the making of any such Order, all Instruments, in writing whereby any Governor or Acting Governor of Van Diemen's Land and its Dependencies, shall remit or shorten the term or time of Transportation of any Felons or other Offenders, shall have such and the like force, effect and virtue in the Law, as any such Instruments in writing, to be made by any Governor or Acting Governor of New South Wales and its Dependencies, can or may lawfully have by virtue of a certain Act, passed in the Thirtieth year of the Reign of His late Majesty King George the Third or by virtue of the said Act. And whereas it hath seemed fit to His Majesty to constitute and erect the Island of Van Diemen's Land and certain Islands, Territories and places thereto adjacent, into a Separate Colony, independent of the Government of New South Wales, and there hath this day been read at this Board the Draft of a Commission to be passed under the Great Seal appointing Ralph Darling, Esquire, Lieutenant General in His Majesty's Forces, the First Governor of the said Island of Van Diemen's Land and of the said Islands, Territories and places thereto adjacent, as aforesaid, It is hereby ordered by His Majesty, by and with the advice of His Privy Council, that there shall be committed, and His Majesty doth hereby, by and with the Advice aforesaid, and in pursuance and execution of the powers in that behalf vested in Him in and by the said Act of Parliament, commit to such Persons, as hereinafter mentioned, within the said Island of Van Diemen's Land and the said Islands, Territories and places thereto adjacent, such and the like powers, Authorities and Jurisdictions, as by virtue of the said Act or any other Act of Parliament are or may lawfully be committed to any Person or Persons within the Colony of New South Wales and its Dependencies (that is to say) His Majesty doth hereby, with the advice aforesaid, commit to the said Lieutenant General Ralph Darling, or to such Person or Persons as may or shall hereafter, by or in pursuance of any Commission under the Great Seal, be appointed to be Governor or Lieutenant Governor, or be authorized to administer the Government of the said Island or Colony of Van Diemen's Land, and such Islands, Territories and Places as aforesaid, all such and the like powers, authorities and Jurisdictions, to be by him

and them exercised within the said Island and its said Dependencies, as by virtue of the said Act or any Act of Parliament are or may lawfully be committed to the Governor or Acting Governor of the Colony of New South Wales. And His Majesty doth hereby, with the advice aforesaid, commit to John Lewis Pedder, Esquire, the present Chief Justice of the said Island of Van Diemen's Land, or to the Chief Justice thereof for the time being, such and the like Powers, Authorities and Jurisdictions to be by him exercised within the said Island and its said Dependencies, as by virtue of the said Act or of any Act of Parliament are or may lawfully be committed to the Chief Justice of New South Wales. And His Majesty doth hereby, with the advice aforesaid, and in pursuance of the said Act of Parliament, commit to such Persons, as shall by any Warrant or Warrants under His Sign Manual be constituted and appointed to be the Legislative Council of the said Island of Van Dieman's Land and its Dependencies, such Persons not exceeding Seven, nor being less than Five, such and the like Powers, Authorities and Jurisdictions to be by them exercised within the said Island of Van Dieman's Land and its Dependencies, as by virtue of the said Act or of any other Act of Parliament are or may lawfully be committed to the Members of the Council of New South Wales. Provided always, and it is hereby, in pursuance of the said Act of Parliament, Ordered and declared that the Powers, Authorities and Jurisdictions, so committed as aforesaid to the Governor or Acting Governor and to the Chief Justice and to the Members of the Legislative Council of the said Island of Van Dieman's Land and its Dependencies, shall by them and each of them be exercised and enjoyed, subject to all such and the like restrictions, Provisoos and Declarations, as in the said Act of Parliament are made and contained; and it is hereby, by virtue of and in pursuance of the said Act, declared that the Appeal in the said Act of Parliament, granted to the Governor of New South Wales and its Dependencies from the Judgments, Decrees, Orders and Sentences of the Supreme Court of Van Dieman's Land, shall cease and determine; and that all Instruments in Writing, whereby any Governor or Acting Governor of Van Dieman's Land and its Dependencies shall remit or shorten the term or time of transportation of any Felons or other Offenders, shall have such and the like force, effect and virtue in the law, as any such Instruments in Writing, to be made by any Governor or Acting Governor of New South Wales and its Dependencies, can or may lawfully have by virtue of the Act of Parliament, passed in the 30th Year of the Reign of His late Majesty King George the Third, intituled, "An Act for enabling

1825.
28 July.

Order-in-council
separating
governments
of V. D. Land
and N.S.W.

1825.
28 July.
Order-in-council
separating
governments
of V. D. Land
and N.S.W.

His Majesty to authorize the Governor or Lieutenant Governor of such places beyond the Seas, to which Felons or other Offenders may be transported, to remit the sentences of such Offenders," or by virtue of the said Act, passed in the Fourth year of His Majesty's Reign. And it is hereby further Ordered that this present Order shall be in force, and take effect from and after the time of the publication thereof within the said Island of Van Dieman's Land, and not before; and that the same shall be so published in the said Island by a Proclamation to be for that purpose issued by the Governor, Lieutenant Governor, or Person Administering the Government thereof, in the Name of His Majesty. And The Right Honorable Earl Bathurst, one of His Majesty's Principal Secretaries of State is to give the necessary Directions herein accordingly.

C. C. GREVILLE.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(A private letter per ship Catherine Stewart Forbes.*)

My dear Sir,

28th July, 1825.

On the arrival of your Instructions, etc., which will be sent off to you this Night, there will be no necessity for our detaining you longer, and I am sorry that it should have been necessary to retard your departure (particularly as the wind has been fair) so long as we have done. The Minute of the Treasury, referred to in Lord Bathurst's Dispatch No. 6, is not yet issued officially. The fact is Mr. Hill has had some conversation with Lord Bathurst on the subject of the arrangement meant to be adopted with respect to the responsibility of the different Governors as to the administration of the Revenue, and the allusion was made to it in the Dispatch under the expectation that it would have been communicated to us officially before your departure. However, it does not materially signify at present and we will take care to send you the Minute hereafter.

Administration
of revenue.

The agreements with the Van Diemen's Company were inadvertently forwarded to you instead of the Proposals of the Australian Company; the former should have been put up in a Dispatch to Colonel Arthur. You will, therefore, much oblige me in return for *your paper* to send me back the other.

Transmission
of agreements.

The Instruction, respecting the date from which Mr. Bannister's Salary as Attorney General is to be paid to him, is intended to apply *generally*. I am not aware that I have anything to add than to wish you a prosperous and speedy voyage with the enjoyment of Health.

Salary of
S. Bannister.

I remain, &c.,

R. W. HAY.

* Note 1.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Per ship Catherine Stewart Forbes.*)

1825.
30 July.

Sir,

Downing Street, 30th July, 1825.

I herewith enclose to you copy of a letter from Sir James Shaw in behalf of two gentlemen, Messrs. John and David Campbell, of respectable connexions in Ayrshire, who wish to proceed as Settlers to New South Wales; and I am directed by Earl Bathurst to request that you will make such Grants to Messrs. John and David Campbell upon the usual conditions, as in your opinion they are capable of bringing into cultivation, and that you will render them any facility in your power consistently with what may be due to other Individuals.

Recommendation of J. and D. Campbell for land grants.

I have, &c.,

R. W. HAY.

[Enclosure.]

SIR JAMES SHAW TO UNDER SECRETARY HAY.

Dear Sir,

London, 25th July, 1825.

I am honored by your letter of this date, acquainting me that a reference had been made to me for the information of Lord Bathurst on the part of Messrs. John and David Campbell, who had applied for permission to proceed as Free Settlers to New South Wales, in respect of their respectability and being possessed of Property to the extent of £2,000.

Testimony in favour of J. and D. Campbell.

In reply, I am enabled to inform you that those young gentlemen are the younger sons of the late Mr. Campbell, of Treesbanks in Airshire, of an ancient family and highly connected. The Estate, which is a close entail, is in the possession of the elder brother, and may be of the value of £2,500 a year. I fear the widow, with these two young men, and I believe four daughters, like other Dowagers and younger children in entailed properties are obliged to struggle between their gentility and fortune. What that fortune is, I am not informed; but between the two young gentlemen, I think it cannot fall short of what they have put it at namely £2,000. Sir James Montgomery Cunningham, now Irvine, is the Uncle of the Messrs. Campbell, and the late Sir Alexander Boswell was their Cousin, and, together with Sir James Cunningham and Mr. Reid of Adamton near Air, was their Guardian. Lady Hastings, I have reason to believe, is not very distantly related to this family. From my knowledge of Lord Bathurst, I am satisfied he will be disposed to serve these young adventurers; and it may I hope be in his power, I am sure it is in his disposition, to give the eldest brother John Campbell some official post in the Colony to assist them in this their outset upon a New World.

I have, &c.,

JAS. SHAW.

* Note 1.

EARL BATHURST TO GOVERNOR DARLING.

1825.
31 July.

(Despatch No. 10, per ship Catherine Stewart Forbes.*)

Sir,

Downing Street, 31 July, 1825.

Grant made
to London
missionary
society.

I have received a Dispatch from Sir Thomas Brisbane, dated the 8th February last, reporting that he had made over to the London Missionary Society a Tract of 10,000 Acres in furtherance of their endeavours to improve the condition of the Native Inhabitants of New South Wales; and his dispatch is accompanied by a copy of the Deed by which this Land has been assigned in Trust to the Members of the Society.

Approval of
land grant.

I have in reply to convey to you His Majesty's approbation of the Grant, which has been reserved by Sir Thomas Brisbane in furtherance of the object in question. I am not aware that there is any objection to the terms, upon which it is proposed that the Trustees should hold the Land; but it appears very necessary that the condition, alluded to in the last paragraph of Sir Thomas Brisbane's Dispatch, "for securing the reversion of the Land to the Crown in case of the failure of the present project," should be attached to the Grant which it is proposed should be made.

I have, &c.,

BATHURST.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 11, per ship Catherine Stewart Forbes.*)

Sir,

Downing Street, 1st August, 1825.

1 Aug.

Salary of
colonial
secretary.

His Majesty having been graciously pleased to direct that the Salary of the Colonial Secretary should be raised from its present amount of £1,200 per annum to £2,000, at which rate it will be issued to Mr. Goulburn's successors, I am to direct that a retrospective salary at the above rate should be issued to Major Goulburn from the 1st January, 1824; and you are hereby authorized to pay to him out of the Police Fund a sufficient sum to make up the difference, which may have accrued to him from that date until the day on which Mr. McLeay may enter upon the duties of the above Office.

I am, &c.,

BATHURST.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Catherine Stewart Forbes.*)

Sir,

Downing Street, 2 Aug., 1825.

2 Aug.

Land grant to
be confirmed
to M. Price.

I herewith enclose to you a copy of a letter received from Mr. Morgan Price, who states that he has made four voyages as Surgeon and Superintendent of Convicts to New South Wales, requesting that a Reservation of 1,200 Acres, made to him by Sir

Thomas Brisbane, might be confirmed; and I am directed by Earl Bathurst to request that you will cause such Grant to be confirmed to Mr. Morgan Price provided that there does not appear any objection, upon the terms and according to the principles laid down in your Instructions.

1825.
2 Aug.

Land grant to be confirmed to M. Price.

I am, &c.,

R. W. HAY.

[Enclosure.]

MR. MORGAN PRICE TO EARL BATHURST.

My Lord, 14 Clements Inn, Strand, 27th July, 1825.

Permit me most respectfully to State to your Lordship I have made four voyages as Surgeon Superintendent of Convicts to New South Wales; on a former of which Voyages I purchased some Horned Cattle, and that, I found on leaving the Colony in February last, had considerably increased under the care of a friend to whom I entrusted the management of them. His Excellency Sir Thomas Brisbane having indulged me with a reservation of Twelve Hundred acres for Eighteen months, I therefore most submissively beg your Lordship's indulgence by confirming it as a grant, in order that I may be able to fix on an establishment, and to proceed by a further outlay of Capital to the improvement and purchase of fine wool Sheep, preparatory to my returning to the Colony on leave of absence on half Pay.

Request for confirmation of land grant.

I have, &c.,

MORGAN PRICE, Surgeon, R.N.

UNDER SECRETARY HAY TO GOVERNOR DARLING.
(Despatch per ship Catherine Stewart Forbes.*)

Sir, Downing Street, 3rd August, 1825.

3 Aug.

In addition to my letter to your Excellency of the 15th Ultimo regarding a Grant of Land for Mr. Alexander Riley, I am directed by Earl Bathurst to forward the enclosed copy to you of a letter from that Individual; and his Lordship requests me to add that he has no objection to a compliance with the request therein contained, provided there does not appear to you to be any objection to his receiving such further indulgence.

Transmission of letter from A. Riley.

I am, &c.,

R. W. HAY.

[Enclosure.]

MR. ALEXANDER RILEY TO UNDER SECRETARY HAY.

Sir, 11 Panton Square, 15th July, 1825.

I beg through your favour to express to the Rt. Honble. Earl Bathurst my acknowledgment of the obligation his Lordship has conferred in meeting the wishes I had expressed for a Grant of Land to further the objects I have in view in New South Wales.

1825.
3 Aug.

Request for
land to be
reserved for
E. and G. Riley.

His Lordship having seen it proper to defer directing immediate Grants of Land being made to my Nephews, suffer me to further request you will lay before Earl Bathurst my respectful solicitation that he would be pleased to permit instructions being forwarded to the Government in New South Wales that, provided it is made apparent they have Stock requiring Land, and are in other respects eligible from their Agricultural Capabilities, the indulgence may be afforded them of the Occupancy of a Location until their Age shall warrant their receiving a final Grant of the same.

I have, &c.,

ALEXR. RILEY.

COMMISSIONERS OF NAVY TO GOVERNOR DARLING.

3rd August, 1825.

MR. E. BARNARD TO GOVERNOR DARLING.

3rd August, 1825.

[Copies of these letters, acknowledged by Governor Darling, 3rd February and 24th April, 1826, are not available.]

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 12, per ship Catherine Stewart Forbes.*)

4 Aug.

Compensation
to A. Macleay
in lieu of
pension.

Sir,

Downing Street, 4 August, 1825.

Mr. McLeay,† who has been appointed Colonial Secretary at New South Wales, will be precluded, whilst he holds that Office, from receiving a pension of £750 per annum granted to him in consideration of his past public Services; and it has been necessary to consider in what manner a compensation to the amount above specified can best be provided for Mr. McLeay, over and above the salary of the Office which is fixed at £2,000 per annum. As this rate of Salary was established with an understanding that the customary fees payable to the Secretary should be placed to the credit of the public, they will, it is conceived, form a source from which the additional allowance to Mr. McLeay, in lieu of his pension, may at least to a certain extent be drawn. Should the amount of these fees within the year appear (by Returns to be certified in such manner and form as you shall judge proper) to have fallen short of the sum of £750, you will consider yourself authorized to make good the deficiency from any fund at your disposal; And in the event of their exceeding that Sum, the surplus is to be carried to the public account according to the original Regulation.

No future claim to any additional allowance can be grounded on this arrangement, which has been adopted in consequence of

* Note 1. † Note 21.

the particular circumstances of the case, and the relinquishment by Mr. McLeay of a pension of £750 per annum, more especially as the public, even in the present instance, will not be subjected to any expence beyond the fixed regular salary of the Secretary.

1825.

4 Aug.

No precedent to be established.

I have, &c.,

BATHURST.

MR. E. BARNARD TO GOVERNOR DARLING.

8th August, 1825.

8 Aug.

10th August, 1825.

10 Aug.

[Copies of these two letters, acknowledged by Governor Darling, 24th April, 1826, are not available.]

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Catherine Stewart Forbes.*)

Sir, Downing Street, 13th August, 1825. 13 Aug.

I am directed by Earl Bathurst to transmit to you the enclosed letter received from Lieut. Lamb, who is desirous of receiving an extension of the Grant of Land assigned to him previously to his leaving N. S. Wales, and I have to convey to you his Lordship's authority for complying with Mr. Lamb's request, should it appear upon his return to the Colony that he possesses Capital adequate to the cultivation of the additional Grant, independently of that already assigned to him.

Additional land grant for W. B. Lamb.

I have, &c.,

R. W. HAY.

[Enclosure.]

LIEUTENANT LAMB TO UNDER SECRETARY HORTON.

Sir, 33 Mark Lane, 11th August, 1825.

I beg that you will be pleased to represent to Lord Bathurst that, when I was last year at New South Wales, the Governor was pleased to grant me 1,200 Acres of Land, and that, being about to return to the Colony with ample means for the cultivation of more soil, I shall feel obliged if his Lordship will direct that the Grant shall be extended to three thousand Acres.

I have, &c.,

W. B. LAMB, Lieut't, R.N.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Catherine Stewart Forbes.*)

Sir, Downing Street, 14 August, 1825. 14 Aug.

I am directed by Earl Bathurst to transmit to you the enclosed copy of a letter received from Major Bussche, who has retired from the Ceylon Regt. and states his intention of settling

Recommendation of L. D. Bussche for land grant.

1825.
14 Aug.
Recommendation of
L. D. Bussche
for land grant.

in New South Wales, and I am to request that you will make to him a Grant of Land equal to the means of cultivation which he may possess, and that you will afford to him every facility in the selection of the same, that may not be inconsistent with the claims of other Individuals.

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

[Enclosure.]

MAJOR BUSSCHE TO EARL BATHURST.

My Lord, Colombo, Ceylon, 22d February, 1825.

Application of
L. D. Bussche
for land grant.

After having served His Majesty with Honor and Credit for 19 Years as an Officer, and having lost my Health from constant Service in tropical Climates, I have been under the necessity of relinquishing my Commission, to secure some support for my large family, and, being advised in the most serious Manner to repair to a milder Climate, and too poor to think of returning to Europe, I humbly beg that Your Lordship would be graciously pleased to direct that a grant of Lands in New South Wales and Van Diemen's Land be made to me, with such other advantages and assistance from Government, as are allowed to Settlers on the largest Scale, where I wish to settle with my Wife and 4 Children. With exertion and industry, I may be able, under Almighty Providence and the Bounty of Your Lordship, to secure to my Family some Competency for the future.

I shall endeavour to await in this Island Your Lordship's gracious decision, but, as my Health may oblige me to leave this before it can arrive, I humbly beg Your Lordship may be pleased to direct that a duplicate of the Grants may be sent for me to New South Wales and Van Diemen's Land, and with the greatest respect,

I have, &c.,
L. D. BUSSCHE,
late a Captain, Ceylon Regt.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 13, per ship Catherine Stewart Forbes.*)

15 Aug.
Instructions re
payment of
salary to
A. McLeay.

Sir, Downing Street, 15th August, 1825.

With reference to my Dispatch No. 12 of the 4th Instant on the subject of Mr. McLeay's Salary and Allowances, I deem it necessary to acquaint you, in order to obviate the possibility of future mistakes, that Mr. McLeay will be entitled to receive half the amount of his Salary as Colonial Secretary from the day on which he may embark for New South Wales, and that he will not begin to receive his full Salary until such time as he may enter upon the duties of his Office.

* Note 1.

The allowance of £750 per annum, which you are authorized to make to Mr. McLeay in consideration of his being obliged to relinquish his Pension, so long as he holds the Office of Colonial Secretary, will be issued to him from the date at which his pension chargeable on the Navy Estimates may cease to be paid, namely the day of his Embarkation.

I have, &c.,

BATHURST.

1825.
15 Aug.

Payment of
allowance in
lieu of pension.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 14, per ship Catherine Stewart Forbes.*)

Sir, Downing Street, 16 August, 1825.

16 Aug.

I have to acknowledge the receipt of Sir Thomas Brisbane's Dispatch No. 38 of the 20th February last, communicating the death of Mr. Mileham, Senior Assistant Surgeon on the Staff of N. S. Wales, and enclosing for my consideration a Memorial from his Widow, praying that she might receive some allowance in consideration of the services of her late husband.

Pension granted
to widow of
J. Mileham.

It is only under the very peculiar circumstances of this case, and the exertions of Mr. Mileham in the performance of his duty as represented by Sir Thomas Brisbane, that I have been induced to sanction a small allowance being made to Mrs. Mileham in the shape of a Pension; but I have at the same time to desire that that allowance may not exceed £200 per annum.

It must, however, be understood that this Indulgence is only granted as a temporary provision, and that it can only be continued to her so long as she may remain without any other means of subsistence.

I have, &c.,

BATHURST.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 15, per ship Catherine Stewart Forbes.*)

Sir, Downing Street, 17th August, 1825.

17 Aug.

With reference to my Dispatch of the 22nd of July, 1824, to Sir Thomas Brisbane, in which he was directed to take measures for the reoccupation of Norfolk Island, to which place the worst description of Convicts might be sent, I do myself the honor of transmitting to you the enclosed copy of a letter, which has been addressed to my Under Secretary by Major Morisset of the 48th Regt., whose experience in the management of Convicts points him out as a very fit person for the situation of Commandant of the new Establishment about to be formed in that Island; and I have therefore to acquaint you that in the event of your not having, previously to the receipt of this Dispatch, made any arrangements for the appointment of Captain Rossi, at

Recommendation of J. T. Morisset as commandant at Norfolk island.

* Note 1.

1825.
17 Aug.

Recommendation of J. T. Morisset as commandant at Norfolk island;

or as superintendent of police at Sydney.

present Superintendent of Police at Sydney to the former situation, in pursuance of the directions with which you have been furnished on that subject, I would strongly recommend the appointment of Major Morisset to the situation of Commandant of Norfolk Island, with such reasonable Salary and Emoluments as you may consider it proper to attach to that Office; or if you should consider it more to the advantage of His Majesty's Service that Major Morisset should be retained at Sydney in execution of the Office of Superintendant of Police in the room of Captain Rossi, you will consider yourself at liberty, notwithstanding my recommendation of the former Officer for the appointment of Commandant of Norfolk Island, to carry that arrangement into effect.

I have, &c.,

BATHURST.

[Enclosure No. 1.]

MAJOR MORISSET TO UNDER SECRETARY HORTON.

No. 4, Upper Bedford Place, Russel Square,

Sir,

2d Augt., 1825.

Application for office of commandant at Norfolk island.

Having had under my charge and Government the Penal Settlement of Newcastle on Hunter's River, New South Wales, near *Five Years*, and was also Commandant of the Settlement of Bathurst over the Blue Mountains, the duties of which I fulfilled to the satisfaction of the late Governor Macquarie, as also the present Governor Sir Thomas Brisbane (to whose last dispatches I beg leave to refer you), as well as Mr. Bigg, the Commissioner of Inquiry, all of whom were pleased to express their approbation in terms highly flattering to my feelings, which testimonials I now possess and have the pleasure to enclose Copies of them, with the request that you will do me the honor to lay them before Lord Bathurst with the hope that my past services and long experience in the management of Convicts may induce his Lordship to think me qualified and worthy the honor of being appointed to the Government of Norfolk Island.

Should his Lordship condescend to favor my request, I feel confident I could, after the first Three Years, relieve Government from every expense for the maintenance of the Convicts placed under my charge except something trifling for Clothing.

I have written to Mr. Goulburn agreeable to your suggestion, requesting him to do me the favor to send to your Office the testimony he received from his Brother, the Colonial Secretary in New South Wales, of my capability and experience in the management of Convicts.

Begging to apologize for thus intruding on your time,

I have, &c.,

J. T. MORISSET, Captn. 48th Regt., Major.

[Enclosure No. 2.]

1825.
17 Aug.

EXTRACT from the Report of the Commissioner of Enquiry on
the Colony of New South Wales, Page 118.

[*This extract was the last paragraph of section vi.*]

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 16, per ship Catherine Stewart Forbes.*)

Sir, Downing Street, 19th August, 1825. 19 Aug.

The Lords Commissioners of the Admiralty having been
pleased to appoint you Vice Admiral over the Vice Admiralty
Court at New South Wales, I do myself the honor of transmitting
the Letters Patent which have been issued on that occasion.

I have, &c.,

BATHURST.

[Enclosure.]

[*A copy of these letters patent is not available.*]

EARL BATHURST TO GOVERNOR DARLING.

(A circular despatch per ship John Barry.)

Sir, Downing Street, 20th August, 1825. 20 Aug.

As I deem it necessary that you should be officially made
acquainted with the Regulations, which have passed both Houses
of Parliament during the last Session relative to Trade and
Navigation, I do myself the honor of transmitting to you here-
with, for your information and guidance, copies of all such
recent Acts of Parliament as may relate to that Subject.

I have, &c.,

BATHURST.

[Enclosures.]

[*These were copies of the acts of 6 George IV, cap. 73, 105, 109,
110, 111, and 114.†*]

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 17, per ship Catherine Stewart Forbes*; acknowledged by Governor Darling, 2nd May, 1826.)

Sir, Downing Street, 22nd August, 1825. 22 Aug.

The Secretary of State for the Home Department having
informed me that it is very material that he should be made
acquainted with the names of those Convicts who may have
escaped from New South Wales, I have to desire that you will
furnish me annually with a List of such persons, for the pur-
pose of being communicated to Mr. Secretary Peel, and I have
at the same time to request that he may be furnished, by regular
opportunities, with a series of Sydney Gazettes.

I have, &c.,

BATHURST.

* Note 1. † Note 22.

1825.
22 Aug.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 18, per ship Catherine Stewart Forbes.*)

Sir, Downing Street, 22nd August, 1825.

Returns
of effects of
deceased
persons.

I have to request that you will furnish me with any information which you may be able to obtain as to the effects of the Persons, named in the margin,† who have been transported to New South Wales and are supposed to have died there, and I beg to refer you for more particulars respecting these Persons to the enclosed letters of enquiry from the Relations of the Parties.

I have, &c.,

BATHURST.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 19, per ship Prince Regent.)

24 Aug.

Sir, Downing Street, 24th August, 1825.

Queries
submitted by
attorney-
general.

I have received Sir Thomas Brisbane's Dispatch of the 8th February last (No. 29) submitting various points, which the Attorney General of New South Wales has considered deserving of reference to His Majesty's Government connected with the general administration of the Law in that Colony.

Upon considering attentively the nature of these enquiries, it appears that a few of them admit of a distinct answer. I shall therefore begin my observations by merely pointing out such of them as have appeared of the latter description, and shall then proceed to advert to those which are more capable of explanation.

Validity
of certain
English statutes
in the colony.

To the first question proposed by the Attorney General, I hope shortly to be able to return a satisfactory answer, (It is whether Acts of Parliament, made subsequent to the first occupation of the Colony and before the enactment of the Statute 4th Geo. cap. 96, do or do not extend to New South Wales) as a question, precisely similar in principle with this, was a short time since proposed to the Law Offices of the Crown in reference to the Island of Newfoundland, and as their decision of the one case will involve the determination of the other.

Interpretation
of 4 Geo. IV,
c. 96.

The second enquiry is in substance whether certain clauses in the New South Wales Act have or have not the effect of extending to New South Wales that part of the Law of England, which has been enacted by Parliament since the first occupation of the Colony? It will be necessary during some time in the course of the next Session to introduce into Parliament a Bill for continuing and amending the New South Wales Act; and, as it does not appear to be necessary with a view to the decision of any practical question now depending, I should not wish to pledge myself to any Official Interpretation of it during that short interval.

* Note 1. † Jno. Kennedy, Benjn. Barrow, Wm. Walsh, John Ryan.

To the third question, proposed by the Attorney General, viz: whether a transported Felon, who during the term of his service may have committed a new felony, is to be tried and punished like any other person, or whether "he is subject to a kind of criminal equity," I am unable to furnish a reply. If he will state what is meant by the term "Criminal Equity," I may perhaps be better able to resolve his doubts.

1825.
24 Aug.

Legal status of transported felon.

The fourth question, whether it may not be prudent to allow the Governor of New South Wales to licence foreign built vessels to carry on the Trade of the Colony and of the South Seas, rests exclusively within the cognizance of the Board of Trade; and I fear that their Lordships would hardly be able to pronounce any decision upon it, without some explanation of the circumstances and reasons which have led to the suggestion being made. According to the Provisions in the Act passed last Session, no such power is reserved to the Governor of New South Wales.

Proposed licensing of foreign vessels for colonial trade.

For an answer to the fifth Question respecting the Registering of British Vessels, I should refer the Attorney General to the Act by which the particular one, to which he alludes, has been repealed, and the whole system of Custom House Regulations altered.

Registration of British vessels.

The sixth Question, relating to the limits of the Jurisdiction of the Colonial Courts, as defined by Sir Thomas Brisbane's Commission, does not now require any answer, in consequence of the revocation of that Commission and the issuing of a new one in the case of his Successor.

Jurisdiction of colonial courts.

The Seventh enquiry is thus expressed "what are the effects of an Infamous Judgement on the several Classes of Transported Felons?" Those effects are of course very numerous, but, without being apprized as to what is the particular difficulty to which the Attorney General's enquiry points, it would be almost impossible to obtain any information on the subject which would lead to any practical utility.

Effect of an infamous judgment.

It now remains to notice such of the questions proposed by the Attorney General as appear to be capable of receiving a satisfactory answer.

First.—He wishes to be informed whether a pardon by the Governor under the public seal of the Colony, issued in pursuance of his Commission, will restore the competency of the pardoned felon to bear witness, it being assumed that the conviction has taken place in the Colony, and that the judgement was what is termed an "infamous" Judgement.

Legal status of an emancipist.

Upon this subject, I have obtained a competent legal opinion, and the following is the result. That the Laws of the Colony

1825.
24 Aug.

Legal status of
an emancipist.

must coincide with the Law of England, which provides that, after a Conviction or Attainder, even for Treason or Felony, the pardon of the King, under the Great Seal, restores the credit of the party pardoned, so as to render him a competent Witness. That the distinction in the Conviction for perjury is taken, between a Conviction at Common Law and a Conviction upon a particular Statute. In the former case the pardon does, in the latter it does not restore the credit of the party pardoned. It is conceived that in the Colonies a pardon under the public Seal is precisely equivalent to a pardon under the Great Seal in England, because the power of pardoning is expressly delegated to the Governor by an Instrument under the Great Seal.

Practice with
regard to
escheated
property.

Secondly.—The Attorney General enquires whether the practice of England with regard to escheated property is to be observed in New South Wales.

From the information I have obtained with reference to this enquiry, I apprehend the answer to be, that the Governor cannot lawfully grant escheated property except upon a reference to the Secretary of State to whom he ought to communicate the circumstances of such case, and the reasons inducing him to recommend the Grant in favor of any particular persons, either jointly with or to the exclusion of any others. Such references would be then answered by the Secretary of State after communication with the Lords Commissioners of His Majesty's Treasury.

Jurisdiction in
matrimonial
causes.

Thirdly, it is next asked by the Attorney General, whether as long as no Ecclesiastical Court exists for the punishment of incontinency, or for allowing a separate maintenance and alimony to married women, the Supreme Court does not acquire a jurisdiction in those purposes? It is difficult to understand how such a view of the subject should be seriously maintained, The Supreme Court having no jurisdiction excepting that which it derives by Act of Parliament and by the Charter of Justice founded upon that Act, in both of which the extent of its powers and especially of its powers in Ecclesiastical causes is distinctly defined. Upon reference to those Instruments, there will be found no allusion in either of them to matrimonial causes, or to the offences which Spiritual Courts in England visit with Ecclesiastical Censures. This subject was duly considered when the Act and Charter were originally passed, the omission was not accidental but intentional, and, if it be fit to supply it, it can be done by no other authority than by Act of Parliament.

Rules for
resumption
of land.

Fourthly.—The Attorney General further desires to be informed what Rules should be followed with regard to the resumption of Land, which has been improved and occupied without regular Grants. As it was considered useless to lay down

any general Rules on a subject presenting on each successive case such an infinite variety of special circumstances, it was deemed advisable that the exercise of his own judgement in each case as it arose, reconciling as far as possible the rights of the Crown on the one hand with the reasonable pretensions of the Settler on the other, and I do not know that a more definite Rule of conduct could be given with any real advantage.

1825.
24 Aug.
Rules for
resumption
of land.

Lastly.—The Attorney General enquires what sort of action ought to be pursued for sustaining the rights of the Crown in real property, to which question may be given the following answer: The forms of practice and pleading, adopted in England for asserting the rights of the Crown, are, in general, too complex and expensive to be followed in a newly settled Colony. The same remark may be extended to almost all suits and actions between private persons. The 17th clause of the New South Wales Act, and the Order in Council which followed it, have therefore authorized the Chief Justice so to modify these forms as to accommodate them to the situation of the Colony and to the circumstances of the Settlers. No Report has hitherto appeared of the manner in which the Rules of legal proceeding have been framed. But as the question, which the Attorney General has referred home, must, ere now, have been decided by the Chief Justice, under the authority of the Act and Order of Council above referred to, it would be useless, and therefore I shall decline, to give any more particular answer to this enquiry.

Practice in
sustaining
crown rights in
real property.

I have, &c.,

BATHURST.

UNDER SECRETARY HORTON TO GOVERNOR DARLING.*

Dear Sir,

Downing Street, 31st August, 1825.

31 Aug.

I am directed to acquaint you that the Bearer of this letter, Mr. Dulhunty, has received his Lordship's permission to proceed as a Settler to New South Wales, and that he has been promised a Grant of Land for himself and his son, who accompanies him, upon their arrival in the Colony. I am certain I need only state that this Gentleman has served Thirty Years as a Surgeon in H.M. Navy, besides being highly recommended on account of his respectability by Sir Edward East, to obtain for him every assistance which it may be in your power to shew him, consistently with established Regulations.

Recommendation of J. Dulhunty for land grant.

I remain, &c.,

R. W. HORTON.

* Note 3.

MR. E. BARNARD TO GOVERNOR DARLING.

4th September, 1825.

[A copy of this letter, acknowledged by Governor Darling, 2nd May, 1826, is not available.]

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 20, per ship Prince Regent; acknowledged by Governor Darling, 8th May, 1826.)

9 Sept.

Sir,

Downing Street, 9th Sept., 1825.

Supplies to
be sent to
Melville island.

Although I have no doubt that the necessary arrangements have been adopted by your Predecessor and the Commissariat Department at New South Wales for supplying, at certain Intervals, the Settlements on the North West Coast of New Holland with such Provisions and other articles as they may require, until such time as a regular communication shall be kept up between Sydney and that part of the Coast, yet I deem it necessary to call your attention to the subject to prevent the possibility of any misunderstanding occurring from want of the necessary Instructions, and the Settlements being straitened for Provisions in consequence.

From the information, which you will have obtained as to the quantity of Stores and Provisions with which the Settlements have been already furnished, you will be the best judge as to the period at which it will be proper to convey to them further supplies. I have only therefore to direct, in the event of there being no other means of opening a communication with Melville Island, that you will dispatch a Colonial Vessel to that Destination, both with the view of ascertaining the precise condition of the Settlements and of supplying them with any article of which they may happen to be in want.

I have, &c.,

BATHURST.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 21, per ship Prince Regent; acknowledged by Governor Darling, 20th November, 1826.)

11 Sept.

Sir,

Downing Street, 11th September, 1825.

Statute
defining the
powers of
magistrates.

With reference to Sir Thomas Brisbane's Dispatch, dated the 28th January last (No. 22), I do myself the honor of transmitting for your information the copy of an Act passed in the last Session of Parliament, whereby the powers given by the Sessions may be exercised by any two Magistrates in New South Wales, unless when a Court of Sessions is to be held within one week from the time, and within Twenty Miles from the place at which an offence is committed. This Act will supersede the

necessity of enquiring further into the question of Law proposed in that Dispatch arising out of the opinion expressed by the Attorney General "that one Magistrate could not punish an Offender under the new Charter of Justice," since the Act referred to has finally settled it by requiring that two Magistrates should act in these cases.

In consequence of the inconvenience which has been felt, and of which Sir Thos. Brisbane complains, from the want of a sufficient number of Inhabitants competent to act as Magistrates and who are willing to devote so much of their time, as is required to fulfill those duties, unless some pecuniary compensation is made to them for the loss of it, I am induced to authorize the experiment of Petty Sessions which you will generally establish throughout the Colony; and I have also to direct that in two or three of the most important Townships a stipendiary Magistrate, at a small Salary, should be appointed to take the Chair at these Sessions:—I am in hopes this arrangement will in some degree meet the evil which seems to have been experienced from the difficulty of bringing two Magistrates together with a view to the punishment of Offences which may have been committed by the Convicts, and to the more effectual administration of Justice throughout the Colony.

1825.
11 Sept.

Petty sessions
to be held.

Stipendiary
magistrates to
be appointed.

I have, &c.,

BATHURST.

[Enclosure.]

[*This was a copy of the English statute, 4 Geo. IV, cap. 69.*]

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Prince Regent; acknowledged by Governor Darling, 3rd May, 1826.)

Sir,

Downing Street, 14th September, 1825.

14 Sept.

I am directed by Earl Bathurst to introduce to your protection Mr. John Raymond, who will have the honor of delivering this letter to you.

Recommendation of
J. Raymond.

Until within the last year or two, Mr. Raymond resided as a County Magistrate upon his estate in one of the disturbed districts of the north of Ireland, but, having by his exertions rendered himself obnoxious to the Rebels, he was subsequently obliged, with a view to the safety of his family, to fly the Country.

The enclosed letter from Mr. Goulburn will put you in possession of the merits of the case, and Earl Bathurst deeply sympathizing with the destitute situation of Mr. Raymond and his family consisting of a Wife and nine children, reduced from

1825.
14 Sept.
Appointment or
subsistence to
be granted to
Raymond.

affluence to a state of abject poverty, directs me to request that you will provide this Gentleman with a suitable appointment upon his arrival in the Colony. To which I am directed to add that, as this is a case different from every other, and one which must be decided on its own merits, it will be necessary that subsistence for himself and his numerous family should be issued to Mr. Raymond, until such time as you may have the means of availing yourself of his services.

I have, &c.,

R. W. HAY.

[Enclosure.]

MR. HENRY GOULBURN TO EARL BATHURST.

My Lord,

Dublin Castle, 8th July, 1824.

Testimony
in favour of
J. Raymond.

I am commanded by the Lord Lieutenant to submit to your Lordship the Case of Mr. Raymond, who is desirous of proceeding as a Settler to New South Wales, in the hope that your Lordship may consider his case to be of such a nature, as to justify his receiving a free passage for himself and family.

Mr. Raymond was a gentleman of considerable property in the County of Limerick during the late disturbances; his Steward was murdered in the presence of his wife, and it became necessary that Mr. Raymond and his wife should appear as witnesses at the trial of the murderers. The consequence of their coming forward was that his life was in danger in the County, and he was obliged to abandon his property, which has become delapidated during his absence so as to leave him barely the means of existence. His return to his property being impracticable, he has turned his thoughts to emigration, and under the circumstances of his case the Lord Lieutenant is induced to hope that your Lordship will not think him undeserving of the indulgence, which I am commanded to solicit on the public grounds which I have the honor of stating.

I have, &c.,

HENRY GOULBURN.

MR. C. HERRIES TO GOVERNOR DARLING.

17 Sept.

17th September, 1825.

[A copy of this despatch, acknowledged by Governor Darling, 26th April, 1826, is not available.]

MR. E. BARNARD TO GOVERNOR DARLING.

20 Sept.

20th September, 1825.

[A copy of this despatch, acknowledged by Governor Darling, 24th April, 1826, is not available.]

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Prince Regent; acknowledged by Governor Darling, 25th December, 1826.)

1825.
23 Sept.

Sir, Colonial Office, 23rd Sept., 1825.

Captain Edward Hawker, of the Royal Navy, having applied to Earl Bathurst for a Grant of Land in New South Wales to which Colony he has embarked a considerable Capital in Stock, I am directed by Earl Bathurst to request that Captain Hawker may receive a Grant (upon the principles laid down in Lord Bathurst's Instructions) of such Extent as will enable him to carry into effect the plans, which he has formed with a view to Agricultural objects, and to which you may consider the means at his disposal will be adequate.

Recommendation of E. Hawker for land grant.

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

EARL BATHURST TO GOVERNOR DARLING.

(Despatch marked "Separate," per ship Prince Regent.)

Sir, Downing Street, 28th Sept., 1825.

28 Sept.

Mr. Hart Davis, an eminent merchant of Bristol, having applied to His Majesty's Government for a Grant of Thirty Thousand Acres of Land in the Colony of New South Wales on behalf of himself and his Son, proposing to cultivate the same by means of an Agent resident upon the property, I do myself the honor to acquaint you that feeling satisfied of the Intention of Mr. Hart Davis and his son to proceed in the cultivation of the Land in question, and to invest a considerable Sum of Money with a view to Agricultural purposes, I have acquiesced in the application; and you will therefore take the necessary measures for reserving a Grant of Land of the extent above mentioned for the purpose of being granted to Mr. Hart Davis, and his Son, in two contiguous portions of fifteen Thousand Acres, it being of course understood that the land in question can only be granted according to the principle and upon the conditions laid down in the Instructions* lately issued to you on that subject.

Thirty thousand acres to be granted to H. Davis.

I have, &c.,
BATHURST.

MR. E. BARNARD TO GOVERNOR DARLING.

28th September, 1825.

[A copy of this despatch, acknowledged by Governor Darling, 28th April, 1826, is not available.]

* Note 8.

1825.
1 Oct.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 22, per ship Prince Regent.)

Sir, Downing Street, 1st October, 1825.

I have received Sir Thomas Brisbane's Dispatch of the 24th March last, in answer to one* which I had addressed to him upon the subject of the assistance which he had been directed to afford to the Scots Church at Sydney, by which it appears he had, in conformity with my Instructions, assigned the sum of 2,400 Spanish Dollars towards the erection of their building.

At the time that the payment of this donation took place, Sir Thomas Brisbane appears to have received my subsequent Dispatch, desiring that, in lieu of the assistance before mentioned, he should apply annually the Sum of £300 for the support of the Presbyterian Minister. But, as it was distinctly explained to Dr. Lang when this alteration in the original Intentions of His Majesty took place (as you will observe by the enclosed correspondence on the subject), that the allowance to the Minister was to supersede any other indulgence to that Body, I am under the necessity of desiring that the donation of 2,400 Spanish Dollars made to them by Sir Thomas Brisbane should be repaid to the Colonial Government unless they should wish (which it is hardly to be supposed they would) to retain that Sum in preference to the stipend for the support of their Minister.

As the requiring the repayment at once of the whole Sum, which has been advanced by the Colonial Government for the erection of the Scots Church, may be attended with great inconvenience to the Presbyterian body, inasmuch as it would materially retard the completion of the building, you are authorized to accept payment of the money by small Instalments, or in such other manner as may be most convenient to the Parties concerned.

I have, &c.,

BATHURST.

[Enclosure No. 1.]

REV. JOHN DUNMORE LANG TO UNDER SECRETARY HORTON.

Sir, London, 18 Jany., 1825.

Having been engaged for the last two years in preparing the way for the establishment of a Scots Church in Sydney, New South Wales, at the desire and for the benefit of Scots Presbyterians in that Colony, desirous that the ordinances of religion should be dispensed among them according to the customs of their forefathers and the institutions of their national church, it is unnecessary to inform you of the opposition I was so unfortunate as to experience from the Colonial Govt. in labouring

Assistance
granted in
erection of
Scots church.Donation to be
repaid by
Presbyterians.Establishment
of Scots church
in Sydney.

* Note 23.

for the attainment of an object, in which the Scottish part of the Community was so deeply interested, especially as that opposition arose from unfavorable representations of the Scots Presbyterians, which His Excellency Sir Thos. Brisbane has since discovered to be utterly groundless, and of which he now evinces his entire disbelief, by warmly encouraging what he formerly opposed.

Previous to my departure from the Colony, which I took the opportunity to leave while the Scots Church was building with the intention of speedily returning, a Memorial* was presented to His Excellency Sir Thos. Brisbane, addressed to the Right Honble. Earl Bathurst, and praying on behalf of the Scots Presbyterians, residing in New South Wales, for the appointment of a Salary for a Scotch clergyman to dispense the ordinances of religion to his countrymen in Sydney and throughout the Territory. That Memorial His Excellency assured me of his having transmitted to the Right Honble. Earl Bathurst with a letter recommending the object; and I take the liberty to trouble you with the present communication on the subject for the purpose of requesting that you will have the goodness to inform me of the reception, it may have met with from His Lordship, as I intend proceeding to Scotland in a few days, and am exceedingly anxious to have it in my power to acquaint the Clergy of the Church of Scotland, to whom I am bound to give an account of my conduct in the Colony, of the intentions of His Majesty's Government in regard to the establishment of a clergyman of that Church in New South Wales.

Sir, were I not fully aware of its being the desire of His Majesty's Ministers rather to consult the best interests of the Colony, than to attend merely to the recommendations of the great, I should have endeavoured to procure the support of the Right Honble. the Earl of Glasgow to the Memorial, as His Lordship promised, before I left Scotland, to recommend it to Earl Bathurst, when transmitted to England by His Excellency Sir Thos. Brisbane, should such recommendation be found necessary. But I feel perfectly assured that His Majesty's Ministers will of themselves be disposed to give it all due consideration, and will readily acknowledge the advantages likely to result to the Scots Presbyterians of New South Wales from the permanent establishment of a clergyman in connection with the Church of Scotland in that Colony.

I have, &c.,

JOHN DUNMORE LANG.

1 Bath Place, Brook Street, West Square.

1825.
1 Oct.

Opposition from
government.

Memorial from
Presbyterians
for salary of
clergyman.

* Note 23.

1825.
1 Oct.

[Enclosure No. 2.]

UNDER SECRETARY HORTON TO REVD. J. D. LANG.

Sir,

Downing Street, 25th Jany., 1825.

Letter
acknowledged.

In answer to your Letter of the 18th Instant, referring to the Memorial transmitted in Sir Thomas Brisbane's Letter of the date of the 14th August, in which Lord Bathurst is solicited "to extend the indulgence of a Salary to the Minister of the Scots Church at Sydney," I am directed to acquaint you that his Lordship, in his Dispatch of the 16th August, 1824, as soon as he was informed of the answer, which had been returned by Sir Thomas Brisbane to the Memorialists of the Church of Scotland in 1823, communicated to him that he had His Majesty's Commands to direct that he would assign out of the Police Fund, a sum equal to one third of what, upon an estimate first approved by himself, might appear to be sufficient for the erection of a Church at Sydney, in which the ordinances of Religion might be dispensed according to the Institutions of the Church of Scotland, it being, however, understood that, in the event of the Expenditure exceeding the Estimate, those Individuals, who undertook the Building, were to be responsible for its completion.

Grant towards
erection of
Scots church.

Grant or salary
offered.

I am therefore directed by Earl Bathurst to enquire whether it would be more satisfactory to the Presbyterians in the Colony of New South Wales that the Assistance, above specified, should be granted, or that a Salary should be allowed to a Clergyman in connection with the Church of Scotland.

Regret for
remarks made
by Brisbane.

I am also directed to inform you that Lord Bathurst, in the same Dispatch, expressed his regret that Sir Thomas Brisbane should have required, in his answer to the Memorialists of the Church of Scotland in the year 1823, that those, on whose behalf the assistance of the Government was applied for, should first prove, by their conduct, their Loyal and peaceable disposition, as such a requisition might appear as if it were intended to put to their probation the Members of the Church of Scotland, the Established Church of one of the most Loyal and intelligent portions of the Empire.

I remain, &c.,

R. W. HORTON.

[Enclosure No. 3.]

REVD. J. D. LANG TO UNDER SECRETARY HORTON.

Sir,

Lambeth, 28 Jany., 1825.

I have the honour to acknowledge the receipt of your Letter of the 25 Curr't, in which you have done me the honour to inform me of the liberal assistance, which the Right Honble. Earl Bathurst has been pleased to extend from the Police Fund of New South Wales to the Scots Presbyterians of that Colony

in the erection of their Church; and also of the highly gratifying manner, in which His Lordship has been pleased to allude to themselves as being members of the Church of Scotland, "the Established Church of one of the most loyal and intelligent portions of the Empire." Sir, while I cannot express the high sense I entertain of the liberality of His Lordship on the one hand towards the Scots Presbyterians of New South Wales, I feel confident on the other that it will only operate as a powerful inducement towards their maintaining the high character, which his Lordship has been pleased to give of that portion of the British nation, to which they have the honour to belong.

Sir, in reference to the question, which you have done me the honour to propose in your Letter, "whether it would be more satisfactory to the Presbyterians of New South Wales to receive assistance in the erection of their church, or to have a Salary allowed to a clergyman in connection with the Church of Scotland," I beg leave to express my decided opinion that it would be much more satisfactory to the Presbyterians of New South Wales to have a salary allowed by His Majesty's Government to a clergyman, in connection with the Church of Scotland, than to receive assistance in the erection of their church; 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 encumbered with a load of debt for a series of years.

Sir, while attachment to the religious institutions of their forefathers, not otherwise to be inherited by themselves, was the motive for their soliciting the appointment of a salary for a clergyman of the Church of Scotland; and while their own connection with that Church and the encouragement and support, which His Majesty's Government had extended to its members in other Colonies, were the grounds on which they rested their hope of receiving a favourable answer to their Memorial, the Presbyterians in the Colony of New South Wales were strongly desirous of attaining that object on other grounds. They were anxious that a clergyman, dispensing the ordinances of religion among them, should thus be recognised by His Majesty's Govt., that Government thus holding an additional pledge of their fidelity, there might in future be no shadow of ground for imputing to themselves, as a religious body, any sentiments inconsistent with that steadfast loyalty that has hitherto characterized the Scottish nation. Such imputations having been credited for a short time by His Exc'y Sir T. Brisbane, I beg leave most respectfully to request your attention to the only case, since the first Settlement of the Colony, in which it

1825.
1 Oct.

Gratitude of
J. D. Lang.

Salary for
clergyman
preferred to
grant for
erection of
church.

Reasons for
requesting
a salary.

1825.
1 Oct.

was possible for any number of Presbyterians to give a visible demonstration of their high regard for the constituted authorities of the land.

Loyalty of
Presbyterians
in 1808-9.

Immediately after the suspension of Governor Bligh's administration, all persons in the Colony were required publicly to acknowledge the existing authority by attending a general muster. It was remarked, however, that the population of a small settlement on the banks of the Hawkesbury, not exceeding ten or twelve families, and these Presbyterians from the Scottish Border, who had emigrated to the Colony as free Settlers in the year 1802, and had received grants of land in the district* they still inhabit, did not comply with this requisition. On being asked the reason for their noncompliance, they stated "that, being equally incompetent and unwilling to take part in those political broils that were then agitating the Colony, they simply did not consider it their duty to yield obedience to any other authority than that of the King's Lawful Representative." Their peaceful character and disposition being, however, both known and acknowledged, they were suffered to remain without molestation. Such, in a season of peculiar difficulty, was the dutiful and steadfastly loyal conduct of a small portion of that widely scattered body of people, to whom I have been dispensing the ordinances of religion for some time past, and on whose behalf the Memorial, transmitted to the Right Honble. Earl Bathurst, humbly solicits the appointment of a salary for a clergyman of the Church of Scotland.

Reasons in
favour of the
grant of salary.

Sir, when His Lordship reflects that a clergyman of the Church of Scotland in New South Wales will require, in the course of his duty, frequently to visit settlements upwards of a hundred Miles from Sydney; that in many instances Scotchmen in foreign countries, when deprived of the salutary influence of the religious institutions of their forefathers, become indifferent to religion altogether, and thus acquire infidel principles and vicious habits; and that, in the Colonies, where vice is comparatively much more prevalent than at home, it is of still higher consequence to a conscientious clergyman, in order to his inculcation of that high-toned morality, which is equally indispensable in the character of a good Christian and a good subject, to be in some measure independent of the influence of individuals, I trust that His Lordship will feel disposed to grant the prayer of the memorial. The object of that memorial is not to ensure a footing on ground that would otherwise be occupied with equal advantage by the Colonial clergy of the Church of England, but to ensure the moral culture of ground that might otherwise be productive only of briars and thorns.

* Note 24.

Sir, in thus endeavouring to procure the favourable attention of Earl Bathurst to the Memorial of the Scots Presbyterians of New South Wales, I trust I am not actuated merely by a wish to procure a settlement for myself. I have already circumnavigated the globe on my own charges in the endeavour to promote the spiritual and eternal welfare of my countrymen in that distant land, and, were it even my lot never to return to the Colony, I should still feel happy to be instrumental in advancing their best interests in every possible way.

1825.
1 Oct.
Repudiation
of personal
motives.

Sir, craving your pardon for having troubled you with this long letter,

I have, &c.,

JOHN D. LANG.

1 Bath Place, Brook Street, West Square.

[Enclosure No. 4.]

[A copy of this letter from under secretary Horton to revd. John Dunmore Lang, dated 10th February, 1825, will be found on page 528, volume XI.]

MR. E. BARNARD TO GOVERNOR DARLING.

1st October, 1825.

[A copy of this despatch, acknowledged by Governor Darling, 10th September, 1826, is not available.]

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 23, per ship Prince Regent.)

Sir,

Downing Street, 3 October, 1825.

In reference to my letter to Sir Thomas Brisbane, dated the 5th May last, founded upon the circumstance of Dr. Douglas not having mentioned the situation in which he stood in relation to his professional duties and his liability to be recalled to the Military Service, when he accepted the Office of Clerk of the Council at New South Wales, to which I had conditionally appointed him, I do myself the honor to acquaint you that it has subsequently appeared from the correspondence of this Department, that, when Dr. Douglas was originally appointed to the Establishment of New South Wales as Assistant Surgeon, intimation had then been received that he was on the half-pay List as Surgeon in the Army, and consequently liable to be called upon for Military Service; and it further appears that, when Dr. Douglas received the notifications which were addressed to him by the Director General of the Army Medical Board on the subject of his return to full pay, he solicited the interference

3 Oct.
Liability of
H. G. Douglass
for military
service.

1825.
3 Oct.

of his friends with the Secretary at War in order that his peculiar case might be made known to his Lordship with whom a correspondence appears to have taken place on the subject.

Removal of
censure passed
on Douglass.

Of these Circumstances I was not aware at the time I addressed to Sir Thomas Brisbane my letter of the 5th of May, and I now take the opportunity of mentioning them to you as they do away, in a great measure, that cause for censure, which, whilst ignorant of the facts which I have stated, I had deemed it necessary to pass upon Dr. Douglas's conduct.

I have, &c.,
BATHURST.

UNDER SECRETARY HAY TO GOVERNOR DARLING.*

8 Oct.

Dear Sir, Downing Street, 8th October, 1825.

Recommend-
ation of
Townshend.

Mr. Townshend will do himself the honor of delivering this letter to you. He has been strongly recommended to me and is to my knowledge of a highly respectable family. Under these circumstances, I take the liberty of mentioning his name to you with the request that, so long as his conduct may be such as it ought to be, you will afford to him your countenance and protection.

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

EARL BATHURST TO GOVERNOR DARLING.

(Despatch marked "Separate," per ship Sesostris.)

11 Oct.

Sir, Downing Street, 11th October, 1825.

Application of
H. and C.
Macarthur for
land grant.

I have received from Messrs. Charles and Hannibal Macarthur the enclosed application submitting the grounds on which they consider themselves entitled to the Land which forms the subject of their communication. Provided there are no objections of a local nature to a compliance with their wishes, I am not aware of any to induce me to refuse their application, and I have accordingly directed a favourable answer to be returned to it. Should you however see any reasons for with-holding from them the Land in question, I am to request that you will report the same for the information of His Majesty's Government.

I have, &c.,
BATHURST.

[Enclosure.]

MESSRS. HANNIBAL AND CHARLES MACARTHUR TO EARL BATHURST.

My Lord, 99 Piccadilly, 27th Septr., 1825.

We beg to lay before your Lordship an application for such a grant of Land in the Colony of New South Wales, as will ensure a permanent and sufficient pasture for our valuable

* Note 3.

flocks; and we respectfully submit to Your Lordship's consideration that, having fulfilled the regulations and Conditions required by His Majesty's Government, we confidently appeal to your Lordship's liberality for a favorable view of our exertions.

The following are the grounds on which, with the utmost deference, we present our claim to your Lordship's notice.

1st. Having bred from 300 Sheep, purchased in 1813, a number amounting to 4,600 in 1824.

2nd. Having occupied a remote situation in the interior where, at the end of four years, 30 Convicts were employed free of expense to Government.

3rd. Having, by great attention and care, raised our flock to be classed as the second in value and quality in the Colony.

4th. Having, in the course of four years from the period of occupying a grant of Land of 1,000 Acres, made by the late Governor Macquarie to Hannibal MacArthur, founded, on that grant, the largest private establishment in New South Wales, so distant from any Township.

In addition to the grant of Land to which we respectfully submit we are entitled in conformity with the Government regulations of November, 1824, We beg to request your Lordship's permission to purchase 5,000 acres, in order that we may be enabled to continue in possession of the Land we now occupy, so essential to the existence of our flocks, and which may, otherwise, fall into the hands of Speculators to the great injury of an establishment, on which many large sheep proprietors depend for the improvement of their flocks, and which is every succeeding year employing an increased number of Convicts free of expense to Government. It is our intention to ascertain, from personal observation, the improved System of Managing Sheep in Hungary and Saxony; and for this purpose Mr. Charles MacArthur is on the point of visiting those Countries, where he intends to select, at a considerable expense, the most valuable animals that can be procured for the further improvement of our flocks.

We submit documents and proof of the correctness of our Statement, which are left at your Lordship's Office.

With the greatest respect, we have the honor to be, &c.,

HANNIBAL and CHARLES MACARTHUR.

P.S.—Messrs. H. and C. Macarthur have possession of 15,000 acres in Eden forest, County of Argyle*, Surrounding the grant of 1,000 acres made by the late Governor Macquarie. Their Shepherds' Huts and Sheep Stations are established on different parts of it, and, in consequence of finding it unequal to the support of their Sheep and Cattle, they have been obliged to

1825.
11 Oct.

Application of
H. and C.
Macarthur for
land grant.

Request for
permission to
purchase land.

Land occupied
by H. and C.
Macarthur.

1825.
11 Oct.

remove the latter; this tract of 15,000 acres they now solicit to have confirmed by grant. The tract of 5,000 acres is situated in the Cow pastures and lies between Two farms belonging to Messrs. H. and C. Macarthur, which, from their limited extent, are at present unavailable for pasturing Sheep.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Sesostris; acknowledged by Governor Darling, 25th December, 1826.)

13 Oct.

Application
of Sir M.
Seymour for
additional
land grant.

Sir, Downing Street, 13th October, 1825.

Sir Michael Seymour having applied to Earl Bathurst for an addition to the Grant of Land, which he originally received in New South Wales in consequence of the great augmentation which has taken place in his stock of Sheep, &c., in the Colony, I am directed by his Lordship to desire that you will comply with his wishes in this respect, so far as may be consistent with the Regulations now in force in the Colony respecting Grants of Land, provided it should appear that the Agent employed by Sir Michael Seymour is empowered to expend so much additional capital, as will be required to bring a further Grant of Land into a proper state of cultivation.

I have, &c.,

R. W. HAY.

EARL BATHURST TO GOVERNOR DARLING.

(A circular despatch per ship Prince Regent; acknowledged by Governor Darling, 10th September, 1826.)

14 Oct.

Return of
officers
receiving
quarters or
lodging.

Sir, Downing Street, 14th October, 1825.

I have the honor to desire that you will transmit to me without loss of time a return of all the civil and other Officers under your Government, who up to the present period have been accommodated with Houses or Lodging at the Public expence, stating the value of the Houses, if they belong to the Crown, and, if hired from Individuals, the amount of the Rent which may be paid for them.

You will likewise specify the particular authority under which such accommodation may have been granted to those persons who enjoy it.

I have, &c.,

BATHURST.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 24, per ship Prince Regent.)

15 Oct.

F. Forbes
appointed
judge of
vice-admiralty.

Sir, Downing Street, 15th October, 1825.

His Majesty having been pleased to appoint Francis Forbes, Esqr., Judge of the Vice Admiralty Court at New South Wales, in the room of the late Judge Advocate of the Colony, I

am to desire that you will take the necessary measures for carrying into effect the Warrant which will shortly be transmitted to you from the Lords Commissioners of the Admiralty.

1825.
15 Oct.

I have, &c.,
BATHURST.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 25, per ship Prince Regent.)

Sir, Downing Street, 26 Octr., 1825. 26 Oct.

Mr. Thomas has addressed the accompanying letter to my Under Secretary of State, wherein he states his intention of sending out to New South Wales and Van Dieman's Land a number of horses, Cows and Sheep &c. of the finest and purest breeds, and I have considered that this exportation will be of very essential service to the Colony at large, and is moreover one which I had it in contemplation to have put in execution for the benefit of the Colonial Govern't; I think Mr. Thomas and the other Gentlemen, who have joined him in this undertaking, are entitled to receive a Grant of Land both in New South Wales and V.D. Land upon the most favorable footing. I have therefore to desire that, as the plan in question is to be carried into execution in both Colonies, you will afford this Gentleman every reasonable facility that the importance and utility of the undertaking seem to demand.

B. B. Thomas
and partners
to receive
land grants in
N.S.W. and
V. D. Land.

I have, &c.,
BATHURST.

[Enclosure No. 1.]

MR. B. THOMAS TO UNDER SECRETARY HAY.

Sir, E. 2, Albany, 10th Octr., 1825.

I have the honor to submit to your consideration the following statement on the subject of my former letters* to Lord Bathurst, and, as they may not have come under your particular observation, I take the liberty of referring you to them.

Proposals re
horse, cattle
and sheep
breeding.

In consequence of a communication with General Darling on the subject of a request made to me to purchase horses for Government by Mr. Barnard, I was induced to enter upon my present speculation and to prevail upon a few friends to join me in the undertaking. To this I was strongly urged by General Darling, who, in consequence of my undertaking it, put a stop to the Government sending horses out upon their own account. My partners in the speculation have embarked a very large capital in chartering a ship to convey our Establishment upon a very extended scale. and in purchasing Stallions and Mares† of three distinct breeds viz. Thoro'bred, Cleveland and Flanders, the Mares covered by different Stallions in this country to give a variety of crops of each blood, also bulls and cows of the most

* Note 26. † Note 7.

1825.
26 Oct.

Proposals re
horse, cattle
and sheep
breeding.

approved breeds, viz. Mr. Arbutnot's and Mr. Champion's, as well as Saxon, Merino, Southdown and Leicester sheep; and, in doing this, no expence has been spared to procure the finest description of each breed. They have also expended considerable sums of money in purchasing every necessary Implement of husbandry, including oil and other Mills, and in engaging scientific farmers and artificers of every description to effect the different objects of our undertaking; all of which are in a state of forwardness, and the ship and cargo will be ready the latter end of this month, the time when she is chartered to sail.

In addition to founding a standard breed of horses, cows and sheep of the breeds above specified, to be kept pure in the colonies for the selection of settlers, I propose to cultivate, on a large scale, Hemp, Flax, Tobacco, the Vine, Olive and Mulberry, and to extract the bark from the Mimosa; and for these purposes considerable quantities of seeds have been purchased and people engaged, well qualified for those as well as every other branch of Agriculture.

When the undertaking was first entered upon, it was proposed to confine it to New South Wales; but General Darling suggested to me that it would be advisable to extend my Establishment to Van Dieman's Land as well as at that place; and, as the letter from Lord Bathurst gave him unlimited power to grant me any Quantity of land and in any part of the Colonies, he told me that his Jurisdiction extended to both Islands and that he thought the measure held out such beneficial advantages that he should exercise his power and give me an equal quantity of land in V.D.L. as in N.S.W.; but, as this promise was made to me individually and as in the event of my death before my arrival to claim the performance of it, the object of our speculation might be partly defeated, I am desirous for my own and for the satisfaction of my partners to obtain a more specific understanding as to the *nature of the Grants of land*, promised me by the Governor, and the Encouragement which the Governm't will be pleased to afford me.

The Government have in their regulations reserved to themselves a discretionary power of granting certain Immunities and privileges to any settlers, who may upon their own accounts undertake Speculations likely to tend to the benefit of the Colonies in general, and consequently to the Government here, by the employment of great numbers of convicts. I, therefore, trust that our undertaking will, from the peculiarity of it, as well as from the immense Expence which my partners have individually been at, and the great saving it has been the means of to Government, be considered a spirited undertaking and

Request for
promise of
land grants.

deserving of Encouragement, and that every Immunity from taxes and other duties, imposed upon ordinary settlers, and privileges will be extended towards us.

I trust I am not unreasonable in the request I have made, nor too sanguine in my Expectations of liberality and protection from that Government, to whose services the best part of my life was devoted in different parts of the world as an officer of Dragoons. I beg to apologize for the length of your valuable time, which I have occupied, and I have, &c.,

1825.
26 Oct.

Request for
promise of
land grants.

B. B. THOMAS.

[Enclosure No. 2.]

UNDER SECRETARY HAY TO MR. B. B. THOMAS.

Sir, Downing Street, 22nd Oct., 1825.

I have laid before Earl Bathurst your letter of the 20th Instant, requesting that certain immunities may be granted to you as a Settler, about to proceed to New South Wales, in consequence of the large stock of cattle, consisting of horses, etc., which you state will be of very considerable advantage to the Colonial Government, as well as to the Settlers at large; and I am to acquaint you in reply that a Letter will be addressed to Lieut. Gen'l Darling, directing him to put you and your Associates in this undertaking upon the most favorable footing, both in New South Wales and Van Diemen's Land, which his Instructions will admit of; but, as nothing has been settled as yet respecting the privileges and immunities to which allusion is made in the Memorandum issued by this Department, your claim to them must be a matter of future consideration.

Consideration
to be given to
application of
B. B. Thomas.

I am, &c.,

R. W. HAY.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Per ship Prince Regent.)

Sir, Downing Street, 26 October, 1825.

You will perceive by Lord Bathurst's Dispatch of this day's date that his Lordship is anxious to afford Mr. Thomas and his friends every reasonable facility in furtherance of their useful and laudable undertaking. The enclosed letter will put you in possession of what has passed between Mr. Thomas and this Department on the subject, and, as Mr. Thomas states that in a personal interview which he had with you, before you left England, you expressed your approbation of his undertaking, you will no doubt afford to him every encouragement which the nature of his Enterprize seems so justly to merit.

Encouragement
to be given to
B. B. Thomas
and partners.

Believe me, &c.,

R. W. HAY.

1825.
31 Oct.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 26, per ship *Sesostris*; acknowledged by Governor Darling, 26th May, 1826.)

Sir, Downing Street, 31 October, 1825.

Requisition
for ordnance
stores.

The accompanying requisition for Ordnance and Stores, which appears to have received the approbation of your predecessor, having been forwarded to the Lord Commissioners of the Treasury by the Officer in charge of the Commissariat in New South Wales, their Lordships have of course referred that requisition for my consideration; but, as I have received no information whatever which could enable me to form any opinion as to the necessity which there may exist for providing these Stores, I can only return the said Requisition to you and express my desire that you will acquaint me with the circumstances under which it may have been considered expedient to apply to His Majesty's Government for this equipment of Ordnance; and I take this opportunity to acquaint you that I consider it proper that you should in future address directly to me any requisition for Stores, which you may think necessary to make for the service of the Colony, not omitting to acquaint me at the same time with the reasons upon which the application is grounded and stating the fund out of which you contemplate that the expence of the Requisition will be defrayed.

I have, &c.,
BATHURST.

[Enclosure.]

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

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship *Sesostris*; acknowledged by Governor Darling, April, 1827.)

3 Nov.

Sir, Downing Street, 3rd November, 1825.

Inquiry re
U. Fidkin.

I am directed by Earl Bathurst to transmit to you the accompanying letters from Mrs. Fidkin making enquiry after her husband who arrived at New South Wales in the year 1814, and having frequently endeavoured in vain to obtain any information respecting him. I am to request that you will cause such enquiries to be made as will enable his Lordship to reply to Mrs. Fidkin's communications.

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

[Enclosure No. 1.]

1825.
3 Nov.

MRS. FIDKIN TO EARL BATHURST.

Mild May Row, Newington Green,
Islington, 29th Octr., 1825.

My Lord,

The extreme anxiety of my mind induces me to take a liberty with your Lordship, which I must rely on your generosity to pardon; having made repeated applications at the Office without effect, I am emboldened thus to address your Lordship.

Inquiry re
U. Fidkin.

My Husband, Urban Fidkin, left England in Octr., 1816, in the Ship Fame, and arrived as a free settler in New South Wales in the following April; his letters of recommendation promised him a grant of Land of 800 Acres near Liverpool; he remained in the Colony till 1821, when he left for the Derwent, since which time I have not heard of him; my situation is now become very distressing, having lost a good Mother, under whose protection I have been living to the present time, and from whom I am entitled to property, which in the present state of things I cannot receive. I now implore your Lordship to direct enquiry to be made if my Husband is dead, and, if any particulars can be transmitted to me, it will confer a lasting obligation on, My Lord,

Your Lordship's Most Obed't Serv't,

SARAH FIDKIN.

[Enclosure No. 2.]

MRS. FIDKIN TO EARL BATHURST.

My Lord, Newington Green, 2 Novr., 1825.

I beg to offer my most grateful acknowledgement to your Lordship for your prompt attention to my request. From the answer, I am this morning favored with, it must have been misunderstood as to the time my Husband went out to New South Wales.

It was in April, 1816, he reached Sydney, and remained there till the year 1821, when he left for the Derwent. As the period must be distant, before I can receive any further intelligence, I shall have left my present residence; therefore, every information, that can be forwarded to me, I shall most thankfully receive addressed as under.

I am, &c.,

SARAH FIDKIN.

Mrs. Fidkin, Mr. Lodge's, 53 Oxford St.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Sesostris; acknowledged by Governor Darling,
28th April, 1826.)

Sir,

Downing Street, 5th November, 1825.

5 Nov.

I have the honor to acknowledge the receipt of Sir Thomas Brisbane's letter of the 13th May last addressed to Mr. Wilmot

Despatch
acknowledged.

1825.
5 Nov.

Horton, and I beg leave to acquaint you that the Document stated to have been enclosed in that letter respecting George Wesson was omitted to be sent.

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

EARL BATHURST TO GOVERNOR DARLING.

(A circular despatch per ship Sesostris.)

18 Nov.
Classification
of shipping.

Sir, Downing Street, 18th Novr., 1825.

Doubts having arisen as to the footing upon which Vessels freighted with public Stores are to be considered and treated in the Ports of His Majesty's Foreign Possessions, I deem it expedient to acquaint you that all vessels, which are wholly freighted by the Commissioners of His Majesty's Navy and have an Agent of Transports on board, are to be treated as public Vessels engaged in the Service of the Crown, but that Vessels, freighted only in part by the Commissioners of the Navy, are to be considered as Merchant Vessels.

I have, &c..
BATHURST.

EARL BATHURST TO GOVERNOR DARLING.

(A circular despatch by brig Ann; acknowledged by Governor Darling, 11th September, 1826.)

25 Nov.
Return
required of
fees on shipping
and trade.

Sir, Downing Street, 25th November, 1825.

I have to desire that you will forthwith transmit to me an account of all fees levied on the Shipping and Trade of the Colony under your Government, received by yourself as Governor, by your Secretary, or by any other individual not connected with the collection and management of the Customs Revenue.

You will transmit the average amount of those fees for the last five years, duly attested, and you will take care minutely to explain in what manner they are collected, and under what authority, and to whom they are in the first instance paid.

I have, &c..
BATHURST.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 27, per brig Ann.)

26 Nov.
Addition to
salary of
colonial
botanist.

Sir, Downing Street, 26 Novr., 1825.

An Application has been made to my Under Secretary of State on behalf of Mr. Fraser, Botanical Gardener of New South Wales, who complains of being subjected to repeated expences in transmitting Seeds, etc., to different places, not being allowed any reimbursement for the same, I have, therefore, to desire that enquiry may be made into this statement, and, if it should prove correct, that you will cause an addition of two Shillings

per diem to be made to Mr. Fraser's Salary (which is now at the rate of Five shillings a day), upon the distinct understanding that the same is to cover all expences of travelling, sending home Seeds, etc., which the nature of his situation seems to have required.

I have, &c.,

BATHURST.

1825.
26 Nov.

Addition to
salary of
colonial
botanist.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 28, per ship Greenock.)

Sir,

Downing Street, 27th November, 1825.

27 Nov.

I have received an application from Colonel Stewart, who has lately gone out to New South Wales as Lieut. Governor, requesting that I would make that appointment permanent in his favor, and as I deem it advisable to make you acquainted with the particulars of this transaction, I do myself the honor of enclosing a Copy of Colonel Stewart's letter and of the reply which I have directed to be sent to him.

Application
from
W. Stewart.

I have, &c.,

BATHURST.

[Enclosure No. 1.]

LIEUT. COLONEL STEWART TO UNDER SECRETARY HORTON.

Sir, Sydney, New South Wales, 25 May, 1825.

As His Excellency the Governor appears at present to be much engaged, and, as it may therefore escape his recollection, I do myself the honor to apprise you, for the information of My Lord Bathurst, that I arrived here in the Asia Transport on the Morning of the 29 Ultimo; and I immediately proceeded to wait on His Excellency at Parramatta, and laid before him the Commission, His Lordship has been pleased to honor me with as Lieut. Governor of this Colony. The Council was in consequence assembled by His Excellency on the 3rd Instant, when I had the honor to be sworn in as Lieut. Governor, and also as a Member of the Council, which, prior to my arrival here, it appears was not considered to be legally constituted, there being only four Members present in this country.

Arrival of
W. Stewart.

The Archdeacon Scott has since arrived, and has replaced Mr. Oxley in the Council; and, by him, the Governor informs me he has received a communication to direct that, on the arrival here of one half of the 57th Regt., four Companies of the Buffs are to be collected from the Out Quarters and embarked for Bombay. As this movement may, therefore, be expected to take place about the latter end of this year, and, as it is not my intention to serve in India unless placed on the Staff of that Army as a Major General, I beg leave to solicit you will be

Troops to be
transferred
to Bombay.

1825.
27 Nov.

Request for
permission to
remain as
lieut.-governor.

pleased to submit, for the consideration of My Lord Bathurst, that it is my wish to remain here in the capacity of Lieut. Governor, until I am promoted to that Rank, and which, in the common routine of Military promotion, cannot exceed a period of about two Years from this date.

Under these circumstances, therefore, I should esteem it an important favor done me, if His Lordship will be pleased to sanction this arrangement, and to communicate to the Governor of this Colony, with the least possible delay, that he has permitted my remaining here in that capacity, until I am promoted to the rank of Major General, and which at furthest must take place in the course of a few months after the Regiment under my orders may have finally left this Colony for Bombay.

I have, &c.,

WM. STEWART, Lieut. Col., Buffs and Col.

[Enclosure No. 2.]

UNDER SECRETARY HAY TO LT.-COLONEL STEWART.

Sir,

Downing Street, 26 Novr., 1825.

I have received and laid before Earl Bathurst your letter of the 25 May last, and I am to acquaint you, in reply, that His Lordship does not think himself authorized to accede to your request, the more particularly as a compliance therewith would lead to an interference with the arrangements, which may be contemplated by His Royal Highness The Commander in Chief for the relief of the Troops in India.

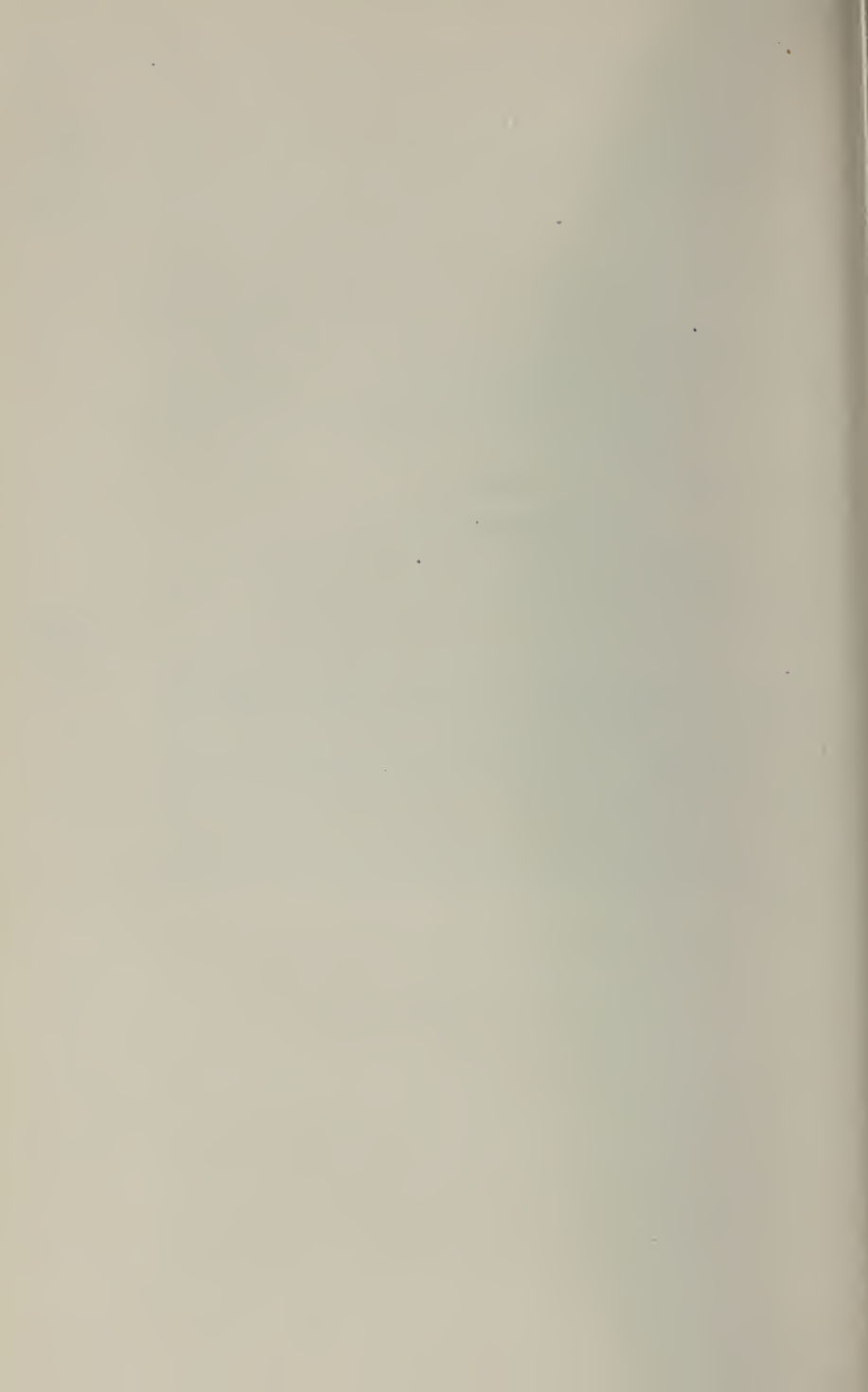
I have, &c.,

R. W. HAY.

Refusal of
request of
W. Stewart.

DESPATCHES
TO AND FROM ENGLAND
DURING
THE ADMINISTRATION OF
LIEUTENANT-GOVERNOR WILLIAM STEWART.

ON the 1st of December, 1825, Sir Thomas Brisbane sailed from Port Jackson on board the ship *Mary Hope*, and Lieutenant-Governor Stewart, by virtue of a commission dated 1st January, 1825 (*see* page 466, volume XI), assumed the administration of the government, subject to the advice of the two senior members of council.



DESPATCHES,

DECEMBER, 1825.

GOVERNOR DARLING TO EARL BATHURST.

GOVERNOR DARLING TO UNDER SECRETARY HAY.

5th December, 1825.

1825.
5 Dec.

[Governor Darling wrote the despatches bearing this date as Captain-General and Governor-in-Chief of the island of Van Diemen's Land and its dependencies.* Copies will be found in a volume in series III. The first despatch was acknowledged by Earl Bathurst on the 26th of June, and the second by under secretary Hay on the 25th of June, 1826.]

MR. E. BARNARD TO GOVERNOR DARLING.

8th December, 1825.

8 Dec.

[A copy of this letter, acknowledged by Governor Darling, 26th July, 1826, is not available.]

GOVERNOR DARLING TO UNDER SECRETARY HAY.

(Despatch marked "Secret and Confidential," per ship Brothers.)

My dear Sir,

At Sea, 10th December, 1825.

10 Dec.

I left Van Diemen's Land on the 6th, and take advantage of the leisure, which being on Ship Board affords me, to call your attention to the present state of matters at New South Wales, originating in the proceedings† which took place previous to the departure of Sir Thomas Brisbane; though I might have spared you the trouble, as you will have been put in possession of the particulars, long before this Letter can reach you. It appears by the Public Papers and, is confirmed by the information I received at Hobart Town, that the Colony is deeply involved in the most serious dissension, and that Party feeling never was before carried to such height as at present. It is quite clear that the Emancipists, in the late struggle, have gained an ascendancy, to which their opponents are not likely to offer any effectual Counterpoise. These people will not be put down,

Dissension
in colony of
N.S.W.

1825.
10 Dec.

Social
conditions in
the colony.

or rather *kept down* by the old Settlers, who are Comparatively few in number. They now feel their strength and importance in the Colony, and the union of superior talent, wealth and numbers in any one Body must preponderate, however the Community may be composed. It is in vain for the old Settlers, who have heretofore taken the lead, to retain the exclusive possession of it. Their ground is not tenable, and it would be more prudent in them to abandon it at once, rather than persevere in an opposition, which must perpetuate those dissensions by which the Colony has been so long distracted. A little reflexion would surely satisfy them that the circumstances of it are essentially altered in the last Twenty Years. Their pre-eminence was not disputed, when the community was comparatively small, Consisting, as it then did, only of a few Free Settlers and the Prisoners of the Crown.

Antagonism
between free
settlers and
emancipists.

This is not the case at present, and they should conform, with an appearance of good will at least, to the altered circumstances of the times. In making this observation, I distinctly disclaim even the most remote wish of inducing, much less urging a familiar intercourse with Men, who have forfeited their Claim to good character; still I can discover no just or reasonable ground for treating the Emancipists, as a Body, with indiscriminate contumely, which I apprehend has too generally been the practice of the old Settlers, or making them feel that reformation is unavailing. Without professing myself a Philanthropist, or affecting any extraordinary enthusiasm on the subject, I must think that such a course is no less obnoxious in principle than Contrary to the dictates of a sound or wholesome Policy. Do they suppose that the Emancipists have no rights, but are for ever to be regarded as Men under the immediate Sentence of the Law? Whatever their opinion on this subject may be, or their sentiments with respect to them, I should but ill discharge my duty, I think, if I were not to afford them, as a Body, the Countenance and protection of the Government. If I am wrong in this position, You will correct me, though the line appears sufficiently distinct and intelligible to prevent my falling into error. It seems to me that my duty is to see justice impartially administered to all, to encourage the well-disposed, and to proscribe only the incorrigible. In saying this, it will not be supposed that I have lost sight of the purposes, for which these Colonies were originally established. It will be my object to combine, as far as possible, the purposes of their institution as regarding the actual Prisoners, with the extension of the Colony and the welfare of the free Classes of the Inhabitants. This, I think, is not inconsistent, and I trust will not be found impracticable. I am

Policy
proposed by
R. Darling.

not, however, ignorant, whatever I may attempt, composed as that Community is of jarring and discordant Members, that I shall require the most liberal support; and experience affords me the satisfactory assurance that Lord Bathurst will not withhold the benefit of his Countenance, which, I am more than ever Convinced, will be essential to the success of any measures, which may be adopted for placing the Colony generally on a better footing. The recent occurrences have produced so total a change in the Political situation and Character of the Colony that it would be injudicious in me to prescribe myself any particular line of Conduct. The course, which might have been proper a few months since, may now be unwise and impolitic in the extreme. Since General Macquarie's time, there has been no association, I believe, between the Officers of the Government and the Emancipists. These have now proved their strength and influence by setting aside a Dinner,* proposed to be given by the opposite Party to Sir Thos. Brisbane, and having themselves taken the lead in giving one on the occasion of his departure.

1825.
10 Dec.

Policy to
be guided by
circumstances.

Farewell
dinner to
Sir T. Brisbane.

The principal Officers of the Government, indeed the whole of that Body with the exception or two or three only, were present at that Dinner, the apology of the Chief Justice, which is published, shewing that indisposition alone prevented his attending. The Crisis seems important, and I cannot be indifferent to the state of matters at the moment of my assuming the charge of the Government. But I shall act according to circumstances for the benefit of the Colony at large, without any view of becoming popular with any Party; and I have only to trust that my Conduct may be judged by my measures, as it is not improbable that there are some, who by a false Colouring may endeavour to convey an unjust impression of my Motive.

I have been induced, from what I have lately seen and heard, to say this much, previously to my entering on the arduous task, which circumstances have imposed on me; and further to advert to the Hint (before closing my letter), which I took the liberty of giving you at our last interview. The animosity against the McA—s is, I believe, violent in the extreme, founded on a belief, amounting to Conviction in the minds of the Inhabitants in general, of the access, which this family has to your Department, and the means which they thus possess of insidiously conveying false and injurious impressions of Persons and things. The Public Papers are filled with observations to this effect. From this feeling, which so strongly prevails, I am satisfied I shall best consult the Peace and happiness of the Colony by abstaining from giving encouragement to the pretensions of that

Animosity
against
J. Macarthur
and family.

* Note 29.

1825.
10 Dec.

Party, though I am aware it will expose me personally to their resentment, in proportion to the disappointment and dissatisfaction it will occasion them. I remain, My dear Sir,

Very faithfully yrs.,

RA. DARLING.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 29, per ship John Barry; acknowledged by Governor Darling, 2nd September, 1826.)

12 Dec.

Sir,

Downing Street, 12 Decr., 1825.

Under the 8th Section* of the Act of the 4th year of His Majesty, Chap. 96, which was enacted for the better administration of Justice in New South Wales and Van Diemen's Land, it is provided that it shall be lawful for His Majesty, with the advice of His Privy Council to make any order, by which the Trial by Jury may be further introduced into those Colonies subject to such Rules, etc., in respect thereof, as may appear to be proper.

In pursuance of this provision of the law, it is intended to introduce some amendments in the present system, as soon as His Majesty's Government shall have obtained such local knowledge on the subject, as may be looked for with confidence from the experience of those composing the Executive Council at New South Wales. I have, therefore, to desire that you will take an early opportunity of calling their attention to the expediency of framing the Draft of an Order in Council for the consideration of His Majesty's Government, with a view of modifying the System, under which Crimes and Misdemeanors, cognizable by the Courts of Criminal and Civil Jurisdiction in the Colony, are at present tried.

In bringing this subject before the Council, you will not omit to call their serious attention to all the weighty considerations, which belong to the question. To propose at once the sudden and unmodified system of Trial by Jury, as practiced in this Country, is what I should not be prepared to sanction, nor should I expect, at this early period, that such a proposition would meet with the unqualified assent of the Executive Council of your Government; but I cannot help thinking that some improvement might be suggested on this subject, which would tend to satisfy the Persons, who look with so much anxiety to a modification of the existing Law respecting Military and Magisterial Juries, while the reform could be effected with reference to local circumstances, so as to obviate the occurrence of any of those evils, which would probably arise from the introduction at once, into the Colony and without limitations, of the Trial by Jury as practised in this Country.

I have, &c.,

BATHURST.

Provision for
trial by jury.

Amendments
to be proposed
by executive
council.

* Note 30.

ACTING-GOVERNOR STEWART TO EARL BATHURST.

1825.
12 Dec.

(Despatch No. 1. per ship Denmark Hill, from Hobart Town.)

Sydney, New South Wales,

12th December, 1825.

My Lord,

I have the honor to report to Your Lordship that His Excellency Lieut. General Sir Thomas Brisbane, our late Governor, ceased to Administer the Affairs of this Colony on the 30th Ultimo, and resigned the Government to me in obedience, it would appear, to Instructions* transmitted to him some time since by Your Lordship. He took his departure from this Bay on the 1st Instant in the Ship "Mary Hope," together with Lady Brisbane and Family, and intended to proceed direct for Scotland to his Family Seat near Greenock.

Government
relinquished
by Sir T.
Brisbane :

Previous to his Embarkation, he handed over to me the Instructions* under the Royal Sign Manual, transmitted by Your Lordship and dated the 1st of January last, together with the other Public Documents. I immediately entered on the duties of the Government, and the Oaths of Office were duly administered to me here by Chief Justice Forbes on the 6th Instant. In doing myself the honor, therefore, to address Your Lordship on this occasion, it becomes my duty to offer an assurance that, in giving implicit obedience to the Instructions transmitted by Your Lordship for my guidance thro' the late Governor, I will not fail, on every occasion requiring it, to avail myself of the able advice of the two senior Members of the Council, the Chief Justice and the Archdeacon, in conducting the Civil Administration of the Colony.

and
undertaken by
W. Stewart.

The most desperate leaders of the different Parties of Bushrangers at Bathurst and other Settlements have been lately apprehended. At the united request of Sir Thomas Brisbane and the Members of the Council, I had some time since carefully selected and equipped as light cavalry, 2 Officers, 2 Serjeants, and 22 Rank and File from the Regiment under my Command to act as a Mounted Police, for the express Purpose of pursuing and capturing Bushrangers:—One Officer and half of this Party had been dispatched across the Blue Mountains to the District of Bathurst before Sir Thomas Brisbane's departure, and have since performed an important service in effectually clearing that part of the Country of those desperate Characters. The other half of the Cavalry with their Officer were destined for the protection of the Settlements in Hunter's River; but before their Equipment could be rendered complete, from the great difficulty of procuring horses, the enormities committed by the Bushrangers in that Quarter had caused such general confusion and alarm

Suppression of
bushranging.

* Note 31.

among the Settlers there, that I found it necessary to dispatch a select Party of Infantry from my own Regiment for their protection, and who, fortunately in a few days after their arrival there, were completely successful in capturing the four principal ringleaders after a desperate resistance, in which their Leader lost his Life. The others have since been tried before the Supreme Court here, one has already been executed and the others are under sentence of death.

The Capture of so many desperate ringleaders has evidently produced a salutary effect, and the Colony is in consequence more tranquil at present than it has been for some time past. Your Lordship may rest assured that no personal exertion on my part will be wanting to preserve so desirable a state of tranquility, until the arrival of His Excellency the New Governor, who by the last Accounts was daily expected to reach the Seat of Government in Van Diemen's Land.

I have, &c.,

WILLIAM STEWART.

ACTING-GOVERNOR STEWART TO EARL BATHURST.

(Despatch No. 2, per ship Denmark Hill, from Hobart Town.)

Sydney, New South Wales,

12th December, 1825.

My Lord,

Understanding that His Excellency the late Governor Sir Thomas Brisbane had not transmitted to Your Lordship the enclosed General Order, issued a few days previous to his departure, I have the honor herewith to forward a Copy for Your Lordship's information and approval.

The objects embraced by the Order are, it will be perceived, to regulate the collection of the duties on Spirits distilled in the Colony, when removed from the Distilleries for home consumption; as also to ensure that such Spirits, as are removed for the purpose of being placed in Bond, are actually delivered into the Bonded Stores; and further to provide for the direct and immediate payment into the Treasury of the duties chargeable on such Spirits before removal from the Distillery, and at same time to afford the means of checking, by the Returns of the Officers in charge of the Bonded Stores and of the permits of the Surveyor of Distilleries, the amount of duties credited to the Public in the Colonial Treasurer's Accounts.

The first Paragraph of the Order authorises that no more than two shillings and two pence Sterling, or half a Dollar per Gallon, should be charged on Spirits seven per Cent. overproof, distilled by Mr. Robert Cooper from Sugar during the first six Months

1825.
12 Dec.

Suppression of
bushranging.

Tranquility
of colony.

General order
re collection
of duties on
and bonding
of spirits.

Concession
granted to
R. Cooper.

from the date of his Distillery being put in operation, instead of four shillings and two pence per Gallon on such Spirits of the strength of proof, as fixed by His Excellency's Proclamation, dated 25th October last.

1825.
12 Dec.

Concession
granted to
R. Cooper.

This indulgence it is understood was ceded to Mr. Cooper, in consideration of the other Colonial Distiller, Mr. James Underwood, having had the benefit of a corresponding advantage in respect to the duty, imposed on the Spirits distilled by him from Sugar during the first six Months after his Distillery commenced working, and with a view also to enable Mr. Cooper, 'till the price of Grain should be such as to admit of Distillation from Malt, to derive some immediate return from the large capital, which he has invested in the construction of his Distillery.

I have, &c.,

WILLIAM STEWART.

[Enclosure.]

GOVERNMENT AND GENERAL ORDER.

Colonial Secretary's Office, 26th November, 1825.

THE Duty to be levied on the Spirits, Distilled from Sugar or Molasses by Mr. R. Cooper for Six Months commencing from the 14th November, 1825, is to be Two Shillings and Two Pence Sterling, or half a Spanish Dollar on each and every Gallon of such Spirits, Seven Per Cent. over proof, and proportionately according to Strength.

General order
re collection
of duties on
and bonding
of spirits.

When the Distiller wishes to remove Spirits into his own Stores for Home consumption on payment of Duty, he will point out the Spirits he wishes so to remove to the Surveyor of Distilleries, who, after gauging and ascertaining the Strength of the same, will furnish the Distiller with a Memorandum signed by him of the Marks, Contents and Strength of the Contents of each Cask.

The Distiller will present this Memorandum at the Office of the Colonial Treasurer, and pay the Amount of the Duties due thereon, taking the Receipt of the Colonial Treasurer, or of the persons duly authorized by him to receive it; on presentation of which to the Surveyor of Distilleries, he will receive his permit for the removal of the Spirits.

When the Distiller wishes to remove Spirits to the Bonded Stores, he will in like manner point out the Spirits he wishes so to remove to the Surveyor of Distilleries, who will forthwith, after gauging and ascertaining the Strength of the Spirits in each Cask, grant him a Permit for their removal, in which Permit he is to Specify the Marks, Contents and Strength of each Cask.

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12 Dec.

General order
re collection
of duties on
and bonding
of spirits.

The Distiller will, on delivery of the Spirits into the Bonded Stores, be furnished by the Officer in charge thereof with a Certificate of the Marks, Contents and Strength of the Spirits of each Cask so delivered, which he will submit to the Surveyor of Distilleries, previous to applying for a fresh Permit, to satisfy him that the Spirits removed as aforesaid have actually been delivered into the Bonded Stores.

All Permits granted by the Surveyor of the Distilleries are to be numbered in regular succession as granted, and a Counterpart thereof is to be regularly kept by him in a Book, after the manner of a Banker's Cheque Book, which he will be required to produce, whenever called for, as a Check on the Amount of Duties credited by the Colonial Treasurer.

By His Excellency's Command.

F. GOULBURN.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 30, per ship John Barry.)

14 Dec.

Reports to be
made by
superintendent
of botanical
gardens.

Sir,

Downing Street, 14 Decr., 1825.

As it does not appear that any Reports have been received from New South Wales connected with the management, etc., of the Botanical Garden in that Colony, I have to request that you will call upon the Superintendent to prepare such Reports half yearly, in order to be sent home for the information of His Majesty's Govern't, and you will also direct that the Superintendent's first Report be accompanied by an accurate description of the Plants and Vegetables, which are peculiar to the Climate of New South Wales, as well as those, peculiar to other Countries, which are susceptible of cultivation to any useful purpose, if introduced into the Colony.

I have, &c.,

BATHURST.

EARL BATHURST TO GOVERNOR DARLING.

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

16 Dec.

Act re
punishment
of offences
committed by
transports.

Sir,

Downing Street, 16 Decr., 1825.

I do myself the honor to transmit, for your information and guidance, the enclosed Copy of an Order of His Majesty in Council, dated the 11th Nov'r last, which has been issued in pursuance of an Act,* passed in the sixth year of His present Majesty, entitled, "An Act for punishing offences committed by Transports kept to Labour in the Colonies, and better regulating the powers of Justices of the Peace in New South Wales," whereby it is ordered "that the Governors, Lieutenant Governors

* Note 32.

or other persons for the time being administering the Government of any of His Majesty's Foreign Possessions, Colonies or Plantations, shall from time to time, by Proclamations to be by them respectively for that purpose issued, appoint the Place or Places within His Majesty's Dominions, to which any Offender, convicted in any such Foreign Possessions, Colonies, or Plantations, and being under sentence or order of Transportation, shall be sent or transported."

I have, &c.,

BATHURST.

1825.
16 Dec.

Act *re*
punishment
of offences
committed by
transports.

[Enclosure.]

ORDER IN COUNCIL.

At the Court at Carlton House, the 11 Novr., 1825.

Present:—The King's most Excellent Majesty in Council.

WHEREAS, by an Act of Parliament, passed in the sixth year of the Reign of His present Majesty, entitled, "An Act for punishing Offences committed by Transports kept to labour in the Colonies, and better regulating the powers of Justices of the Peace in New South Wales," it is, amongst other things enacted, That it shall and may be lawful for His Majesty by any Order or Orders, to be by Him from time to time for that purpose issued with the advice of His Privy Council, to appoint, or by any such Order or Orders in Council, to authorize the Governors, Lieutenant Governors or other persons for the time being, administering the Government of any of His Majesty's Foreign Possessions, Colonies or Plantations, to appoint the place or places within His Majesty's Dominions to which any Offender, convicted in any such Foreign Possessions, Colonies or Plantations, and being under Sentence or order of Transportation, shall be sent or transported. And it is thereby enacted that all such persons shall, within the place or places to which, in pursuance of any such Order or Orders in Council, they shall or may be so sent or transported, be subject and liable to all such and the same Laws, Rules and Regulations, as are or shall be in force in any such place or places, with respect to Convicts transported from Great Britain. Now, therefore, in pursuance of the said Act of Parliament, and in exercise of the Powers thereby vested in His Majesty, it is hereby Ordered by His Majesty, by and with the advice of His Privy Council, that the Governors, Lieutenant Governors or other persons for the time being, administering the Government of any of His Majesty's foreign Possessions, Colonies or Plantations, shall from time to time, by Proclamations to be by them respectively for that purpose issued, appoint

Order-in-council
re trans-
portation
for offences
committed by
in colony.

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Order-in-council
re trans-
portation
for offences
committed
in colony.

the place or places within His Majesty's Dominions, to which any Offender, convicted in any such foreign Possessions, Colonies or Plantations, and being under sentence or order of Transportation, shall be sent or transported.

And the Right Honourable Earl Bathurst, One of His Majesty's Principal Secretaries of State, is to give the necessary directions therein accordingly.

JAS. BULLER.

ACTING-GOVERNOR STEWART TO EARL BATHURST.

(Despatch No. 3, per ship Denmark Hill, from Hobart Town; acknowledged by Earl Bathurst to Governor Darling, 8th August, 1826.)

Government House, Sydney, New South Wales,

My Lord,

16th December, 1825.

I have the honor to transmit to Your Lordship herewith the Copy of a Proclamation, hereunto appended, which I have this day felt it my duty to issue for the purpose of regulating the rates of Postage in this Colony, and for the establishment of Post Offices in the different Sea Ports and Towns in the Interior, with which no regular communication by Post has hitherto taken place.

The serious inconvenience, which had been generally felt by all Classes throughout the Colony from the want of regular Posts, had of late been repeatedly urged upon the attention of His Excellency Sir Thomas Brisbane, and he had several times submitted to the Council the necessity of a Legislative Enactment for their establishment and regulation. Legal difficulties, however, prevented the accomplishment of this measure for some time; but at length His Honor the Chief Justice, seeing the absolute necessity of adopting it, agreed to the passing of a temporary Act, a Copy of which is also hereunto appended, and which Your Lordship will perceive is only to continue in force, until His Majesty's Post Master General shall think fit to exercise the Powers and Authorities in him vested by Act of Parliament.

I purpose taking immediate steps for carrying the Post Office Regulations into effect; but I shall defer fixing the Amount of Salary to be paid to the Principal Post Master at Sydney, and to the several Deputy Post Masters, who are or may be appointed throughout the Colony, until the arrival of His Excellency the New Governor, unless he should unexpectedly be prevented by unforeseen accident from reaching the Seat of Government, until a more distant period than I at present anticipate.

I have, &c.,

WILLIAM STEWART.

Establishment
of post offices
and regulation
of rates of
postage.

[Enclosure No. 1.]

1825.
16 Dec.

PROCLAMATION.

By His Honor Colonel Stewart of His Majesty's 3rd Regiment of Foot (or Buffs), Acting Governor for the time being of the Colony of New South Wales and its Dependencies, with the advice of the two Senior Members of the Council,

Proclamation re-
establishment
of post offices
and regulation
of rates of
postage.

WHEREAS, by an Act made and passed on the 22nd day of November last by His Excellency Sir Thomas Brisbane, K.C.B., then Governor of this Colony, etc., etc., with the advice of the Council, Entitled, "An Act to regulate the Postage of Letters in New South Wales, it is enacted that, until His Majesty's Post Master General shall, in virtue and exercise of the powers and authorities in him vested, erect and settle a Post Office in New South Wales for the receiving and carrying of Letters to, from and within the said Colony, it shall be lawful for His Excellency the Governor or the Person administering the Government of the Colony for the time being to settle and establish a Post Office in the Town of Sydney, and so many other Posts for the receiving and carrying of Letters in other parts of the said Colony, as the Governor or Acting Governor may from time to time deem necessary, and to settle and appoint certain rates for the Postage, or conveyance of Letters, from one part of the said Colony to another, as well as for the receiving and delivering of all Letters, which shall be brought into the said Colony by any Ship or Vessel, such rates being settled and appointed, according to the rates charged for the Postage of Letters within that part of Great Britain called England, as nearly as circumstances will admit. And it shall be lawful for the Governor or Acting Governor aforesaid to nominate and appoint some Person to act as a Post Master in Sydney, and a sufficient number of Persons to act as Deputy Post Masters in other parts of the said Colony, where Posts shall be established as aforesaid, with such Salaries or allowances respectively, as the Governor or Acting Governor may deem reasonable and proper."

I. Now, therefore, in virtue of the powers so vested in me by the Act above recited, I do hereby settle and appoint that the rates for the Postage and conveyance of Letters from one part of the said Colony to another, and for the receiving and delivering of Letters, which shall be brought into the said Colony by any Ship or Vessel, shall be those contained in the Schedule hereunto annexed; and I hereby order and direct that, from and after the Publication of this my Proclamation in the Sydney Gazette, the Rates of Postage, as specified in the said Schedule only, shall be charged by any Post Master within the said Colony.

II. And I hereby further order and direct that the following Regulations shall be strictly observed by the Post Master General, the several Deputy Post Masters, and all other Parties concerned:—

1. Whenever any Ship or Vessel arrives from a distant or Foreign Port, the Postmaster will forthwith repair on Board, and will take on Shore all Letters and Parcels for the Colony; and, as an encouragement to the Master to deliver up loose Letters and Parcels, not included in the Regular Mail from a Post Town in the United Kingdom, the Post Master is hereby authorized to Pay him One Penny for each of such Letters and two pence for each of such Parcels, taking his receipt for the same, in which receipt must be specified the number of such Letters and Parcels delivered up, as well as the amount paid.

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postage.

2. Each Post Master must make out a List or Way Bill of the Letters forwarded by him in each Bag or Mail to any other Post Master; and the several Post Masters must carefully preserve all such Way Bills, so addressed to them, and enter correct Copies of the same in Registers kept for the purpose, producing the Originals of all such Way Bills as Vouchers, in support of their Monthly Statements of the Amount of Postage paid into the Colonial Treasury.

3. Each Post Master will further keep a Record Book, in which he will regularly enter without erasure the Amount of Postage received daily; and, at the end of each Month, he will pay into the hands of the Colonial Treasurer the total amount of postage received by him during the Month, accompanied by a statement in duplicate of his daily receipts during the said Month. Immediately after the end of each Quarter, he will, further, make up an Abstract of all Sums collected by him, as Postage on Letters during the preceding Quarter; and, after attesting the same on Oath before competent Authority to the effect that the Abstract of Sums received by him for Postage in the said Quarter is just and true, will deliver the said Abstract to the Colonial Treasurer, together with the Amount of the Postage for the last Month of the said Quarter.

4. All the Monthly Statements of Postage Accounts are to be regularly transmitted to the Acting Commissary of Civil Accounts, within one week after the termination of each Month, in order to their being duly examined and audited by that Officer, who is hereby empowered to prescribe to the several Post Masters such Forms of Accounts and to submit for approval such other Regulations, as he may think necessary to ensure the most perfect accuracy and regularity in every branch of the Post Office Revenue.

5. A list of the Names of all Persons, to whom Letters may be addressed, which are not called for or delivered within three days after receipt at any Post Office, must be made out and posted on a Board exposed to Public view for the information of those concerned.

6. No person whatever, but such as may belong to the Department, shall under any pretence be admitted into the interior of the Post Office, nor be allowed access to the Records.

7. The Post Master, in charge of the General Post Office at Sydney, will be required to give Bond to the Colonial Treasurer, himself in Two hundred Pounds, and two Sureties in One hundred Pounds each; and every Deputy Post Master, who may be appointed to the charge of any of the Post Offices at the several other Towns and Stations in the Colony, will, in like manner, be required to enter into a Bond with the Colonial Treasurer, himself in Fifty Pounds, and two Sureties in Twenty five Pounds each, for the due fulfilment of their respective duties.

8. The Post Master General at Sydney, as well as the several Deputy Post Masters at the other Towns and Stations, will each be allowed Ten per Cent. on the total amount of the Postage collected by each respectively during the year, and if the per Centage, so allowed to the Post Master General, shall not amount to £ per annum, or to each of the Deputy Post Masters to £ per annum, the deficiency will be made good to each from the Colonial Treasury, the Governor, however, reserving to himself the power of modifying the said rate of per Centage, from time to time, as to him may appear expedient.

9. The Post Master General and each of the Deputy Post Masters will be required, before entering upon the execution of the duties of his Office, to make Oath before one of the Judges of the Supreme Court or two of the Justices of the Peace of the Territory, to the following effect:—

I, A.B., do swear that I will not wittingly, willingly or knowingly open, detain or delay, or cause, procure, permit or suffer to be opened, detained or delayed any Letter or Letters, Packet or Packets, which shall come into my hands, Power or Custody, by reason of my Employment in or relating to the Post Office, except by the consent of the Person or Persons to whom the said is or shall be directed, or except in such cases where the Party or Parties, to whom such Letter or Letters, Packet or Packets, shall be directed, and who is or are chargeable with the Payment of the Post or Ports thereof, shall refuse or neglect to pay the same, and except such Letter or Letters, Packet or Packets as shall be returned for want of true Directions, or when the Party or Parties, to whom the same is or shall be directed, cannot be found. And that I will not in any way embezzle any such Letter or Letters, Packet or Packets as aforesaid.

Sworn before the Day of 182 .

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10. Tenders will be received from Persons willing to Contract for the conveyance of the Mail to and from Sydney, to Parramatta, Windsor and Liverpool, either by the Coaches passing between those places, or by Gigs or other light Vehicles, travelling at the rate of seven miles in the hour, and a mounted Postman from Liverpool to Campbell Town, and from Parramatta to Emu Plains and Bathurst will be established for the conveyance of the Letter Bags to and from those Places. The Letter Bags for Newcastle, Port Macquarie, Moreton Bay, or any other Sea Port, will be given in charge to the Masters of such Vessels as may occasionally proceed to or from those Ports and Sydney, and they shall receive one penny for each Letter so conveyed, and two pence for each Parcel.

11. The Chief Engineer will cause to be prepared a sufficient number of proper Letter Bags, to be made of Leather under his directions at the Lumber Yard, with proper Locks and double Keys to each as in England, to be given in charge to the Post Master General, who will distribute the necessary number to the several Deputy Post Masters to enable them to keep up a regular communication; and for further Security each Post Master is uniformly to Seal each Bag on despatching it.

Schedule of the Rates of Postage to be charged on the delivery of single Letters conveyed to and from the places as hereinafter specified, vizt.

No. 1—Postage on single Letters.

From Sydney to:—Parramatta, 4d.; Emu Plains, 8d.; Windsor, 8d.; Liverpool, 6d.; Campbell Town, 8d.; Newcastle, 4d.; Port Macquarie, 4d.; Bathurst, 12d.

From Parramatta to:—Sydney, 4d.; Emu Plains, 4d.; Windsor, 4d.; Liverpool, 3d.; Campbell Town, 6d.; Newcastle, 8d.; Port Macquarie, 8d.; Bathurst, 8d.

From Windsor to:—Parramatta, 4d.; Emu Plains, 8d.; Sydney, 8d.; Liverpool, 6d.; Campbell Town, 8d.; Newcastle, 10d.; Port Macquarie, 10d.; Bathurst, 10d.

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From Liverpool to:—Parramatta, 3d.; Emu Plains, 7d.; Windsor, 6d.; Sydney, 6d.; Campbell Town, 3d.; Newcastle, 8d.; Port Macquarie, 10d.; Bathurst, 10d.

From Campbell Town to:—Liverpool, 3d.; Parramatta, 6d.; Emu Plains, 8d.; Sydney, 8d.; Windsor, 8d.; Newcastle, 12d.; Port Macquarie, 12d.; Bathurst, 12d.

From Newcastle to:—Sydney, 4d.; Parramatta, 8d.; Emu Plains, 10d.; Windsor, 10d.; Liverpool, 8d.; Campbell Town, 10d.; Port Macquarie, 4d.; Bathurst, 12d.

From Port Macquarie to:—Sydney, 4d.; Parramatta, 8d.; Emu Plains, 10d.; Windsor, 10d.; Liverpool, 8d.; Campbell Town, 10d.; Newcastle, 4d.; Bathurst, 12d.

From Bathurst to:—Emu Plains, 6d.; Parramatta, 8d.; Windsor, 10d.; Liverpool, 9d.; Sydney, 12d.; Campbell Town, 12d.; Newcastle, 12d.; Port Macquarie, 12d.

From Emu Plains to:—Bathurst, 6d.; Parramatta, 4d.; Windsor, 8d.; Liverpool, 7d.; Campbell Town, 8d.; Newcastle, 10d.; Port Macquarie, 10d.; Sydney, 8d.

Double and triple Letters to be charged proportionately to the aforesaid rates; Letters of the weight of an ounce to be charged four times the rate of Postage of a single Letter; and so on in proportion for Letters exceeding one ounce in weight. No Letters shall be rated higher than as a triple Letter, if less than one ounce in weight, and so in the proportion of one fourth of an ounce as a single Letter.

2. Newspapers, printed within the Territory of New South Wales or Van Diemen's Land, conveyed singly in covers open at each end from the Post Office at the place where they are printed to any other, to be charged one penny each.

3. Letters, from and to New South Wales and Van Diemen's Land, to pay a Sea Postage of three pence, and all other Ship Letters, whether imported or exported, a Sea Postage of four pence for each single Letter, and a Sea Postage of sixpence for all other Letters of every description, in addition to the Inland Postage chargeable thereon; such Inland and Sea Postage chargeable on all Letters, intended for exportation, to be paid on delivery into the Post Office, otherwise they will not be forwarded.

4. Parcels of Newspapers, Private Prices Current, or other Periodical Publications, exported or imported, to be charged a Sea Postage at the rate of One Penny for every four ounces of their weight; if forwarded to or from an Inland Post Office, double this rate; the postage on those intended for exportation to be paid on delivery into the Post Office. Should there be reason to believe that any such Parcel contains Letters, the Person, to whom it is addressed or from whom it is received, will be required to open it or allow it to be opened at the Post Office in his or her presence, in order that Postage may be charged at the usual rates on all Letters found in it.

5. The Letters, hereinafter described, are however notwithstanding the foregoing provisions to be delivered and to pass free of any charge for Postage: vizt.

All Letters actually and bona fide on the Public Service, addressed to or franked in their own hand writing by the following Public Officers, vizt.

His Excellency the Governor; His Honor the Lieut. Governor; The Judges of the Supreme Court; The Venerable the Archdeacon;

The Colonial Secretary; The Principal Surgeon; The Surveyor-General; The Attorney General; The Colonial Treasurer; The Chief Engineer; The Private Secretary to His Excellency the Governor; The Officer in charge of the Commissariat Department; The Superintending Magistrates of Police; The Auditor of Public Accounts; The Clerk of the Council; The Principal Superintendent of Convicts at Sydney.

All Letters from or addressed to Convicts, if sent under Cover or delivered to the Principal Superintendent of Convicts at the Lumber-Yard at Sydney, and superscribed by him in his own hand writing as Convict Letters, are also to pass free of any charge for postage.

6. And further all Letters, addressed to Non commissioned Officers or Privates of the Army, and to petty Officers or Seamen in His Majesty's Navy, are to be charged only one penny each, as by Act of Parliament is directed, provided all such letters are franked in the hand writing of their respective Commanding Officers. In case of such Letters being addressed to Persons in the United Kingdom, the said Postage of One Penny for each Letter is to be transmitted with the same; If addressed to Persons residing in Van Diemen's Land or in this Colony, the said Postage is to be paid to the Post Master at the place where the Letter is put in.

Given under my Hand at Government House, Sydney, this 16th day of December, 1825.

WILLIAM STEWART.

By His Honor's Command,

F. GOULBURN.

[Enclosure No. 2.]

[*This enclosure was a copy of act No. xxiii, 6 George IV, as published in the "Public General Statutes of New South Wales."*]

1825.
16 Dec.

Proclamation re
establishment
of post offices
and regulation
of rates of
postage.

DESPATCHES
TO AND FROM ENGLAND
DURING THE
ADMINISTRATION OF GOVERNOR DARLING.

LIEUTENANT-GENERAL RALPH DARLING arrived in Port Jackson in the evening of the 17th of December, 1825, on board the ship *Catherine Stewart Forbes*. He subscribed to the *bathe* of office and held the first meeting of the executive council on the 19th of December.

DESPATCHES,

DECEMBER, 1825, TO DECEMBER, 1826.

GOVERNOR DARLING'S COMMISSION.*

GEORGE the fourth, by the Grace of God of the United Kingdom of Great Britain and Ireland, To our trusty and well-beloved Ralph Darling, Esquire, Lieutenant General of our forces, Greeting:

WHEREAS, by Letters Patent, under the Great Seal of our United Kingdom of Great Britain and Ireland, bearing date at Westminster the third day of February in the second year of our reign, We did constitute and appoint Sir Thomas Brisbane, Knight Commander of the Most Honorable Military Order of the Bath, to be Captain General and Governor in Chief in and over the Territory of New South Wales, extending from the Northward Cape or Extremity of the Coast called Cape York, in the latitude of Ten degrees, thirty seven minutes south, to the Southern Extremity of the said Territory of New South Wales, or South Cape, in the latitude of forty three degrees, thirty nine minutes south, and of all the Country inland to the westward as far as the hundred and thirty fifth degree of East Longitude, reckoning from the Meridian of Greenwich, including all the Islands adjacent in the Pacific Ocean within the latitude aforesaid of ten degrees, thirty seven minutes south, and of forty three degrees, thirty nine minutes south, and of all Towns, Garrisons, Castles, Forts, and all other fortifications, or other military works, which might be erected upon the said Territory or any of the said Islands, for and during our Royal Will and Pleasure, as by the said recited Letters Patent, relation being thereunto had, may more fully and at large appear. Now KNOW You that we have revoked and determined, And, by these presents do revoke and determine the said recited Letters Patent, and every clause, article and thing therein contained; and further know you that we, reposing especial trust and confidence in the prudence, courage and loyalty of you, the said Ralph Darling, of our especial grace, certain knowledge, and meer motion, Have thought fit to constitute and appoint, And, by these presents, do

Recital of
Brisbane's
commission.

Revocation of
letters patent.

* Note 33.

Darling to be
governor-in-
chief.

Territorial
jurisdiction.

General
instructions.

Oaths of office
to be taken.

constitute and appoint you, the said Ralph Darling, to be our Captain General and Governor in Chief in and over our Territory, called New South Wales, extending from the Northern Cape or Extremity of the Coast called Cape York in the latitude of ten degrees, thirty seven minutes south, to the Southern Extremity of the said Territory of New South Wales, or Wilson Promontory, in the latitude of thirty nine degrees twelve minutes south, and of all the Country inland to the Westward as far as the hundred and twenty ninth degree of East Longitude, reckoning from the meridian of Greenwich, including all the Islands adjacent in the Pacific Ocean within the latitude aforesaid of ten degrees, thirty seven minutes south, and thirty nine degrees, twelve minutes south, and of all Towns, Garrisons, Castles, Forts, and all other fortifications, or military works, which are or may be hereafter erected upon the said territory or any of the said Islands. And we do hereby require and command you to do and execute all things in due manner, that shall belong to your said command and the trust, we have reposed in you, according to the several powers and directions, granted or appointed you by this present Commission, and the instructions and authorities given to you, or according to such further powers, instructions and authorities as shall at any time hereafter be granted or appointed you, under our Signet or Sign Manual, or by our order in our Privy Council, or by us through one of our Principal Secretaries of State, and according to such laws and ordinances, as are now in force or as hereafter shall be made under and by virtue of a certain Act of Parliament, made in the fourth year of our Reign, intituled, "An Act to provide until the first day of July, One thousand eight hundred and twenty seven, and until the end of the next Session of Parliament, for the better administration of justice in New South Wales and Van Dieman's Land and for the more effectual Government thereof, and for other purposes relating thereto." And our will and pleasure is that you, the said Ralph Darling, as soon as may be after the publication of these our Letters Patent, do in the first place take the Oaths appointed to be taken by an Act, passed in the first year of the Reign of King George the first, intituled, "An Act for the further security of his Majesty's person and government, and the Succession of the Crown in the Heirs of the late Princess Sophia, being Protestants, and for extinguishing the hopes of the pretended Prince of Wales and his open and secret Abettors, as altered and explained by an Act passed in the sixth year of the reign of our late Royal father, intituled, "An Act for altering the Oath of Abjuration and the Assurance, and for amending so much of an Act of the seventh year of her late

Majesty Queen Anne, intituled, 'An Act for the improvement of the Union of the two Kingdoms,' as after the time therein limited as required the delivery of certain Lists and Copies, therein mentioned, to persons indicted of High Treason or Misprision of Treason." As also that you make and subscribe the declaration, mentioned in an Act of Parliament, made in the twenty-fifth year of the reign of his late Majesty King Charles the second, intituled, "An Act for preventing dangers which may happen from Popish Recusants." And likewise that you take the usual oath for the due execution of the office and trust of our Captain General and Governor in Chief in and over our said Territory and its dependencies, and for the due and impartial administration of justice; and further that you take the oath, required to be taken by Governors in the Plantations to do their utmost, that the several laws relating to trade and the Plantations be duly observed; which said Oaths and declaration Our Chief Justice of our Supreme Court of New South Wales is hereby authorized and required to tender and administer unto you, and, in your absence, to our Lieutenant Governor, if there be any upon the place; which being duly performed, you shall administer to our Lieutenant Governor, if there be any upon the place, And to our Chief Justice, the oaths mentioned in the first recited Act of Parliament, altered as above; As also cause them to make and subscribe the aforementioned declaration. And we do hereby authorize and empower you to keep and use the Public Seal for sealing all things whatsoever, that shall pass the Great Seal of our said Territory and its dependencies. Our further will and pleasure is that there shall henceforward be an Executive Council of Government within our said Territory and its dependencies, to consist of the persons nominated and appointed in our Instructions* under the Royal Sign Manual and Signet, herewith given to you, or who shall hereafter be nominated and appointed by us, any two of whom shall be a quorum. And you are, as soon as conveniently may be, to call together the members of our said Council and to administer to them respectively the oaths mentioned in the before mentioned Act, passed in the first year of the Reign of King George the first, as altered and explained by the before mentioned Act, passed in the sixth year of the reign of our late Royal father; And also to cause them to make and subscribe the aforementioned declaration, and administer to them the usual oath for the due execution of their place and trust respectively; all which oaths shall also be administered by the Governor or Person administering the Government of our said Territory and its dependencies for the time being to all such persons, as shall

Oaths of office to be taken.

Custodian of the public seal.

Appointment of executive council.

Oaths to be taken by members of executive council.

* Note 34.

hereafter be appointed to be members of our said Executive Council; and he shall also cause them to make and subscribe the aforementioned declaration, before they respectively enter upon the execution of the duties of such their Office. And we do hereby give and grant unto you full power and authority to suspend any of the Members of our said Council from sitting, voting or assisting therein, if you shall find cause for so doing. And if it shall happen at any time that, by the death, resignation or departure from our said territory and its dependencies, of any of the said Councillors, there shall be a vacancy in our said Council, you are hereby authorized and required by a Warrant or Commission under the seal of our said Territory and its dependencies, to appoint to be members of our said Council so many fit and proper persons, as shall make up the number present to be two and no more. It being nevertheless our will and pleasure that you do signify to us by the first opportunity every such vacancy, with the Occasion thereof, as also the names and qualifications of the persons appointed by you, to the intent that such appointments may be disallowed or confirmed by us; and until such disallowance or confirmation by us shall be signified and made known to you, the persons so appointed by you shall be to all intents and purposes Executive Councillors within our said Territory and its dependencies. And if, in consequence of the suspension of any of the members of our said Council, or their inability to attend from any temporary cause, there should be not a sufficient number of Councillors on the spot to form a quorum, you are hereby authorized, provided the nature of the case shall in your judgment render it necessary, by temporary appointments under the seal of our said Territory and its dependencies as aforesaid, to make up the number present to be two and no more. And the persons, so nominated by you, shall be deemed executive Councillors, until the members, so originally appointed by you, are enabled to resume their seats, or until others are appointed in their stead. We do further give and grant unto you, the said Ralph Darling, full power and authority from time to time, and at any time hereafter by yourself, or by any other to be authorized by you in that behalf, to administer and give the oaths mentioned in the said Act of Parliament of the first year of the reign of King George the first, altered as above, to all and every such person or persons, as you shall think fit, who shall at any time or times pass into our said Territory and its dependencies, or shall be resident or abiding therein. And we do hereby authorize and empower you to constitute and appoint Justices of the Peace, Coroners, Constables, and other

Power to suspend and appoint members of executive council.

Appointments to be confirmed or disallowed.

Power to appoint temporary members of executive council;

and to administer oaths of allegiance.

necessary officers and ministers, in our said territory and its dependencies, for the better administration of justice and putting the laws in execution; and to administer or cause to be administered unto them such oath or oaths as are usually given for the performance and execution of their offices and places. And we do hereby give and grant unto you full power and authority, where you shall see cause, or shall judge any offender or offenders in any Criminal Matters, or for any fines or forfeitures due unto Us, fit objects of our mercy, to pardon all such offenders, and to remit all such offences, fines, and forfeitures, Treason and Wilful murders only excepted, in which cases you shall likewise have power upon extraordinary occasions to grant reprieves to the offenders until and to the intent OUR ROYAL PLEASURE may be known therein. And we do hereby give and grant unto you, the said Ralph Darling, by yourself or by your Captains or Commanders, by you to be authorized, full power and authority to levy, arm, muster, command, and employ all persons, whatsoever residing within our said Territory and its dependencies under your Government, and as occasion shall serve to march them from one place to another, and to embark them for the resisting or withstanding all Enemies, Pirates and Rebels, both at sea and land, and such enemies, pirates and rebels, if there shall be occasion, to pursue and prosecute in and out of the limits of our said territory or its dependencies. And if it shall so please God them to vanquish, apprehend and take, and, being taken according to law, to put to death, or keep and preserve alive at your discretion; and to execute martial law in time of invasion, or at other times when, by law, it may be executed; and to do and execute all and every other thing or things, which to our Captain General and Governor in Chief doth or ought of right to belong. And we do hereby give and grant unto you, the said Ralph Darling, full power and authority, with the advice and consent of our said Executive Council, to issue a proclamation dividing our said territory of New South Wales and its Dependencies into Districts, Counties, Hundreds, Towns, Townships and Parishes, and appointing the limits thereof respectively. And we do hereby give and grant unto you full power and authority, with the advice and consent of our said Executive Council, to erect, raise and build in our said Territory and its dependencies such and so many Forts, Platforms, Castles, Cities, Boroughs, Towns and Fortifications, as you shall judge necessary; and the same or any of them to fortify and furnish with Ordnance and Ammunition, and all sorts of arms, fit for and necessary for the security and defence of the same, and the same again or any of

Power to
appoint justices
and officers
of the law ;

to pardon
and reprieve ;

to levy armed
forces ;

to proclaim
martial law ;

to divide
territory into
counties, etc. ;

and to erect
fortifications.

them to demolish and dismantle, as may be most convenient. And forasmuch as divers mutinies and disorders may happen by persons, shipped and employed at sea, during the time of war, And to the end that such persons, as shall be shipped or employed at sea during the time of war, may be better governed and ordered, We do hereby give and grant unto you, the said Ralph Darling, full power and authority to constitute and appoint Captains, Lieutenants, Masters of Ships, and other Commanders and Officers, and to grant, to such Captains, Lieutenants, Masters of Ships, and other Commanders and Officers, Commissions to execute the law martial during the time of war according to the directions of an Act, passed in the twenty second of the Reign of his late Majesty King George the second, intituled, "An Act for amending, explaining and reducing into one Act of Parliament, the laws relating to the Government of His Majesty's Ships, Vessels and forces by Sea," as the same is altered by an Act, passed in the nineteenth year of the Reign of our late Royal father, intituled, "An Act to explain and amend an Act, made in the twenty second year of the reign of his late Majesty King George the second, intituled, 'An Act for amending, explaining and reducing into one Act of Parliament the laws relating to the Government of His Majesty's Ships, Vessels and Forces by Sea.'" And to use such proceedings, authorities, punishments, corrections, and executions upon any offender or offenders, who shall be mutinous, seditious, disorderly, or any way unruly, either at sea or during the time of their abode or residence in any of the ports, Harbours or Bays of our said Territory and its dependencies, as the case shall be found to require according to Martial Law and the said Directions during the time of war as aforesaid. Provided that nothing herein contained shall be construed to the enabling you, or any by your Authority, to hold plea or have any jurisdiction of any offence, cause, matter, or thing, committed or done upon the High Seas, or within any of the Havens, Rivers or Creeks of our said Territory or its dependencies under your Government, by any Captain, Commander, Lieutenant, Master, Officer, Seaman, Soldier or other person whatsoever, who shall be in actual service and pay in or on board any of our Ships of War or other Vessels, acting by immediate Commission or Warrant from our Commissioners for executing the office of our High Admiral of our United Kingdom of Great Britain and Ireland, or from our High Admiral of our said United Kingdom of Great Britain and Ireland for the time being, under the Seal of our Admiralty; but that such Captain, Commander, Lieutenant, Master, Officer, Seaman, Soldier or other person, so offending, shall be left to be

Power to
exercise
sovereign
naval powers ;

with certain
limitations.

proceeded against and tried, as the merits of their offences shall require, either by our Supreme Court of New South Wales, in pursuance of the provisions in that behalf, contained in the before mentioned Act of Parliament, made and passed in the fourth year of our Reign, or by Commission under our Great Seal of this Kingdom, as the Statute of the twenty-eighth of King Henry the eighth directs, or by Commission from our Commissioners for executing the Office of our High Admiral of our United Kingdom of Great Britain and Ireland or from our High Admiral of our United Kingdom of Great Britain and Ireland for the time being, according to the aforesaid Act, intituled, "An Act for amending, explaining, and reducing into one Act of Parliament the laws relating to the Government of his Majesty's Ships, Vessels and forces by Sea," as the same is altered by the aforesaid Act passed in the nineteenth year of the reign of our late Royal father, intituled, "An Act to explain and amend an Act passed in the twenty second year of the reign of his late Majesty King George the second, intituled, 'An Act for amending, explaining and reducing into one Act of Parliament the laws relating to the Government of His Majesty's Ships Vessels and forces by Sea.'" Provided nevertheless that all disorders and misdemeanors, committed on shore by any Captain, Commander, Lieutenant, Master, Officer, Seaman, Soldier or any other person whomsoever, belonging to any of our Ships of War or other Vessels, acting by immediate Commission or Warrant from our Commissioners for executing the office of our High Admiral of our United Kingdom of Great Britain and Ireland, or from our High Admiral of our United Kingdom of Great Britain and Ireland for the time being, under the seal of our Admiralty, may be tried and punished according to the laws of the place, where any such disorders, offences and misdemeanours shall be committed on shore, notwithstanding such Offender be in our actual service and borne in our pay on board any such our Ships of War, or other vessels acting by immediate Commission or Warrant from our Commissioner for executing the office of our High Admiral of our United Kingdom of Great Britain and Ireland or from our High Admiral of our United Kingdom of Great Britain and Ireland for the time being, as aforesaid, so as he shall not receive any protection for the avoiding of justice for such offences, committed on shore, from any pretence of his being employed in our Service at Sea. Our Will and Pleasure is that all public monies, which shall be raised, be issued out by warrant from you, and disposed of by you for the support of the Government or for such other purposes, as shall be particularly

The trial
of officers
and seamen
of the navy.

The trial
of offences
committed
by officers
and seamen
on shore.

Power to control
finances.

Power to
grant land ;

and to control
commerce.

Provision for
vacancy
in office.

directed and not otherwise. And we do hereby give and grant unto you full power and authority, with the advice of our Executive Council of our said territory and its dependencies, to agree for such Lands, Tenements and Hereditaments, as shall be in our power to dispose of, and them to grant to any person or persons, upon such terms and under such moderate quit rents, services, and acknowledgements, to be thereupon reserved us according to such instructions, as shall be given to you under our Sign Manual; which said Grants are to pass and be Sealed with the seal of our said Territory and its dependencies, and, being entered upon record by such officer or officers, as shall be appointed thereunto, shall be good and effectual in law against us, our Heirs, and Successors. And we do hereby give you, the said Ralph Darling, full power to appoint fairs, Marts and Markets, and also such and so many Ports, Harbours, Bays, Havens and other places for the convenience and security of shipping, and for the better loading and unloading of goods and merchandizes within our said Territory and its dependencies, as by you, with the advice of our Executive Council, shall be thought fit and necessary. And we do hereby require and command all Officers and Ministers, Civil and Military, and all other Inhabitants of our said Territory and its dependencies to be obedient, aiding and assisting, to you, the said Ralph Darling, in the execution of this our Commission, and of the powers and authorities herein contained; and, in case of your death or absence out of our said Territory and its dependencies, or in case from any especial circumstances we shall judge it expedient by Warrant, under the Royal Sign Manual or otherwise, to provide for the civil administration of the Government, notwithstanding your actual presence in our said Territory and its dependencies, to be obedient, aiding and assisting, unto such person, as shall be appointed our Lieutenant Governor or Commander in Chief, or to administer the Government of our said Territory and its dependencies, to whom we do therefore by these presents, in either of such cases, give and grant all and singular the powers and authorities, herein granted, to be by him executed and enjoyed during our pleasure; and if, upon your death or absence out of our said Territory and its dependencies, there be no person upon the place commissioned or appointed by us to be our Lieutenant Governor of our said Territory and its dependencies, or specially appointed by us to administer the Government, Our will and pleasure is that the Executive Councillor, whose name is first placed in our said Instructions to you, and who shall be, at the time of your death or absence, residing within our said Territory and its dependencies, shall take upon

him the administration of the government, and execute this our Commission and Instructions, and the several powers and authorities therein contained, in the same manner and to all intents and purposes, as other our Lieutenant Governor in Chief should or ought to do in case of your absence until your return, or in all cases until our further pleasure be known therein. Provided nevertheless, and it is our will and pleasure that neither our Chief Justice of our Supreme Court of New South Wales, nor any other Judge of the said Court, who may at any time hereafter be appointed in the manner provided by the said Act of Parliament, passed in the fourth year of our Reign, nor the Archdeacon of New South Wales shall in any case take upon them the administration of the Government of the said Territory and its dependencies. And we do hereby declare, ordain and appoint that you, the said Ralph Darling, shall and may hold, exercise, and enjoy the office and place of our Captain General and Governor in Chief in and over our said Territory and its dependencies, together with all and singular the Powers and Authorities hereby granted unto you for and during our will and pleasure.

Judges and archdeacon excluded from administration of government.

In Witness whereof, We have caused these, our Letters, to be made Patent.

Witness Ourselves at Westminster, the Sixteenth day of July, 1825, In the Sixth year of our Reign.

By Writ of Privy Seal.

GOVERNOR DARLING'S COMMISSION* AS GOVERNOR OF VAN
DIEMEN'S LAND.

[A copy of this commission, dated 16th July, 1825, will be found in a volume in series III.]

INSTRUCTIONS† TO GOVERNOR DARLING.

GEORGE R.

Instructions to Governor Darling.

INSTRUCTIONS for Our Trusty and Well beloved Ralph Darling, Esquire, Lieutenant General of Our Forces, Our Captain General and Governor in Chief in and over Our Territory of New South Wales and its Dependencies, or to the Lieutenant Governor, or Commander in Chief of the said Territory for the time being. Given at our Court at Carlton House, the 17th day of July in the Sixth Year of Our Reign.

1st. With these Our Instructions, you will receive Our Commission, under Our Great Seal, constituting and appointing you to be Our Captain General and Governor in Chief of Our Territory of New South Wales, extending from the Northern Cape, or extremity of the Coast called Cape York, in the latitude of

* Note 27. † Note 34.

Instructions
to Governor
Darling.

Territorial
jurisdiction.

Commission to
be read to
members of
executive
council.

Nomination
of members
of executive
council.

Instructions to
be laid before
executive
council.

Quorum
necessary.

10 Degrees, 37 Minutes South, to the Southern extremity of the said Territory of New South Wales, or Wilson's Promontory, in the Latitude of 39 Degrees, 12 Minutes South, and of all the Country inland to the Westward as far as the 129th Degree of East Longitude, reckoning from the Meridian of Greenwich, and of all the Islands adjacent in the Pacific Ocean within the Latitudes aforesaid of 10 Degrees, 37 Minutes South, and thirty nine Degrees, twelve Minutes South, and of all Towns, Garrisons, Castles, Forts, and all other Fortifications and other Military Works, which now are or may be hereafter erected upon the said Territory or any of the said Islands, with directions to obey such Orders and Instructions, as shall from time to time be given to you, under Our Signet and Sign Manual, or by Our Order in Our privy Council, or by Us, through one of Our Principal Secretaries of State. You are therefore to take upon yourself the execution of the trust, We have reposed in you, and as soon as conveniently may be with all due solemnity to cause Our said Commission, under Our Great Seal of Great Britain and Ireland constituting you Our Governor and Commander in Chief as aforesaid, to be read and published before the Members of Our Executive Council of Our said Territory; which being done, you shall then take and also administer to each of the Members of Our said Executive Council the several Oaths and subscribe the Declaration therein required.

2nd. Whereas We have thought fit that there should be an Executive Council for assisting you, Our Governor, or the person Administering the Government of Our said Territory for the time being, We do by these presents nominate and appoint the under mentioned persons to be of the Executive Council of Our said Territory, that is to say, the Lieutenant Governor for the time being of Our said Territory of New South Wales and its Dependencies, the Chief Justice for the time being of the Supreme Court of New South Wales, The Venerable the Archdeacon of New South Wales for the time being, and the Colonial Secretary of New South Wales for the time being.

3rd. You are to communicate forthwith to Our said Council these Our Instructions, and likewise all such others from time to time, wherein their consent and concurrence are requisite, and as you shall find convenient for Our Service to be imparted to them.

And We do hereby declare, and it is Our pleasure that Our said Council shall not proceed to the dispatch of business unless duly summoned by your authority, and unless two Members at the least be present and assisting throughout the whole of the Meetings, at which any such business shall be dispatched.

And it is Our pleasure that you do attend and preside at the Meetings of Our said Council, unless when prevented by some necessary or reasonable cause; and that in your absence the senior Member of the Council actually present shall preside at all such Meetings, the Seniority of the Members of the said Council being regulated according to the order, in which their respective Offices are hereinbefore mentioned, and in all other cases according to the priority of their Appointments as Members of Our said Council.

Instructions to Governor Darling.
President of executive council.

And We do further direct and command that a full and exact Journal or Minute* be kept of all the Deliberations, Acts, Proceedings, Votes and Resolutions of Our said Council; and that at each Meeting of the said Council the minutes of the last preceding Meeting be read over, confirmed or amended, as the case may require, before proceeding to the dispatch of any other business.

Minutes of meetings to be kept.

And it is Our further Will and Pleasure, and We do hereby command you that in the execution of the several powers and authorities, granted and committed to you by your said Commission and these Our Instructions, or by any Additional Instructions hereafter to be given to you by Us, You do in all things consult and advise with Our said Council, and that you do not exercise the powers and authorities aforesaid, or any of them, except by and with the concurrence and advice of Our said Council, save and except only in such cases as are hereinafter saved and excepted. Provided always that nothing herein contained shall extend to prevent your exercising, without the advice and consent of Our said Council, the several powers and authorities or any of them, which may be of so urgent and pressing a nature, as not to admit of the delay unavoidably incident to the deliberations of Our said Council. It is nevertheless Our pleasure that the measures adopted by you, without the advice of Our said Council, upon any such emergency shall with all convenient speed be by you brought before Our said Council for their revision and sanction. Provided also that nothing herein contained shall prevent your exercising the several powers and authorities aforesaid or any of them without the advice and concurrence of Our said Council, in any case or upon any occasion, which may not appear to you to be sufficiently important to require their assistance and advice, or which may be of such a nature that in your judgment Our Service would sustain material prejudice by consulting Our said Council thereupon.

Governor to act with advice of executive council.

Discretionary power of governor to act in emergencies.

And it is Our further Will and pleasure that no questions shall be brought before Our said Council for their advice or decision

* Note 35.

Instructions
to Governor
Darling.
Method of
procedure.

Power of
governor to act
independently
of council.

Reports to be
transmitted
to secretary
of state.

Provision for
establishment
of legislative
council.

excepting only such questions, as may be proposed by you for that purpose. Provided nevertheless, and it is Our Will that, if any Member shall deem expedient that any question should undergo deliberation of the said Council, and should, by application in writing to you, request and propose that such question should be so discussed, it shall be competent to any such Member to enter upon the Minutes of the said Council such his written Application to you, together with the answer, which may be returned by you to the same; and it is Our Will and we do further direct that, in case you see sufficient cause to dissent from the opinion of the major part or of the whole of Our said Council upon any question, brought by you under their consideration, it shall be competent to you upon any such occasion to execute the powers and authorities, vested in you by the said Commission and Instructions, in opposition to such their opinion; it being nevertheless Our pleasure that in every case it shall be competent to any Member of Our said Council to record, at length on the Minutes of the said Council, the grounds and reason of any advice or opinion he may give upon any question, he might render for the consideration of such Council; and it being also Our pleasure that in the event of your acting upon any occasion in opposition to the advice of the whole, or the major part of the said Council, you do by the first opportunity transmit to Us, through one of Our Principal Secretaries of State, a full explanation of the grounds of every such measure, together with complete copies of the Minutes, if any, of the said Council relating thereto. And We do further direct that twice in each year a full transcript of all the Minutes of Council of the preceding half year be transmitted to Us, through one of Our principal Secretaries of State.

And whereas by a certain Act of Parliament, passed in the Fourth Year of Our Reign, entitled, "An Act to provide until the First day of July, 1827, and until the end of the next Session of Parliament for the better administration of Justice in New South Wales and Van Diemen's Land, and for the more effectual Government thereof, and for other purposes relating thereto," it is enacted that it shall be lawful for Us, in manner therein prescribed, to constitute a Legislative Council, to consist of such Persons as therein mentioned, and that the Governor or Acting Governor for the time being of the said Colony shall have power and authority to make Laws and Ordinances for the peace, welfare and good Government of the said Colony; and it is thereby Provided that no Law or Ordinance shall be passed or made, unless the same shall first by the said Governor or Acting Governor

be laid before the said Council at a meeting to be for that purpose convened in manner therein mentioned. And Whereas, in pursuance of the said Act of Parliament, We have, by Warrant under Our Sign Manual, constituted and appointed a Legislative Council, consisting of such Persons as are named in the said Warrant,* Now We do hereby strictly require and command you to proceed in the making of Laws and Ordinances for the peace, welfare and good Government of the said Colony of New South Wales with the advice of the said Legislative Council, in the manner and form prescribed in and by the said Act of Parliament.

Instructions
to Governor
Darling.

Laws to be
made with
advice of
legislative
council.

And for the execution of so much of the powers, vested in you by Our said Commission, and by virtue of the said Act as relates to the proposing Laws or Ordinances to the said Council, it is Our Will and Pleasure that you do carefully observe the following rules, directions and Instructions,—that is to say:—

Instructions
re proposing
and passing
of laws.

You are as much as possible to observe, in the passing of all Laws, that each different matter be provided for by a different Law, without intermixing, in one and the same Act, such things as have no proper relation to each other; and you are more especially to take care that no clause or Clauses be inserted in or annexed to any Act, which shall be foreign to what the Title of such respective Act imports; and that no perpetual Clause be part of any temporary Law; and that no Act whatever be suspended, altered, continued, revived or repealed by general words; but that the Title and Date of such Act, so suspended, altered, continued, revived or repealed, be particularly mentioned and expressed in the enacting part.

And you shall not re-enact any Law, to which Our Assent has once been refused without express leave for that purpose, first obtained from Us, upon a full representation by you to be made to Us, through one of Our Principal Secretaries of State, for our Information of the reason and necessity for passing such Law; nor propose the Enactment of any Law repealing any Law, passed by the said Legislative Council, whether the same has or has not received Our Royal Approbation, unless you take care that there be a Clause inserted therein, suspending and deferring the execution thereof, until Our pleasure shall be known concerning the same.

And it is Our express Will and Pleasure that no Laws whatsoever be made to continue for less than two years, except only in cases where it may be necessary, upon some unforeseen emergency, to make provision by Law for a service in its nature temporary and contingent.

* Note 36.

Instructions
to Governor
Darling.

Limitations
imposed on
legislation.

And you are particularly enjoined not to pass any Law, or to do any Act by Grant, Deed, Conveyance, or otherwise whereby Our Revenue may be lessened or impaired, without Our special leave or command therein.

And it is Our Will and Pleasure that you do not, upon any pretence whatsoever, propose the Enactment of any Law or Ordinance for the naturalization of Aliens; nor for the divorce of persons joined together in Holy Matrimony; nor for establishing a Title in any persons to Lands, Tenements and Real Estates in Our said Territory or its Dependencies, originally granted to or purchased by Aliens, antecedent to Naturalization.

And We do hereby Will and require you not to propose to the said Legislative Council the Enactment of any Law or Ordinance of an unusual and extraordinary nature and importance, whereby Our Prerogative or the property of Our Subjects may be prejudiced; nor any Law or Ordinance, whereby the Trade or Shipping of this Kingdom shall be in any way affected, until you shall have first transmitted unto Us, through one of Our Principal Secretaries of State for Our Information, the Draft of such Laws or Ordinances, and shall have received Our Royal Pleasure thereupon, unless you take care in the passing any such Laws or Ordinances, as aforementioned, that there be a clause, inserted therein, suspending and deferring the execution thereof, until Our pleasure shall be known concerning the same.

You are also to take care that no private Law or Ordinance be passed, whereby the property of any private person may be affected, in which there is not a saving of the Right of Us, Our Heirs and Successors, and of all Bodies Politic and Corporate, and of all others, except such as are mentioned in the said Act, and those claiming by, from and under them; And further you shall take care that no such private Law or Ordinance be passed without a clause suspending the execution thereof, until the same shall have received Our Royal Approbation. It is likewise Our Will and Pleasure that you do not propose the Enactment of any such private Law or Ordinance, until proof be made before you in the said Legislative Council and entered into the Council Books that public Notification was made of the parties' intention to apply for such Law or Ordinance in the several Churches, nearest to the place where the premises in question be, for three Sundays, at least successively, before any such Law or Ordinance shall be proposed to the said Legislative Council; and that a Certificate under your hand be transmitted with and annexed to every such private Act, signifying that the same has passed through all the forms above mentioned.

You are to take care that, in all Laws or Ordinances to be passed by Our said Legislative Council in any case for levying Money or imposing fines and penalties, express mention be made that the same are granted or reserved to Us, Our Heirs and Successors, for the public uses of the said Territory and the support of the Government thereof, as by the said Act or order shall be directed.

Instructions
to Governor
Darling.

Finance bills.

And Whereas We have, in and by the said Commission, authorized and empowered you, with the advice and consent of Our said Executive Council, to issue a Proclamation dividing Our said Territory of New South Wales and its Dependencies into Districts, Counties, Hundreds, Towns, Townships and Parishes, and appointing the limits thereof respectively, and to agree for such Lands, Tenements and Hereditaments, as shall be in Our power to dispose of, and them to grant to any person and persons, upon such terms and under such moderate quit rents, recoveries and acknowledgments, to be thereupon reserved to Us according to such Instructions as shall be given to you under Our Sign Manual. Now we do hereby authorize and require you, as soon as conveniently may be after your arrival within Our said Territory of New South Wales, to issue in Our Name to three discreet and Skilful persons, therein resident, a Commission, under the Seal of the said Territory, authorizing and commanding them to make a Survey, in manner hereinafter mentioned, of all the Lands and a valuation of all the Waste and ungranted Lands within Our said Territory. And it is Our Pleasure that the Surveyor General for the time being of Our said Colony shall be the first or Chief Commissioner to be named and appointed in and by the said Commission.

Territory to be
divided into
counties, etc.

Commissioners
of lands to be
appointed.

And it is Our pleasure that, together with such Commission, you do issue to the Commissioners thereby appointed, Instructions requiring them to divide and apportion the whole of the said Territory into Counties, each of which shall contain as nearly as may be Forty Miles Square; and to apportion each County into Hundreds, of which each Hundred shall as nearly as may be comprize an area of one hundred Square Miles; and again to subdivide each Hundred into Parishes, of which each Parish shall as nearly as may be comprize an Area of Twenty five Square Miles; and you are to instruct the said Commissioners that, in making the division aforesaid of Our said Territory into Counties, Hundreds and Parishes, they do have regard to all such natural divisions thereof, as may be formed by Rivers, Streams, Highlands or otherwise; and that, whenever in order to obtain a clear and well defined natural boundary of any County, Hundred, or Parish, it shall be necessary to include

Commissioners
to divide
territory
into counties,
hundreds, and
parishes.

Instructions to Governor Darling.

therein a greater or smaller quantity of Land than is herein before mentioned, they the said Commissioners shall make such deviations from the prescribed dimensions of such County, Hundred or Parish, as may be necessary for obtaining such natural boundary, provided that no such County, Hundred or Parish shall in any case exceed or fall short of the dimensions before prescribed to the extent of more than one third part of such dimensions.

Instructions re established counties.

And it is Our Pleasure that that part of Our said Territory of New South Wales, which hath hitherto been divided into Counties, shall be comprized in such New Survey, as aforesaid; Provided nevertheless that, in case it should appear to you, with the advice of Our said Executive Council, that such new division as aforesaid of such last mentioned part of Our said Territory into Counties, Hundreds and Parishes is for any cause impracticable or inexpedient, you shall suspend the execution of these Our Instructions in reference to that portion of Our said Territory, until you shall have communicated unto us, through one of Our Principal Secretaries of State, the nature of such obstacle, and shall have received Our further directions in relation thereto.

Reports to be made by commission.

You are further to require the said Commissioners from time to time to make to you Reports, setting forth the progress, which they have made in the before mentioned Survey of Our said Territory, specifying therein the limits of each County, Hundred and Parish, which they have surveyed and apportioned; and you are to require such Commissioners to annex to such their written Reports Charts or Maps of every such County, Hundred and Parish.

Provision for disagreement amongst commissioners.

And, in case the said Commissioners should not unanimously concur in making to you their report respecting the division of the said Territory, you are to require the said Commissioners respectively to communicate to you the grounds and reasons of the different opinions, which they may so entertain respecting any such question as aforesaid; and, if upon a consideration of such reasons, it should appear to you, with the advice of your said Executive Council, that the opinion of the Majority of the said Commissioners is erroneous, you shall, by an Order to be made in Council, require the said Commissioners to review such their Report; and, if the Majority of such Commissioners should after such review of such their Report adhere to their original judgment, so that you acting with the advice of the said Executive Council should ultimately differ in opinion from the said Commissioners, you shall suspend the ultimate decision upon any such question, until you shall have transmitted to Us, through one of Our Principal Secretaries of State, a full statement

and explanation of the question in discussion, and until you shall have received Our further Instructions for your guidance therein.

Instructions
to Governor
Darling.

And it is Our Pleasure that, when any such Report of the said Commissioners as aforesaid shall be finally approved by you with the advice of your said Council, or by Us, as the case may be, the same shall be deposited among the records of the Supreme Court of New South Wales, and that an exact Transcript thereof shall be deposited in the Office of the Surveyor General of Our said Territory, and that another Transcript thereof shall be transmitted to Us through one of Our Principal Secretaries of State.

Preservation of
final reports.

And, for the better guidance of the said Commissioners in the execution of the duty so to be committed to them, you will, with the advice of the said Executive Council, issue to them such Instructions, as may from time to time become necessary; and you shall, by a new commission or Commissions to be for that purpose issued in manner aforesaid, supply all such vacancies in the said Commission, as may from time to time arise by the death, resignation, absence or removal of any such Commissioner.

Instructions to
commissioners.

Vacancies in
commission.

And it is Our Will and Pleasure, and We do hereby specially authorize and empower you in Our Name from time to time to issue, under the public Seal of Our said Territory, Letters Patent for erecting into Counties, Hundreds and Parishes, such Districts, as may, in manner aforesaid, be selected for that purpose by the said Commissioners in and by any Reports, so to be made by them and approved by you or by Us, as aforesaid, as the case may be; and all such Letters Patent, so to be issued by you in Our Name, shall be enrolled among the Records of the Supreme Court of New South Wales, and shall be on record; and the issuing of any such Letters Patent shall by you be made known, to all Our loving Subjects within Our said Territory, by Proclamations to be by you from time to time published for that purpose in the most usual and public manner.

Letters patent
to be issued
erecting
counties,
hundreds, and
parishes.

And We do further authorize and require you, in and by any such Letters Patent as aforesaid in Our Name and on Our behalf, to grant to Our loving subjects, resident within any such County, Hundred or Parish, all such franchises, immunities, rights and privileges whatsoever, as consistently with the circumstances, situation, Laws and usages of Our Colony of New South Wales, may be properly granted to such Our loving Subjects in that behalf; Provided that such franchises, immunities, rights and privileges shall, as far as the circumstances of the said Colony may admit, be such as on and of right may be claimed, held, enjoyed and exercised by Our Subjects, Inhabiting and residing

Franchise and
privileges
to be granted
residents of
counties, etc.

Instructions
to Governor
Darling.

in any County, Hundred or Parish in that part of Our United Kingdom of Great Britain and Ireland, called England, and not otherwise.

Divisions to be
restricted to
settled districts.

And it is Our Will, and We do further require that such division as aforesaid of Our said Territory into Counties, Hundreds and Parishes shall not for the present be extended into such Districts of Our said Territory, as lie beyond the range of any actual Settlements; but that such divisions, as aforesaid, shall from time to time be extended into the parts thereof, which are at present unsettled, as the cultivation of Our said Territory may progressively advance, so that in all future times all persons, intending to settle in Our said Territory, may know in what County, Hundred and Parish any particular Lands are included.

Lands to be
valued by
commissioners.

And it is Our Pleasure, and We do hereby direct that the Commissioners, so to be appointed as aforesaid for the division of Our said Territory into Counties, Hundreds and Parishes, shall also be required and authorized to make a valuation of all the waste and unoccupied Lands, comprized in every such County, Hundred and Parish; and for that purpose it is Our Pleasure that the said Commissioners shall ascertain the average value of the Lands in each Parish separately, taking into their consideration the fertility and all other natural, accidental or local advantages or disadvantages of the Land in each Parish, as a basis for calculating the value thereof; and in making such their valuation, it is Our Pleasure that the said Commissioners shall enquire what sum of Money might reasonably be expected to be paid for any such Lands, if sold for a price to be paid in ready money at the time of the Conveyance in tracts containing three Square Miles, or one thousand, nine hundred and twenty acres, each to be held in free and common socage in fee simple without the payment of any quit Rent or duty for or in respect of the same.

Progress
reports on
valuations.

And it is Our Pleasure that the said Commissioners shall make to you Reports of the progress of such their valuation in the same manner and subject to the same Rules and conditions, as is hereinbefore provided in respect to the Reports so directed, as aforesaid, to be made of the Survey and division of the said Territory into Counties, Hundreds and Parishes; and such and the same proceedings shall be had and taken upon and in respect to the Reports so to be made, as aforesaid of the value of the said Lands, as are before directed to be had and taken in respect to the Reports to be made of the Survey and division of the said Territory.

And it is Our Pleasure and We do further direct you to require and authorize the before mentioned Commissioners

further to report to you, what particular Lands it may be proper to reserve in each County, Hundred and Parish, so to be surveyed, and valued by them as aforesaid, for Public Roads and other internal communications, whether by Land or Water, or as the scites of Towns, Villages, Churches, School Houses, or Parsonage Houses, or as places for the interment of the dead, or as places for the future extension of any existing Towns or Villages, or as places fit to be set apart for the recreation and amusement of the Inhabitants of any Town or Village, or for promoting the health of such Inhabitants, or as the scites of Quays or Landing places, which it may at any future time be expedient to erect, form or establish on the Sea Coast or in the neighbourhood of Navigable Streams, or which it may be desirable to reserve for any other purpose of public convenience, utility, health, or enjoyment; and you are specially to require the said Commissioners to specify in their reports, and to distinguish in the Charts or Maps to be subjoined to those Reports, such Tracts, pieces or parcels of Land in each County, Hundred and Parish within Our said Territory, as may appear to them best adapted to answer and promote the several public purposes before mentioned; And it is Our Will, and We do strictly enjoin and require you that you do not, on any account or on any pretence whatsoever, grant, convey or demise to any person or persons any of the Lands, so specified as fit to be reserved as aforesaid, nor permit or suffer any such Lands to be occupied by any private person for any private purposes.

Instructions
to Governor
Darling.
Commissioners
to recommend
reservations for
public purposes.

And Whereas it is necessary that effectual provision should be made for the establishment and support, within Our said Territory, of the Protestant reformed Religion, as by Law established in England and Ireland, and for the education of Youth in the discipline and according to the principles of the United Church of England and Ireland; And We have for that purpose thought fit that such part, as hereinafter mentioned of the Waste and unoccupied Lands within Our said Territory and its Dependencies, should be appropriated and set apart, and should be placed under the control and superintendance of one Body, Politic and corporate, to be established within the said Territory by Letters Patent to be for that purpose issued under the public Seal of New South Wales. Now We do hereby require and enjoin you, when and so soon as such Body Politic and Corporate shall have been erected and established in pursuance of certain additional Instructions herewith given or hereafter to be given to you, to make to the said Corporation such Grants of Land within Our said Colony of New South Wales as hereinafter mentioned.

Lands to be
granted for
clergy and
school estate.

Instructions
to Governor
Darling.
Lands to be
granted for
clergy and
school estate.

And for the purpose last aforesaid, it is Our pleasure and We do hereby direct that you do require and authorize the before mentioned Commissioners to mark out and set apart in each and every County, Hundred, etc., into which they may from time to time divide the said Territory, a Tract of Land comprizing one seventh part in extent and value of all the Lands in each and every such County, to be thenceforward called and known by the name of the Clergy and School Estate of such County. And it is Our pleasure that every such Clergy and School Estate shall as nearly as may be lie in one continuous and unbroken tract; and that, when it shall be impossible to select such a Tract of Land for that purpose without serious injury or inconvenience to private Settlers there, the said Commissioners shall be at liberty to allot such Clergy and School Estates in two or more continuous tracts in the same County; it being nevertheless Our Will and Pleasure that the Clergy and School Estates in each County shall not be interspersed with or divided by other Lands, excepting only in such special cases as aforesaid.

And it is Our Pleasure that the Lands, to be set apart in each County for the Clergy and School Estate thereof, shall be of an average quality and value in reference to the general quality and value of the Lands comprised in the said County; and that such situations shall be selected for this purpose as may afford, to the said Clergy and School Estates, a reasonable and equal share of every natural advantage of Water Carriage or internal communication, which may be possessed by the Lands in general throughout any such County; and you are to direct and require the beforementioned Commissioners to make a special and distinct report to you in reference to each County to be erected in Our said Territory pointing out, with all possible precision, the particular tracts of Land, appropriated for the Clergy and School Estates of such County.

And in case it shall not be possible to find in any of the Counties, which may be so erected as aforesaid, a sufficient quantity of vacant and unoccupied Land to make up the Clergy and School Estate of that County, then it is our Will that the deficiency be made up by an allotment of Land to be taken out of the nearest adjacent County, in which a sufficient quantity of ungranted Land may be found for that purpose.

And it is Our Pleasure that, when and so soon as the said Corporation shall have been erected and established, you do in Our Name pass, under the public Seal of New South Wales, Grants to the said Corporation and their successors of the Clergy and School Estates* aforesaid, when and as they may be

Estates to be
granted to
corporation.

* Note 37.

successively allotted and ascertained in the several Counties of Our said Territory by any Reports from the said Commissioners, which shall be finally approved by you or by Us, as the case may be, to hold such Lands to the said Corporation and their Successors in fee simple and in free and common socage tenure.

Instructions
to Governor
Darling.

And it is Our Pleasure that all the waste and uncleared Lands within our said Territory, which shall remain, after making such several reservations as beforementioned for the public Service, for the support of the Clergy of the established Church of England and Ireland, and for the Education of Youth, shall be granted in Our Name and on Our behalf to private persons, willing to effect Settlements thereupon, and subject nevertheless to the several rules and conditions hereinafter particularly mentioned.

Lands to be
granted to
private persons.

And We do require that, from time to time and when and so soon as the said Commissioners shall have made any Report, which, being so approved as aforesaid, shall state the limits and the average value of the Lands in any parish to be erected in our said Territory, you do, by Proclamation in the public Gazette of Our said Territory or otherwise as may be most convenient, make known to all Our Subjects what is the Average price of Lands in any such Parish, to the intent that all persons may know the prices for which the same will be sold.

Sale of
crown lands.

And you are to cause Lists of all the Parishes, in which Lands may remain for sale, with the average prices of such Lands, to be publicly exhibited in the office of the Surveyor General of New South Wales; and no such Lands shall be sold or disposed of, until the average price thereof hath been so published and exhibited in the office of the said Surveyor General during one Calendar month; and the highest offer, which shall during such month be made for any such Lands, shall be accepted, Provided that such offer shall at least amount to the beforementioned average price; and, to secure uniformity in all applications to be made for the purchase of such Lands, you are to cause printed forms of such applications to be prepared and delivered at the office of the said Surveyor General to any person, making application for the same, on payment of a fee of two shillings and sixpence and no more; and such Applications shall be received in such written form as aforesaid and in none other.

Upset values to
be published.

Highest offer
to be accepted.

Applications
to purchase.

And, in case any such Lands as aforesaid shall continue unsold during a period of three years next after the average value thereof shall in manner aforesaid have been made publicly known, you shall be and are hereby authorized to accept the highest offer, which shall be made for the same, although such offer may not amount to the average price, fixed by such valuation

Lands unsold.

Instructions
to Governor
Darling.

as aforesaid. Provided, nevertheless, that in case you should be of opinion that such Lands do not remain unsold by reason of the price being excessive, then and in every such case you shall and may suspend beyond the said period of three years the sale of such Lands at any prices below the said average price.

Power to refuse
highest offer.

Provided always, and it is Our Will that in case you should see sufficient cause of a public nature for refusing any offer made by any particular individual for the purchase of any particular Lands, you shall be at liberty to decline accepting such offer, although the price offered may be the best and highest offer received for the same; it being nevertheless Our pleasure that the best and highest offer is in all cases to be accepted, unless the objection to the person making such offer should be of the clearest and most decisive nature.

Land grants
obtained by
purchase.

And it is Our pleasure that all Grants of Land, to be made by you in Our Name to any person or persons in consideration of the payment of Money for the same, shall be made to such person or persons and his, her or their Heirs and Assigns, to be by him, her and them held in free and common socage, yielding and paying to Us, Our Heirs and Successors, a Quit Rent of one pepper Corn by the year for the same; and every such Grant shall pass in Our Name under the Public Seal of New South Wales, and shall be executed and delivered to the purchaser or purchasers at the office of the Colonial Secretary of Our said Colony on the payment of the purchase money for the same, or on the payment of the last Instalment of such purchase money, as the case may be, and not before; and, for the delivery of every such Grant and the preparing the same, the said Colonial Secretary shall be entitled to charge a fee amounting to Forty Shillings Sterling Money, and no more, or of such smaller amount as you from time to time, with the advice of the Executive Council of New South Wales, shall appoint; and every such Grant shall, previously to its being so delivered, be enrolled in the Supreme Court of New South Wales, and for making every such enrollment the Registrar of such Court shall be entitled to receive, from such Grantees or Grantee, a fee of Five Shillings Sterling Money and no more.

Discount on
cash payments.

And We do further authorize you to allow a Discount of £10 per Cent. on the immediate payment of the price of any such Lands, that is to say, on payment of such price into Our Treasury of Our said Colony in Gold and Silver Money, within one Calendar month next after the offer of the purchaser or purchasers shall have been accepted; and in all other cases such price shall be paid and made payable by four equal Instalments on the four most usual days of payment in the year.

Payment by
instalments.

And it is Our Will that such Lands, as aforesaid, shall be put up to sale in Lots comprizing 1,920 Acres, as nearly as may be; And, to prevent uncertainty and confusion, respecting the Lots of Land thus offered for sale, you are to require the before mentioned Commissioners of Survey and valuation to prepare Charts of each Parish, with division lines by which the whole of every such Parish will be divided into Lots of 640 Acres each; and you are further to cause such Commissioners to annex Schedules to such Charts, in which they shall point out and describe the natural or artificial Land marks, corresponding with the division lines on every such Chart; and every such Lot of 640 Acres shall also be described in the Chart of the Parish by a numerical mark; and all offers for such Lands shall be made and all such Grants of Land, as aforesaid, effected in reference to the Public Chart of the Parish, in which such Lands are situate.

Instructions to Governor Darling.

Parishes to be divided into lots of one square mile.

And it is Our Will that no person shall be permitted, by any Contract or successive Contracts, to become the purchaser of more than 9,600 Acres of Land in the whole within the said Territory, except in pursuance of a Special order to be by Us for that purpose issued through One of Our Principal Secretaries of State.

Limitation of area to be sold to one purchaser.

And in case any person, purchasing any such Lands as aforesaid, shall, within ten years next after the payment of the whole of such purchase money, make it appear to you, with the advice of the said Executive Council, by sufficient proof to be transmitted to and laid before such Council, that he hath, within such period of Ten Years, relieved Our Treasury from an expence equal to ten times the amount of such purchase Money, by the employment of Convict Labourers upon such Lands, then and in every such case you are hereby authorized and required by a Warrant, under your hand, to direct the Treasurer of the said Colony to refund and pay back to any such person or persons the whole price or purchase Money, by him her or them paid for such Land, but without interest, and without refunding any Money, which may have been retained by or allowed to any such person or persons, as a discount on prompt payment; and, in computing the amount of the sum saved to Our Treasury by the employment of Convicts, the purchaser or purchasers shall have credit to the amount of One pound twelve Shillings for such and every Convict he shall have employed and wholly sustained at his own expence upon such Lands as aforesaid for the term of Twelve Calendar Months.

Refund of purchase money for maintenance of convicts.

And it is Our further pleasure that, at the expiration of six months next after the time when any Lands shall have been so

Instructions
to Governor
Darling.

Lands to be
granted without
purchase.

offered for sale as aforesaid at such average price as aforesaid, and shall not have been actually sold and disposed of, it shall be lawful for you to make Grants of such Land without purchase to any persons, applying for such Grants; and, to the end that uniformity may be observed in the manner of making such applications as aforesaid, you shall cause one form for such Applications to be prepared and printed with necessary blanks; and a Copy of every such printed form shall be delivered at the Office of the said Surveyor General to any person or persons making application for the same on payment of a fee of Two Shillings and Sixpence Sterling Money and no more.

Acknowledg-
ment of
applications
to purchase.

And it is Our Pleasure that, upon receiving any such Application as aforesaid for the purchase of Lands, you shall return through the Colonial Secretary An Answer to every such person or persons as nearly as may be in the order of time, in which his, her or their application or applications may have been received by you; and that you shall not assent to any such Application, unless and until you shall see good cause to be satisfied that the person or persons, so applying, is or are able, and doth or do intend to expend and lay out, in the cultivation and improvement of such Lands, a sum of Money equal to one half of the price, at which such Lands may have been valued by the said Commissioners.

Procedure for
grants without
purchase.

And it is Our Will that all such Lands, as aforesaid, which may be so granted without purchase, shall be so granted to the person or persons applying for the same, and his, her or their Heirs, or Assigns, to be by him, her or them holden in free and common socage, yielding and paying to Us, Our Heirs and Successors, a Quit Rent for the same of £5 per Cent. per Annum upon the value of the Lands, so fixed as aforesaid by the said Commissioners, and every such Grant shall pass in Our Name under the Great Seal of New South Wales, and shall be delivered to such Grantee or Grantees at the Office of the Colonial Secretary of Our said Colony, on the payment of a fee of Forty Shillings Sterling Money and no more to such Secretary for the delivery of every such Grant and the preparing thereof, or on the payment of such smaller fee, as you from time to time, with the advice of the Executive Council of New South Wales shall appoint; and every such Grant shall, previously to its being so delivered, be enrolled in the Supreme Court of New South Wales, and for making every such Enrollment the Registrar of every such Court shall be entitled to receive from such Grantee or Grantees a fee of Five Shillings Sterling and no more.

And it is Our pleasure that such quit Rent, as aforesaid, shall not commence to be payable until the expiration of Seven Years

next succeeding the date and Execution of every such Grant; and every such Grant shall contain a proviso or condition to the following effect, that is to say, that the same shall be and become absolutely forfeited and void, unless, within such term of seven years from the date thereof, such Grantee or Grantees, or his her or their Heirs, or Assigns, shall establish and make out to the satisfaction of the Governor, Lieutenant Governor, or person administering the Government of New South Wales, that he she or they hath or have, during such period of seven years, actually expended in the cultivation or Improvement of such Lands a capital sum equal to one fourth part of the value, at which the same may have been estimated by the said Commissioners previously to the issuing of any such Grant.

Instructions to Governor Darling.

Conditions imposed on grants without purchase.

And it is Our Pleasure that such quit Rent, as aforesaid, shall, in and by every such Grant, be made redeemable at the option of the Grantee, his or her Heirs, and Assigns, on the payment by him, her or them into the hands of the Colonial Treasurer, of the capital sum of Money, equal to twenty times the Annual Amount of such Quit Rent; Provided that such payment be made within Twenty Years next after the Date and Execution thereof. And, in calculating the amount of the payment so to be made into Our said Treasury for the redemption of any such Quit Rent, the person or persons, making such payment, shall be entitled to credit for the sum of Thirty two Shillings for each and every Convict, whom he, she or they may appear to have employed and maintained at his, her or their own expence for one whole year in the cultivation of such Lands as aforesaid.

Redemption of quit rent.

And it is Our Will that no person shall receive without purchase a Grant of Land exceeding 2,560 Acres or less than 320 Acres, Provided, nevertheless, that you shall be at liberty to make grants of Land of less than 320 Acres in the immediate vicinity of any Town or Village; in all other cases in which such Grants are not applied for, for the purpose of establishing Farms or making Settlements, it being Our intention, by the before mentioned restriction, to prevent the increase and extension of Farms and Settlements too inconsiderable to replace with profit the capital to be expended in the cultivation thereof.

Limitation of grants without purchase.

And it is Our Will that, in case any person shall receive a second Grant of Land without purchase, who hath at any former time received a Grant of Land from Us, either with or without purchase in Our said Territory, that then the Quit Rent, made payable on such second Grant of Land, shall become payable immediately from and after the execution thereof, and shall not be suspended for such term of seven years as aforesaid; It being

Quit rent on additional grants without purchase.

Instructions
to Governor
Darling.

Our intention that such suspension of payment as aforesaid shall take place in favor only of persons, who have not theretofore made any settlement in Our said Colony, and as an encouragement and assistance to such new Settlers.

Procedure to
be adopted
in granting
pardons or
reprieves.

And Whereas by Our said Commission We have granted to you authority in certain cases to pardon offenders in any Criminal matters and to remit such offences, fines and forfeitures, and, upon extraordinary occasions, to grant reprieves to the Offenders until and to the intent Our Royal Pleasure may be known therein, Now We do hereby require and enjoin you to call upon the Chief Justice for the time being of New South Wales to make to you a written Report of the cases of all persons, who may from time to time be condemned to suffer Death by any Sentence of the said Supreme Court; and such Reports of the said Chief Justice shall by you be taken into consideration at the first meeting thereafter, which may be conveniently held of Our said Executive Council, when the said Chief Justice shall be specially summoned to attend; and you shall not pardon or reprieve any such offenders as aforesaid, unless it shall appear to you expedient so to do, upon receiving the advice of Our Executive Council therein; but in all such cases you are to decide either to extend or to withhold a Pardon or Reprieve according to your own deliberate Judgment, whether the Members of Our said Executive Council concur therein or otherwise, entering nevertheless, on the Minutes of the said Council, a Minute of your reasons at length in case you shall decide any such question in opposition to the judgment of the Majority of the Members thereof.

Fees for naval
and military
officers acting
on juries.

And Whereas, under and by virtue of the said Act of Parliament, certain Officers of Our Sea or Land Forces are required to serve as a Jury on the Trial of all Informations, prosecuted before the Supreme Court of New South Wales, and it is reasonable that such Officers should receive an adequate remuneration for the service, which they are so required to perform, Now We do hereby authorize you, from and out of the unappropriated Revenue of Our said Colony, to pay to every such Sea or Land Officer the sum of Fifteen Shillings for each and every day, during which he shall actually attend and serve as a Jurymen upon the Trial of any such Informations, as aforesaid.

Erection of
colony into an
archdeaconry.

And Whereas We have thought fit, by Letters Patent under Our Great Seal, bearing date the second day of October, 1824, to erect the Colony of New South Wales and its Dependencies into an Archdeaconry, and to appoint the Reverend Thomas Hobbes Scott to be the first Archdeacon, Now it is Our pleasure that the said Archdeacon, or the Archdeacon of New South

Wales for the time being, shall act as and be the visitor on Our behalf of all Schools, Colleges and Religious foundations, whatsoever maintained, or to be established and maintained throughout the said Colony by any Grants made or to be made by Us for that purpose. And it is Our pleasure that you be in all things aiding and assisting the said Archdeacon in the execution of the duties, with which he is charged in and by Our said Letters Patent. And it is Our Pleasure that you do assign to such Chaplains, as may from time to time be appointed by Us to Officiate in New South Wales, such Spiritual Acres as the said Archdeacon shall advise; and you are to consult with the said Archdeacon upon all questions that may arise, touching the celebration of divine worship or the performance of any peculiar Ecclesiastical Rites and Ceremonies, or touching the Stipends or allowances of the inferior Clergy.

Instructions to Governor Darling.

Archdeacon appointed visitor to all schools.

Administration in church matters.

And it is Our further Will and Pleasure that you do, to the utmost of your power, promote Religion and Education among the Native Inhabitants of Our said Colony, or of the Lands and Islands thereto adjoining; and that you do especially take care to protect them in their persons, and in the free enjoyment of their possessions; and that you do by all lawful means prevent and restrain all violence and injustice, which may in any manner be practised or attempted against them; and that you take such measures as may appear to you with the advice of Our said Archdeacon to be necessary for their conversion to the Christian Faith and for their advancement in Civilization.

Protection of the aborigines.

ADDITIONAL INSTRUCTIONS TO GOVERNOR DARLING.

ADDITIONAL INSTRUCTIONS to Our Trusty and Well Beloved Ralph Darling, Esquire, Lieutenant General in Our Forces, Our Captain General and Governor in Chief in and over Our Territory of New South Wales and its Dependencies, or to the Lt. Governor, Commander in Chief of the said Territory for the time being. Given at Our Court at Carlton House, on the 17th day of July in the Sixth Year of Our Reign.

Additional instructions to Governor Darling.

WHEREAS, by Our Commission, under Our Great Seal, constituting and appointing you to be Our Captain General and Governor in Chief of Our Territory of New South Wales, We have required you to obey such Orders and Instructions as shall from time to time be given to you under Our Signet and Sign Manual, or by Our Order in Our Privy Council, or by Us, through one of Our Principal Secretaries of State; And Whereas We have thought fit to Authorize the erection within Our said Territory of New South Wales under the Public Seal thereof of a Corporation

Additional instructions to Governor Darling.

Letters patent to be granted to corporation for clergy and school estates.

for the management of such Estates, as We have caused to be appropriated and set apart therein for the support of the Clergy of the Established Church of England and Ireland, and for the Education of Youth in the principles thereof. Now we do require and command you that, with all convenient speed after your Arrival in Our said Colony, you do affix the public Seal thereof to certain Letters Patent, which shall be in the words and to the effect following—that is to say:—

[Here follows a draft of the proposed charter of incorporation for the management of the Church and School estates. It is a repetition of the draft sent to Sir Thomas Brisbane in the despatch dated 1st January, 1825 (see page 444 et seq., volume XI), subject to the following slight alterations:—

- l. 6, p. 445—"or assistant Chaplains" inserted after "Chaplains."
- l. 32, p. 446—"twice" vice "(two) days."
- l. 5, p. 448—"and convey under the Common seal" inserted after "sell."
- l. 32, p. 448—"shall hereby and Bona Fide be demised" inserted after "demise."
- l. 29, p. 449—"other than such Mortgage Debts" inserted after "Debts."
- l. 12, p. 454—"to him for that purpose" inserted before "issued."]

INSTRUCTIONS* TO GOVERNOR DARLING AS GOVERNOR OF VAN
DIEMEN'S LAND.

[A copy of these instructions, dated 17th July, 1825, will be found in a volume in series III.]

ACTING-GOVERNOR STEWART TO EARL BATHURST.

(Despatch No. 4, per ship Denmark Hill, from Hobart Town.)
Sydney, New South Wales,

My Lord,

21st December, 1825.

I have now the honor to report to Your Lordship the arrival of His Excellency Lieut. General Darling at an earlier period than I had been led to anticipate. His Excellency, it appears, had reached the Seat of Government in Van Diemen's Land on the 24th of last Month, a week prior to Sir Thomas Brisbane's departure from this port; but, there being in the mean time no arrivals from that Colony, we had no information whatever of His Excellency's movements, until the Ship, in which he came out, suddenly made her appearance in this Port on Sunday the 18th Instant.

* Note 27.

1825.
21 Dec.

Arrival of
Governor
Darling.

Having landed privately next day in the Afternoon, the Members of the Executive Council were assembled at Government House, and the usual Oaths of Office were administered to His Excellency* by Chief Justice Forbes, in the presence of the Council and under a salute from the Batteries; after which the Members of the Executive Council were themselves sworn in.

1825.
21 Dec.
Oaths of office administered.

His Excellency having afterwards signified to me his intention to Land Publicly Yesterday Morning at 11 o'Clock, and to march in Procession from the King's Wharf to Government House, I had the whole of the Troops under Arms and stationed along the Streets through which the Procession was to pass, and having assembled the Members of the Executive and Legislative Councils, together with the whole of the Civil and Principal Military Officers, we received His Excellency at the hour appointed in due form as the Representative of Our Most Gracious Sovereign, and immediately moved with him in Procession to Government House, where the whole of the Civil and Military Officers were presented to His Excellency, and the Members of the Legislative Council were afterwards sworn in.

Official reception of governor.

His Excellency was pleased to express himself fully satisfied with the arrangements made for his reception on this occasion, and he has since entered upon the Executive duties of the Government with the greatest energy and application.

I have, &c.,

WILLIAM STEWART.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 1 of 1825. per ship Denmark Hill. from Hobart Town; acknowledged by Earl Bathurst, 26th June, 1826.)

My Lord, Government House, 21st December, 1825.

I have the honor to report for Your Lordship's information that I landed here Yesterday, and have assumed the Administration of this Government.

Government assumed by Darling.

I enclose a Copy of the Proclamation, which I issued on the occasion, and beg to acquaint Your Lordship that the Executive and Legislative Councils have been established, Conformably to the Instructions on this Head.

Executive and legislative councils established.

The Government was delivered over to me by Colonel Stewart, the Lieutenant Governor, Sir Thomas Brisbane having sailed for England in the Mary Hope on the 1st inst't.

Departure of Brisbane.

Your Lordship will be aware that it is not in my power to afford Your Lordship any useful information at so early a period after my arrival.

* Note 38.

1825.
21 Dec.

Loyalty of
colonists.

But I should not do justice to the Inhabitants and the people at large, were I to omit stating to your Lordship that they have evinced the utmost loyalty to His Majesty's Government, which the occasion afforded them an opportunity of doing, and have shewn me personally every possible attention and respect.

I have, &c.,
RA. DARLING.

[Enclosure.]

PROCLAMATION.

Proclamation
by R. Darling.

BY His Excellency Lieutenant General Ralph Darling, Commanding His Majesty's Forces, Captain General and Governor in Chief of the Territory of New South Wales and its Dependencies, etc., etc., etc.

Assumption
of office.

THE KING having been graciously pleased by Commission under the Great Seal, bearing date the Sixteenth day of July, 1825, to appoint Lieutenant General Ralph Darling to be Captain General and Governor in Chief of the Territory of New South Wales and its Dependencies, His Excellency has been sworn in and has assumed the administration of the Government accordingly.

Executive
council
appointed.

The Governor takes this opportunity to notify that His Majesty has been pleased to constitute an *Executive Council* for this Government, to be composed of the following members, viz. :—

The Lieutenant Governor for the time being of the Territory of New South Wales and its Dependencies;
The Chief Justice for the time being of the Supreme Court;
The Venerable the Archdeacon for the time being; and
The Colonial Secretary for the time being.

Legislative
council
appointed.

His Excellency also notifies that His Majesty has further been pleased to revoke the original Warrant appointing a *Legislative Council*, and to issue a fresh Warrant, bearing date the 17th day of July, 1825, by which the following Persons are appointed to be the Members, viz. :—

William Stewart, Esqre., Lieutenant Governor; Francis Forbes, Esqre., Chief Justice; The Venerable T. H. Scott, Archdeacon; Alexander MacLeay, Esqr., Colonial Secretary; John MacArthur, Esqr.; Robert Campbell, Senr., Esqr.; Charles Throsby, Esqre.

Address to
inhabitants.

The Governor avails himself of this occasion to assure the Inhabitants at large that his best exertions will be unremittingly employed to give effect to the measures, which have been adopted by His Majesty's Government for the prosperity of this important Colony; He can offer no better earnest of the interest he takes in their welfare than his assurance that, from the moment of his appointment to the Government, he has considered his own success to be identified with theirs, and they may rely he will lose no opportunity of redeeming this same pledge.

Thus disposed, His Excellency looks with confidence to the good feeling of the Colonists. It is unnecessary to point out that, unless a Spirit of Concord prevails amongst them, any exertions of the Government to promote their welfare must be ineffectual, as the most strenuous and best directed efforts, if not met by a correspondent disposition on their part, must prove nugatory and abortive.

The Governor therefore earnestly hopes that the Inhabitants will cordially unite in cultivating those feelings of mutual good will, which alone can ensure to them the full benefit of His Majesty's paternal solicitude for their welfare, and thus afford His Excellency the satisfaction to think that His endeavours for the accomplishment of His Majesty's gracious and benign views will not be employed in vain.

1825.
21 Dec.

Given under my Hand at Government House, Sydney, this 20th day of December, 1825, in the Sixth Year of His Majesty's Reign.

RA. DARLING.

By His Excellency's Command.

F. GOULBURN.

EARL BATHURST TO GOVERNOR DARLING.

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

Sir, Downing Street, 28 December, 1825.

28 Dec.

I have received a Dispatch from Sir Thomas Brisbane, dated the 20th of June last, submitting to my consideration a letter from Major Ovens, of which the enclosed is a Copy, proposing to purchase the Government Lands in the Vicinity of Longbottom, paying at a valuation, for such Improvements and Fences as may have been executed by Government at a time, when an Establishment at Longbottom was considered necessary.

Application
from J. Ovens
to purchase
land at
Longbottom.

Sir Thomas Brisbane states in his letter that it has been usual with his predecessors to make Grants of Land or to give Town allotments to the Officer holding the Appointment of Chief Engineer on his retiring from Office, and upon that Ground, as well as from the nature of Major Ovens' Services, he has recommended a compliance with that Officer's request.

Without adverting more particularly to what may have been the custom in former instances, I would take this opportunity of stating that I entertain very strong objections to the transfer of any Lands, which may be in the occupation of the Crown, to any Officer employed under the Colonial Government in the manner now proposed. If circumstances should have rendered those Lands no longer servicable to Government, it would be proper, particularly if there were buildings upon them, to dispose of the Property to avoid the expense of Repairs or to realize the value of the Materials. And I can have no objection to the Purchase of the Property in question by Major Ovens, provided it be offered publicly for sale in the first instance, and should no Individual be prepared to come forward to advance upon the price which that Officer may be disposed to give.

Objections
to principle
involved.

Should you, however, be of opinion that no inconvenience would accrue to the public by the transfer of the Lands in question

Darling to use
discretion.

1825.
28 Dec.

to Major Ovens in the manner requested, you will consider yourself authorized to confirm the possession of them to that Officer accordingly.

I have, &c.,
BATHURST.

[Enclosure.]

[*The letter from Major Ovens to Sir Thomas Brisbane, dated 18th June, 1825, will be found on page 672, volume XI.*]

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 33, per ship John Barry: acknowledged by Governor Darling, 27th October, 1826.)

30 Dec.

Sir, Downing Street, 30th December, 1825.

Papers *re*
ship Almorah
submitted to
commissioners
of treasury.

With reference to Sir Thomas Brisbane's Dispatch of the 4th of March last, stating the circumstances connected with the seizure of the ship "Almorah," I do myself the honor to acquaint you that, conceiving the conduct of the Commissary General, in directing the Articles to be imported on account of which that seizure was made, as not altogether free from censure, I directed the papers to be transmitted for the consideration of the Lords Commissioners of His Majesty's Treasury.

Criticisms
transmitted.

By the enclosed letter from their Lordships' Secretary, accompanied by a Report from the Comptrollers of Army Accounts, you will perceive in what way their Lordships are disposed to view the Transaction in question, as well as the Representations of the Inhabitants of the Colony against the Importation of Articles by the Officers of the Commissariat, which the Inhabitants apprehend will interfere with the Speculations of private Traders.

Instructions *re*
importation of
supplies for
public service.

Without entering upon the question of the legality of the Seizure of the Almorah, which will be decided hereafter by competent legal Authorities, I shall proceed to convey to you such Instructions as have appeared to me to be necessary in regard to the Restrictions, under which Supplies for the public Service should be allowed to be imported into the Colony. I have accordingly to direct that you will not oppose any objections to the Importation by the Officers of the Commissariat of Dollars or of any Stores, which the Commissariat Officers may represent to be necessary for the due supply of the Public Service in the Settlement, provided the Stores can be legally imported. You will, however, on no account allow these Stores to be applied to any other purpose than for the public Service, or to be offered for Sale to any Individual whatever, unless special Authority shall be given by you for such a sale; in which case the Article or Articles to be thus sold must be distinctly named in the

Authority given by you to that effect. I have further to direct that this Authority be not given, except under any special exigency, which can alone justify such an Interference with the speculations of private Commerce. It is evident that unless the private Trader can feel assured that he will be protected against the unnecessary interference of Government Agents in the course of his Trade, either the Settlement will be exposed to severe Privations by reason of the reluctance of private Traders to furnish the Supply of any Article, the demand for which in the Market may be suddenly and unexpectedly superseded by the sale of the same Article on the part of the Commissariat, or the Individuals, who may be engaged in such Trade, will be exposed to ruin by being undersold by the Commissariat.

1825.
30 Dec.

Protection
necessary for
private traders.

I have, &c..

BATHURST.

[Enclosure No. 1.]

SECRETARY HARRISON TO UNDER SECRETARY HAY.

Sir, Treasury Chambers, 9th Dec'r, 1825.

I am commanded by the Lords Commissioners of His Majesty's Treasury to acquaint you, for the information of Earl Bathurst, that they referred the several Papers, which accompanied your letter of the 26th October last, respecting the seizure of the Ship "Almorah," for the consideration of the Comptrollers of Army Accounts, in so far as the conduct of the Commissary, Mr. Wemyss, was concerned, and Their Lordships now take leave to enclose, for Earl Bathurst's information, a Copy of the Report of the Comptrollers, in which My Lords entirely concur; and they further take leave to observe, with reference to the complaints of the Inhabitants of the Colony against the importation of articles by the Officers of the Commissariat for the Public Service, that whatever grounds there may be for such Complaints, when the importation consists of Articles similar to those, which are of the natural Staple or produce of the Colony, no just grounds of complaint can be made by those Inhabitants, either against the importation of Tea or of Dollars, as it is the obvious duty of the Commissary to obtain all supplies, required for the *Public Service*, particularly of Articles not the produce of the Colony, from the best Market and upon the most favorable terms; and My Lords request that you will move Earl Bathurst to make a communication to this effect to the Governor of New South Wales. With respect to the Seizure itself, my Lords some time since referred the Question of its legality to the consideration of the *same* Officers of the Crown, and have not yet received their opinion.

Report on
conduct of
W. Wemyss
in case of
ship Almorah.

Importation of
articles for
public service.

I am, &c.,

GEO. HARRISON.

[Enclosure No. 2.]

1825.
30 Dec.THE COMPTROLLERS OF ARMY ACCOUNTS TO THE LORDS
COMMISSIONERS OF H.M. TREASURY.

My Lords, Comptrollers' Office, 28th November, 1825.

Acknowledg-
ment of letters
and papers re
seizure of
ship Almorah.

We had the honor to receive Mr. Harrison's letter of the 16th Instant, transmitting to us, by Command of Your Lordships, for our Consideration and early Report, a letter from Mr. Hay of the Colonial Department of the 26th Ultimo with Copy of a Dispatch and its enclosures from Lieut. General Sir Thomas Brisbane to Earl Bathurst, dated New South Wales, 4th March, 1825, stating the circumstances attending the seizure of the Ship "Almorah" from Batavia, with a cargo of Rice, Flour, Wheat, Tea and Specie on account of the Deputy Comm'y General (Wemyss), and a letter from Sir Thomas Brisbane to your Lordships' Board, dated New South Wales, 6th May, 1825, on the same subject; also Duplicates of sundry other Papers relating thereto, together with a Copy of your Lordships' Minutes of the 20th September last, ordering a reference of all these Papers to the King's Proctor, to be laid before His Majesty's Law Officers for their opinion, as to the legality of the Seizure, and as to the measures which, if the Seizure is not legal, should be taken for securing the restoration of the property belonging to His Majesty.

We have also received, under your Lordships' order of Reference of the 14th Inst., a letter* from Deputy Comm'y Gen'l Wemyss, dated New South Wales, 24th May, 1825, acquainting your Lordships that the Action, instituted against Deputy Ass't Comm'y Gen'l Clements and himself in the matter of the "Almorah," had not been called on for a hearing; but that he should, nevertheless, for the reasons stated in his letter, continue in the Colony until he should regularly receive your Lordships' permission to return home.

Criticism of
conduct of
W. Wemyss.

After a careful perusal of all these papers, they appear to us to contain no matter concerning which it is our duty to report to your Lordships, excepting what relates to the Conduct of Deputy Comm'y Gen'l Wemyss in regard to the Instructions, which he gave to Deputy Ass't Comm'y Gen'l Clements, to whose charge he committed £30,000 in Bills on your Lordships' Board to be expended in the purchase of supplies and Dollars at Batavia. From the representation of Mr. Wemyss's proceedings, made to Earl Bathurst by Sir Thos. Brisbane, His Lordship is of opinion that they require strict investigation by your Lordships; and Sir Thos. Brisbane, in his letter to your Lordships' Board of the 6th May, 1825, as well as in that to Earl Bathurst of the 4th

* Note 39.

March, expresses in strong terms his disapprobation of Mr. Wemyss's conduct in directing Mr. Clements to purchase either Tea or Dollars at Batavia for the use of the Colony of New South Wales.

1825.
30 Dec.

With respect to the purchase of Dollars, We beg leave to refer your Lordships to our Report No. 793 of the 13th July, 1825, on a Memorial from certain Merchants of New South Wales to Sir Thos. Brisbane, praying that he would prevent Mr. Wemyss from importing Dollars into the Colony by the "Almorah." In addition to what we observed in that Report, We have to state that it appears, by a Return of the Rate of Exchange at which Mr. Wemyss obtained Dollars at New South Wales for several Bills on your Lordships' Board four days before the sailing of the "Almorah" for Batavia, that the Minimum Rate of Premium, at which Mr. Clements was directed to purchase Dollars there, was higher than the Premium obtained by Mr. Wemyss at New South Wales, and that consequently the interest of the Public was fully protected by Mr. Wemyss in this part of the transaction; besides it must be observed that these Bills were not given solely for the purchase of Specie. The Supplies, so urgently required, were first to be paid for at whatever price might have been required (which made it adviseable for Mr. Wemyss to cover such purchases sufficiently) and the Balance of Bills, not applied to the purchase of those supplies, was then to be negotiated for Specie, provided the Rate of Exchange was favorable, and equal to that specified in Mr. Wemyss's Instructions to Mr. Clements.

Purchase
of dollars
at Batavia.

Respecting the importation of Tea, Sir Thomas Brisbane and Mr. Wemyss are entirely at issue as to the fact of Sir Thomas Brisbane having given any sanction to, or having had any previous knowledge of Mr. Wemyss' intention to import that Article. Mr. Wemyss, in his letter* to your Lordships of the 18th March, 1825, states his readiness to affirm in the most solemn way that, in a verbal communication with Sir Thomas Brisbane concerning the Supplies to be imported in the "Almorah," the expediency of procuring small quantities of Tea, or Coffee, or Sugar was as to each and all originally and distinctly proposed to him by His Excellency Sir Thos. Brisbane; whereas Sir Thos. Brisbane disclaims all recollection of any such conversation, and observes that, if his sanction to import Tea had been asked, he should directly have rejected the proposal; without enquiring into the point, on which Sir Thos. Brisbane and Mr. Wemyss are thus at issue, we shall confine our observations to a Consideration of Mr. Wemyss's conduct, under the presumed circumstance of His orders to Mr. Clements regarding the Tea having emanated

Importation of
tea by order of
W. Wemyss.

* Note 39.

1825.
30 Dec.

from himself alone, founded on his written general Instructions from Sir Thomas Brisbane, which were as follows:—

[Here was inserted a copy of Sir Thomas Brisbane's letter, dated 2nd September, 1824, which will be found on page 533, volume XI.]

On the receipt of this Authority, Mr. Wemys gave written Instructions to Dep. Asst. Com'y Gen'l Clements, at the close of which he made mention of the Article Tea in the following terms:—

Extract from Mr. Wemyss's letter to Mr. Clements, dated Sydney, 6th September, 1824.

“With the knowledge that Tea and Sugar form a part of the established Ration here, should it so happen that you feel any difficulty in obtaining a Complete Cargo of Rice, or Flour, or Wheat, You are at liberty to purchase a small quantity of each; but, in all probability, Supplies of both these Articles may be expected in a very short time. This perhaps had better be laid aside; however, in all these matters you are left to your own discretion.”

Although Mr. Wemyss most properly assumes to himself the whole Commissariat responsibility of importing the Tea, yet his orders to Mr. Clements, it will be observed, were conditional and extremely guarded, evidently having the Public Interest alone in view, by giving discretionary authority to that Officer to complete his Cargo by purchasing Tea; which discretion Mr. Clements appears also to have exercised in the Spirit of his Instructions with commendable caution, by directing a Survey of the “Almorah's” Cargo to be made at Batavia by the Surveyor to Government and Lloyd's, after the heavy goods had been shipped; by whose Report, it appeared that, after loading about 30 Tons more of measurement of goods, her trim would be Sea-worthy. Whereupon Mr. Clements purchased the Tea, and reported his having so done to your Lordships' board by a letter from Batavia, dated the 4th December, 1824, which was the subject of our Report No. 697 of the 21st June, 1825. Mr. Wemyss, in his letter* to your Lordships' Board of the 18 March, 1825, observed, “It is true, had the Company's Charter been present to my recollection, I might have suggested to His Excellency the propriety of caution; and, had the shadow of a suspicion entered into my mind that the legality of the measure could ever have become a question, I should not, for the sake of advantage to be derived, have exposed the Public property to that hazard; however, convinced myself that it was lawful, I should certainly have deemed the experiment inexpedient.”

* Note 39.

Instructions
given to
Wemyss by
Brisbane;

and to
Clements by
Wemyss.

Details
relating to
importation
of tea.

Of the truth of Mr. Wemyss's assurance that he had no suspicion of illegality in the measure, there is no reason to doubt, for it is clear that he had no private Interest in the measure, as Tea purchased with Government Bills must have been brought into his Store Accounts; in truth, Mr. Clements's letter from Batavia placed that point out of doubt; for had Mr. Wemyss's views in obtaining this supply of Tea been of a Clandestine nature, he would neither have introduced the subject into His Instructions to Mr. Clements, nor would Mr. Clements have reported to your Lordships that he made the purchase. And as Tea formed a part of the Established Ration of the Colony issurable to the following persons; vizt.

1825.
30 Dec.

No improper motives alleged against Wemyss.

Persons entitled to ration of tea.

Civil Officers and Constables with their Wives and Children; Convicts; Artificers and Labourers; Surveyor General, for Party under him by order of the Governor; General Hospital; Settlers; The Governor; Commissariat at Bathurst, in small quantities, to whom the quantity, issued in the quarter ending the 24th June, 1824, amounted to 7,936 lbs.; these circumstances will, We think, satisfy Earl Bathurst that the Tea in question was not intended for Sale.

There being no doubt, therefore, of the Supply of 300 half Chests of Tea having been intended for the Public Service, We presume that it was not necessary to notice the eleven quarter Chests, which were purchased by Mr. Clements in excess.

Tea required for public service.

Under all the circumstances of this case, we submit our opinion that there is not the least ground for attributing to Mr. Wemyss any improper motive in authorizing the purchase of this Tea, but that, in respect of this supply, he was guided solely by a desire to perform a public duty. It will not escape your Lordships' attention that the present points in dispute, between the Governor of New South Wales and the Officer at the head of the Commissariat there, are of a different nature from those which have formerly occurred between the Governor and Mr. Wemyss's predecessors.

Exoneration of W. Wemyss.

And we take the liberty to remark that the interest of the public seems to require that the conduct of the Principal Commissariat Officer at New South Wales, especially, should meet with all the countenance and support, which it may deserve, considering that his proceedings with a view to the Public interest, and to reduce the Public expenditure, will sometimes necessarily (as appears to have been the Case in the present instance) interfere with the private advantage of a large class of the most influential Persons in the Colony.

Necessity for support of dep. commissary general.

We have, &c.,

J. DRINKWATER.

J. STEWART.

1826.

Letters
transmitting
assignments
of convicts.

ASSIGNMENTS OF CONVICTS.*

DURING the year 1826, letters, which enclosed the assignments of convicts (not available) *per* the ships named, were sent to Governor Darling with dates as under:—

Date of Letter — 1826.	Ship's Name.	No. of Convicts.
29 April	England	148 Male
12 May	Marquis of Huntly 200	„
7 August	Speke	156 —
2 September ..	Grenada	88 Female
22 „	Albion	192 Male
9 October	Midas	148 „

EARL BATHURST TO GOVERNOR DARLING.

(A circular despatch per ship John Barry; acknowledged by Governor Darling, 21st October, 1826.)

1 Jan.

Instructions *re*
administration
of colonial
customs
departments.

Sir, Downing Street, 1st January, 1826.

His Majesty's Government having deemed it expedient that all such Persons, as are now employed in the Settlements under your Government in the Collection of the existing duties of Customs, should be regularly constituted and appointed Officers of His Majesty's Revenue of Customs, and receive such Instructions, as they may require for their guidance, from the Commissioners of His Majesty's Customs in this Country, I transmit to you the enclosed Commission, in which you will insert the name of the Person, who is now employed as the Chief Officer of the Customs Department of your Government. And, in furtherance of this arrangement, which you will find more particularly explained in the enclosed communications from the Board of Treasury and Commissioners of Customs, you will call upon the Person, to whom you will grant this Commission of the Commissioners of His Majesty's Customs, to furnish detailed Answers on the several points, upon which the Commissioners require specific information with a view to the completion of this arrangement.

I have, &c.,

BATHURST.

[Enclosures Nos. 1, 2, and 3.]

MR. J. C. HERRIES TO UNDER SECRETARY HORTON.

Treasury Chambers, 30th Novr., 1825.

MR. T. WHITMORE TO MR. J. C. HERRIES.

Custom House, 17 Novr., 1825.

ACCOUNTS REQUIRED TO BE FURNISHED BY COLLECTORS OF CUSTOMS.

[Copies of these enclosures, which were transmitted to the governments of Ceylon, Mauritius, Malta, Sierra Leone, St. Mary's, Gambia, New South Wales, and Van Diemen's Land, will be found in a volume of series II.]

* Note 40.

EARL BATHURST TO GOVERNOR DARLING.

1826.
2 Jan.

(Despatch No. 1, per ship John Barry; acknowledged by Governor Darling, 18th January, 1827.)

Sir, Downing Street, 2nd January, 1826.

I have received Sir Thomas Brisbane's Dispatch, dated the 3rd August,* accompanied by a series of documents, connected with the Grant of 10,700 Acres of Land, directed by me to be made to Mr. John McArthur, with a detailed statement of the facts as they are represented by Sir Thomas Brisbane to have occurred, connected with the whole of this case.

Land grant to
J. MacArthur.

The differences at issue between the Local Government and Mr. McArthur, as collected from the documents now sent home by Sir Thomas Brisbane, appear to have arisen out of the following circumstances.

Summary of
negotiations
with
J. MacArthur.

A reservation of 600 acres, for the purpose of a Church and School, was originally made by the Local Government out of the 10,700 acres, of which Mr. McArthur was directed to be put into possession at the Cow Pastures, by my Dispatch of the 30th of July,* 1823. Possession, however, of the whole of the 10,700 Acres is stated by Sir Thomas Brisbane to have been given to Mr. McArthur. But the *execution* of the Grants was deferred, until my decision, as to the propriety of retaining the 600 Acres, should be signified, and Mr. McArthur, on receiving possession, appears to have engaged to abide my ultimate determination on that point.

Mr. McArthur having been put into possession of the land, payment appears to have been demanded from that Gentleman, when the first instalment, on account of the purchase money, became due; and that demand for payment is stated by Sir Thomas Brisbane to have been the necessary consequence of possession, still, however, leaving the question as to the Church and School Lands open to ultimate determination.

In this Stage of the affair, my dispatch of the 17th August, 1824, arrived. By that dispatch, the possession, previously ordered to be given to Mr. McArthur, is qualified after the following manner, vizt. "That he will, within three months from the date of any notification to that effect, resign to the Government 600 Acres, part of the 10,700, for the erection of a Church or School House, or for Glebe, provided that Mr. Archdeacon Scott shall represent, within six months from his arrival in the Colony, that such Land is desirable for those purposes, and that the situation is preferable to that on the opposite Bank of Nepean River."

Sir Thomas Brisbane proceeds to observe that the Archdeacon, soon after his arrival in the Colony, repaired to the Cow Pastures

* Note 41.

1826.
2 Jan.

Summary of
negotiations
with
J. MacArthur.

for the purpose of inspecting the place, and determining as to the expediency of retaining the 600 Acres, which were directed by me to be reserved, in case the Archdeacon deemed it advisable to do so; but that in consequence of the Transaction, which had taken place before his arrival, by which the *whole* 10,700 acres were placed in Mr. McArthur's possession, he considered the Government pledged to that extent, and that their "good faith would be hazarded by disturbing it under almost any circumstances."

The Archdeacon then submits his opinion that 20 Acres of the reserved Land would be sufficient, intimating that the Spot called "Cawdor," on which Government Buildings were standing, would be the fittest for the purposes required; and, as that place had no supply of Water, he recommends that the Government should accept the proposal, made by Mr. McArthur, to give up 160 Acres of Land, formerly granted to him, contiguous to Cawdor, for a double quantity in another part of the Cow Pastures, by which arrangement the inconvenience, which would otherwise be felt from the want of Water, would be remedied. But to this proposition Sir Thomas Brisbane, for the reasons stated in his dispatch, appears decidedly to object.

Points
submitted
for decision.

With reference to the foregoing statement of the differences at present existing between Mr. McArthur and the Local Government, and which I have thought it necessary to recapitulate with a view to the better understanding of the case, the points submitted by Sir Thomas Brisbane for my decision would appear to be, First, whether the view is correct which the Archdeacon has taken of the transaction, in the nature of an Agreement, which took place between the Colonial Government and Mr. MacArthur at the time possession was given to him of the whole of the 10,700 acres, with reference to the reserve of 600; and, Secondly, whether the new proposal, submitted through the Archdeacon of retaining Cawdor (thereby relieving Mr. McArthur from paying for the Government Buildings erected thereon at a valuation) and of exchanging two acres for one contiguous to Cawdor, should be accepted.

Agreement
made with
J. MacArthur.

In reference to the first point, I have to regret that Mr. MacArthur's letter of the 20 May, 1824, by which (as stated by Sir Thomas Brisbane) Mr. MacArthur accepted possession of the Land under the condition of restoring 600 Acres, if required, is not to be found amongst the other papers transmitted by Sir Thomas Brisbane, although the statement of Mr. MacArthur having engaged to abide "by my ultimate decision" appears to be in a great measure borne out by the manner, in which he drew up, for signature by the Government, the receipt for the sum,

which he had been called upon to pay as due on his first Instalment, and which certainly implies a strong misgiving on the part of Mr. MacArthur that some stipulation of the nature alluded to, with respect to the reserve of 600 acres, had really existed; and the refusal of the Government to give a receipt, in the terms thus proposed by Mr. MacArthur, as well as the actual payment of the Money not having on that ground taken place, are convincing proofs that the Local Government were consistent in their view of the Transaction. I am, therefore, of opinion that the faith, either of the Government at home or of the Local Authorities in the Colony, has not been pledged to complete the Grant of 10,700 acres to Mr. MacArthur, without his resigning 600 out of the 10,700 for the purposes of a Church, etc., provided the Archdeacon makes the declaration required in my Dispatch of the 17th August, 1824, as to the expediency of such a deduction.

1826.
2 Jan.

Agreement
made with
J. MacArthur.

With regard to the second question, vizt. the offer of Mr. MacArthur to give up for the use of the Church the 20 Acres of Land, comprehending that part on which the Government Buildings are situated, exchanging 160 acres contiguous for double that quantity in another part of the Country, I do myself the honor to acquaint you that, as it appears by Archdeacon Scott's Report* to Sir Thomas Brisbane, dated the 8th July, 1825, that the Buildings there erected would be unfit for any permanent residence of the Clergyman "from the frail nature and ill construction of those Buildings," as well as from the want of water; there can be no doubt as to the propriety of leaving them with Mr. MacArthur, he paying for them according to a valuation, certified by the Surveyor General of the Colony, as directed in my dispatch of the 17th August, 1824; and you will direct the Archdeacon to make a selection of the best spot for the accommodation of the Clergyman, and for the erection of a Church and School House, etc., according to the terms therein pointed out, and without reference to any discussions, which may have taken place between the Local Government and Mr. MacArthur, which I consider finally set at rest by the Instructions, communicated to Sir Thomas Brisbane by my former dispatch above referred to.

Exchange
of land
proposed by
J. MacArthur.

Site for
church and
school-house to
be selected.

Although there is nothing contained in Sir Thomas Brisbane's dispatch, from which it is to be inferred that he intended to enforce a ready money payment on account of the purchase by Mr. MacArthur of the Lands in question, yet for fear there should be any future misunderstanding as to the construction of my dispatch of the 17 August, 1824, on that subject, I deem it necessary to acquaint you that Mr. MacArthur, having accepted

Payment of
purchase money.

* Note 41.

1826.
2 Jan.
—
Payment of
purchase money.

the Grant upon the terms recommended in Mr. Commissioner Bigge's Report,* vizt, "that a deposit of 10 per Cent. should be paid up on the purchase being agreed upon, and that the remainder should be paid by Instalments every six months, until the whole was paid," Mr. MacArthur is entitled to the same accommodation.

I have, &c.,
BATHURST.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship John Barry.)

3 Jan.
—
Recommend-
ation of
E. Knapp
as settler.

My dear Sir,

Downing Street, 3 January, 1826.

I take the liberty of enclosing to you the Copy of a Letter, which Mr. Brooksbank, Lord Liverpool's private Secretary, has addressed to me in favour of Mr. Edward Knapp, a young man of respectability and talent, who has lately proceeded as a Settler to New South Wales; and having been solicited to give Mr. Knapp a letter of introduction to you, I shall feel much obliged by any attention or civility, which you may be enabled to shew to him.

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

[Enclosure.]

MR. T. C. BROOKSBANK TO UNDER SECRETARY HAY.

My dear Sir,

Fife House, 16th Decr., 1825.

Testimony in
favour of
E. Knapp.

The Gentleman, in whose favor I am desirous of procuring a private Letter to Governor Darling, is Mr. Edward James Howes Knapp.

He is about 18 Years of Age, and sailed a fortnight ago in the *Sesostris* under the friendly protection of a Family of the name of Dalhanty, who have, I understand, received a Grant of Land, as free Settlers.

Mr. E. Knapp's father was a very respectable Medical Practitioner, and attended my family for several years. He died about seven years ago, leaving a Widow and several Children, with little or no provision for them. His Widow had the promise of an East India Cadetship for this Son, but was at last unfortunately disappointed.

I understand that Mr. E. Knapp has received a good classical and Mathematical Education, and possesses some talent for Drawing. If, under these circumstances, Governor Darling could be of any service to him, I am persuaded he would make every exertion to prove himself not undeserving of the kindness shewn him; and I need not add that his obtaining some desirable employment would be a source of the greatest comfort to his poor

* Note 42.

Mother, who has made a pecuniary sacrifice, even beyond her means but assisted by two friends, in enabling him to proceed to seek a precarious fortune in New South Wales.

1826.
3 Jan.

I am, &c.,

T. C. BROOKSBANK.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 2, per ship John Barry; acknowledged by Governor Darling, 27th October, 1826.)

Sir, Downing Street, 5 January, 1826.

5 Jan.

With reference to the despatch, which I had the honor of addressing to you on the 30th Ultimo, conveying to you Instructions with respect to the restrictions, under which Importations of Specie or Stores for the public Service in New South Wales should be hereafter allowed, I think it necessary that you should be apprized that all Officers of the Commissariat, when employed in the public Service, are expressly prohibited by their Instructions from engaging in any Trade or Commerce whatever, upon their own account, and that a breach of those Instructions, if brought officially under the cognizance of the Lords Commissioners of the Treasury, would subject the Individual, so offending, to his removal from the Service.

Prohibition of commissariat officers from private trading.

I have, &c.,

BATHURST.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 3, per ship John Barry; acknowledged by Governor Darling, 25th May, 1827.)

Sir, Downing Street, 8th January, 1826.

8 Jan.

I have to acknowledge the receipt of Sir Thomas Brisbane's Dispatch, No. 69, of the 4th July last, accompanied by a report from Mr. Busby, whose attention had been directed by the Colonial Government to the improvement of the supply of Water for Sydney, in which report Mr. Busby points out the sources whence an additional supply of Water may be obtained, and the mode by which it may be distributed throughout the different parts of the Town.

Report by J. Busby on Sydney water supply.

I regret that the hasty manner, in which Sir Thomas Brisbane was obliged to forward to me the report in question, from the fear of losing the opportunity, which then presented itself should have allowed him so little time to obtain full information regarding the plan suggested by Mr. Busby for supplying the Inhabitants at Sydney with that essential article of life, particularly as Mr. Busby's report does not contain, at present,

1826.
8 Jan.

matter sufficient to justify His Majesty's Government in incurring so heavy an expence in furtherance of the undertaking, as the plan contemplates.

Additional
report required.

Under these circumstances, I have not deemed it advisable to direct the Pipes, Engine, etc., to be provided. But I have to desire that you will give your early consideration to a measure, apparently so beneficial, and favor me with a report of your opinion upon the different propositions contained in Mr. Busby's communication.

Proposed
source of
water supply.

Mr. Busby is of opinion that the large Lagoon in the vicinity of the old Paper Mill,* from which the Waterloo Mills draw their Water, may be rendered available for supplying the Town of Sydney with an adequate quantity, without interfering with the purposes to which it is at present appropriated, and does not appear to apprehend that any compensation will be required by the Proprietor of the Mill for the water, which may be thus abstracted, as the quantity, which will be collected by means of the proposed Reservoir, will more than make up for that which will be taken away. I am, however, of opinion that, before any operations are commenced, the Paper Mill, if possible, should be purchased from the present Proprietor, and that the Government should likewise get possession of the located Lands (if they are to be obtained at a reasonable rate), through which it will be necessary to cut the drains for the purpose of carrying off the water during the time that the operations connected with the Embankment are going forward.

Paper mill to
be purchased by
government.

Approval of
proposed
tread-mill.

That part of Mr. Busby's report, which recommends the use of a Tread Mill for the purpose of raising the Water, merits every attention, as it would provide the means of disposing of the second Class of Convicts, that is to say, of those Convicts, whose Crimes not amounting to that atrocity, which would condemn them to Norfolk Island, are still of so grave a description, as would make it expedient to place them under a severer measure of restraint and coercion than is applied to the generality of Convicts.

The Convicts would be thus profitably employed for the benefit of the Settlement; but, what I value much more highly, the knowledge in this Country, that Persons sentenced to Transportation were liable on their arrival in New South Wales to be consigned for years together to labor in the Tread Mill, would operate as a salutary warning against the commission of Crimes, which might expose those, who were convicted of them, to so formidable a punishment.

I am aware that, if this measure of supplying water from the Lagoon to the Inhabitants of Sydney be preferred, it will

* Note 43.

occasion the necessity of having a place built for the reception of those who shall be sent there. This House should be built on the principle of a Penitentiary House, and, as it is for a public purpose, the expense should be borne exclusively by the Public.

1826.
8 Jan.
Penitentiary
house proposed.

In making, therefore, any Estimate of the expence of the undertaking, you will not include this Item, making that the subject of a separate Estimate; but you will include the expence of the Tread Mill, the purchase of the Paper Mill, and other purchases, which it may be desirable to conclude.

Estimates
required.

As soon as I shall receive your Report and be furnished with these Estimates, by which I may judge of the whole expence of this undertaking, I should then probably be prepared to propose that a Loan should be raised to defray it, provided it could be clearly shown that the Tax, which might be imposed upon the Inhabitants for the benefit which would thus accrue to them, would not bear too hard upon the Community, and be at the same time sufficient to pay an interest at the rate of four pr. Cent. on the Money borrowed, and as much again towards the liquidation of the whole of the debt.

Loan proposed
to provide
water supply.

I have, &c.,

BATHURST.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 4, per ship John Barry; acknowledged by Governor Darling, 16th October, 1826.)

Sir, Downing Street, 28th January, 1826.

28 Jan.

The Lords Commissioners of His Majesty's Treasury having represented to me that a practice has prevailed of late years of issuing extra Rations of Spirits, upon days of Public Rejoicings, to the non-commissioned officers and soldiers, including the Governor's Guard at Sydney, New South Wales, and also to the Artificers and Labourers in the immediate employ of the Government, which practice is, in itself, extremely irregular, and likely to lead to Inconvenience, I am to desire that, in future, extra Rations may not be on any account issued on the occasions, to which I have alluded.

Prohibition of
extra spirit
rations on
days of public
rejoicing.

I have, &c.,

BATHURST.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 5, per ship John Barry; acknowledged by Governor Darling, 17th October, 1826.)

Sir, Downing Street, 1st February, 1826.

1 Feb.

With reference to my dispatch of the 15 Octr. last, I do myself the honor of transmitting to you herewith a Commission of Judge in Vice Admiralty, which has been issued to Francis Forbes, Esqr., Judge of the Supreme Court in New South Wales;

Commission
for judge in
vice-admiralty.

1826.
1 Feb.

Fee due on
commission.

and I beg to acquaint you that, as there is an established Fee of Thirteen Pounds for passing this Commission, Mr. Barnard will be directed to pay that Sum from any Public Funds which may be in his hands, as Agent for the Colony, and that Mr. Forbes should be called upon to pay the amount into the Colonial Treasury.

I have, &c.,
BATHURST.

[Enclosure.]

[A copy of this commission will be found in a volume in series IV.]

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 1 of 1826, per ship Triton; acknowledged by Earl Bathurst, 12th July, 1826.)

New South Wales,
Sydney, 1st February, 1826.

My Lord,

Transmission
of address
and reply.

I have the honor to transmit to your Lordship the accompanying copy of an Address, which has been presented to me in the name of the Inhabitants of the Colony, together with a copy of my reply.

I have been induced to trouble your Lordship with these Documents, it being the wish of the Inhabitants that His Majesty's Government should be put in possession of their sentiments on the subjects, which the Address embraces.

I need not add that it would be premature in me to offer any observations on matters, upon which I cannot yet have had time or opportunity to form a correct judgment.

I have, &c.,
RA. DARLING.

[Enclosure No. 1.]

ADDRESS TO GOVERNOR DARLING.

Address
presented to
Governor
Darling.

To His Excellency Lieutenant General Darling, Captain General, Vice Admiral and Governor in Chief in and over the Colonies of New South Wales and Van Diemen's Land, and their Dependencies, etc., etc., etc.

WE, His Majesty's most dutiful and loyal subjects, the Gentry, Magistrates, Merchants, Landholders, Farmers, Traders and other free Inhabitants of New South Wales, assembled in Sydney at a General Public Meeting, duly convened and presided at by the Sheriff of the Colony, beg leave to approach Your Excellency with the expression of our profound respect, and by means of this one of our most ancient and valuable privileges the convention of the people, as above mentioned, by the King's Sheriff, assure Your Excellency that our most gracious Sovereign, through you, his Delegate, will ever receive from us the most loyal and constitutional allegiance.

We are, may it please your Excellency, fully aware of the paternal regard with which His Majesty, distant as we are from His august presence, views the interests of this Colony, A Colony which from its advancement in population, Agriculture, and marine enterprise, bids fair to exceed all other His Majesty's Colonies, as it already exceeds them in salubrity of Climate and the importance of its commercial situation. Accordingly we receive as pledges of such regard His Majesty's late appointment of an Executive Council and His gracious extension of the Legislative Branch of our Government beyond mere Officers of the Crown: but we owe it to His Majesty not to conceal from Your Excellency that we should have considered it a much greater boon, if the nomination of such Members of the Legislative Council, as are not in official situations, had been left, subject to the ratification of His Majesty, by you his Delegate, to the Colonists at large, and had not been made exclusively by His Majesty's Ministers, though at the same time we feel bound to acknowledge that the Gentleman,* who represents our commercial interests, has been well and judiciously selected.

The growth of the Colony continues to outstrip the most sanguine expectations of the oldest inhabitants, and we doubt not that your Excellency will soon discover that the present Code of Local Laws is far behind the claims of a free, wealthy and active community. That His Majesty's Ministers, therefore, in the slight extension which they have thus given to the Legislature of the Colony, should have discovered an inadequate conception of our condition and local necessities, does not surprize us; but at the same time it serves to stimulate us to embrace all opportunities, like the present, of making the Delegate of our beloved Monarch acquainted with our real wants, in order that an opportunity may be afforded His Majesty, through Your Excellency's representations, of further exemplifying his royal and paternal regard for us, his dutiful subjects, by a more enlarged extension of our Legislative privileges.

We assure your Excellency, as a fact, which is indisputable as it is important, that New South Wales, from its want of judicious local laws in her Revenue, Agriculture, domestic Manufactures, and coasting and fishing Trades, has been impeded in her prosperity, and her inhabitants subjected to individual loss and vexation to an incalculable degree, especially until within the last three or four Years; and Your Excellency may rest fully assured that a Legislature,† founded on the same basis as the Legislatures of the American and West Indian Colonies, can alone make us a happy and contented People; and we further beg solemnly to assure Your Excellency that any compromising Measures on this head, which by possibility may hereafter be adopted by His Majesty's Ministers, will only serve to increase and perpetuate beyond remedy those internal dissensions, which unfortunately have disturbed our Community ever since the arrival and departure of the late Commissioner of Enquiry.

We further beg leave to inform Your Excellency that, while we can justly boast of the loyalty and attachment to the Crown of England of all the inhabitants of the Colony, who were born and educated in the United Kingdom, there exists nevertheless in the Territory a race of Men, already arrived at an adult state, who, scattered in the distant and silent woods of their country, unknown, unfelt and unheard of as a political body, are yet destined to be the Fathers of the succeeding generation and the inheritors of our Lands.

1826.
1 Feb.

Address
presented to
Governor
Darling.

1826.
1 Feb.

Address
presented to
Governor
Darling.

This Class of Colonists has been too much neglected, as well by His Majesty's Government as by the local administrators of the Colony, and unfortunately they deeply feel this neglect. The patronage of Office they have always disregarded; but Grants of Land, which they consider their own as it were by natural inheritance, and which they have seen of late years, through the recommendation of the late Commissioner of Enquiry, lavishly bestowed upon Strangers without capability of improving it, superior or the most part even equal to their own, has had a baneful influence on their minds; and, while they have inherited from us our love of freedom, they do not possess our British predilections.

Painful as it may be to us to apprise Your Excellency of these facts, it is a duty which, as faithful and devoted subjects, we owe to our King, to lay them before you, His Representative, thus early, lest, among your Official Advisers, they should either be overlooked or not adverted to in time to inspire this high minded and independent generation with the like ardour of loyalty as, in the King's British born subjects in the Colony, burns with a pure and steady flame.

The adult youth of the Colony will be, if they are not already, too numerous to allow a counter influence to be effected on their minds by giving them those equal grants, the withholding of which has occasioned their present dissatisfaction; but we feel, no doubt, that, by investing this class of His Majesty's subjects with that civil and political importance in Society, which the full enjoyment of the British Constitution necessarily confers on all orders of freemen and by placing them in future on an equality with the Emigrant, this tone of feeling would gradually subside, and the recollection of the injustice, thus done to the present generation of the Colonial Youth, be obliterated, as well by the contemplation of their own acquired privileges as by the acknowledged equality of claim, which their Children would then possess, to the favours and indulgencies of the Government.

Thus may it please Your Excellency, we consider it almost an axiom in the Colonial Policy of this infant Kingdom that the danger of deferring a popular elective Legislature to a future period increases every day: that it would have been much better to have invested the Colony with this privilege, when the paucity of its free Inhabitants must in the nature of things have rendered the experiment, even though it should have proved most unadvised, perfectly harmless; that the safest way to render a country fit for the full enjoyment of civil liberty is, after the manner of the American Colonies, to use the people to it early; and that consequently we should, without further delay, be put in possession of the most important institutions of the Mother Country, because if, in reducing them to practice, we should often err, our errors, while they could not be dangerous, would furnish us with that practical experience, which would be requisite for our guidance and which no theoretical knowledge can supply.

We also feel it our duty to embrace this opportunity of making to Your Excellency the same suggestion as we made to our late Governor, Lieutenant General Sir Thomas Brisbane, on his departure from these shores, namely, that the Interests of Our Trade, arising as well from the productions of the Seas and Islands, which surround us, as from those of the Soil we occupy, never have been and never will be understood in their practical details by a small

number of Colonists, however eminent they may be for Talents and Integrity, and even though they should be elected by the Colonists themselves. *Numbers* are now indispensable in the Legislature of New South Wales to collect those various data and that variety of information with respect to our Agriculture, Commerce, Manufactures and Revenue, which are essential to a sound and healthy Legislature in every country, but particularly in this Colony, where the Legislature ought to be purged of all party spirit, private interests and family-jobbing. A Legislature, therefore, whose Members are dependent on the Crown for their Office and independent of the people, whom they Tax and who are bound to obey Laws, in which they have no voice, and against which they can neither appeal nor protest, nor command other remedy than the heartless one of petitioning the Government of a Country Sixteen Thousand Miles distant, will never command the confidence of His Majesty's free Subjects in this Quarter of the Globe.

1826.
1 Feb.

Address
presented to
Governor
Darling.

Nevertheless we iterate our assurances to Your Excellency of our devotion to the King and to you, as his Representative; for we are fully persuaded, if His Majesty were but acquainted with the true state of His Colony of New South Wales, and had not been misled by the Report of the late Commissioner of Enquiry and by other insidious contrivances, that his constitutional and paternal feelings would not have been satisfied to hold us in a state of vassalage, so opposed to the rights and immunities enjoyed by our fellow subjects in the two Canadas and in the West Indies, Colonies which, though more ancient, are not so fitted by the intelligence, good morals and peculiar English Character of their Inhabitants for the enjoyment of the British Constitution in all its plenitude, as the People of this Country.

We now retire from Your Excellency's presence with the sincere hope that you may long administer the Government of these Colonies in health and peace, and that the same personal attachment, which was reciprocally experienced by the two last Governors of New South Wales and its Inhabitants, may also spring up between Your Excellency and them; and that, during Your Excellency's Government, we may have still greater motives for enrolling your name among the number of our illustrious Benefactors than we had even under the administrations of the venerated Macquarie and Brisbane.

Signed for and on behalf of the Meeting by me,

J. MACKANESS,
Sheriff of the Territory of New South Wales.

[Enclosure No. 2.]

GOVERNOR DARLING'S REPLY TO THE ADDRESS.

To the Gentry, Magistrates, Merchants, Landholders, Farmers, Traders and other Free Inhabitants of New South Wales.

Gentlemen,

I receive, as I ought, the Address which you have been pleased to present to me, conveying the assurance of your loyal and constitutional allegiance to His Majesty; it will, I am sure, be duly appreciated.

You are aware, Gentlemen, that I have not yet had an opportunity of forming an opinion on the points to which you have adverted. I must, therefore, abstain from making any observations

Governor
Darling's reply
to the address.

1826.
1 Feb.

Governor
Darling's reply
to the address.

in reply. But I shall not fail to put His Majesty's Ministers in possession of your sentiments as now communicated to me, and you may be assured they will receive every due consideration.

As far as regards myself, I am obliged to You, Gentlemen, for the hope you have expressed; and I beg you will permit me to assure you in return, that my exertions for the prosperity and happiness of all classes of the Inhabitants will be stimulated not less by inclination than by a sense of public duty.

My desire is to witness, as I would fain be instrumental to, the attainments of these objects, and, as a just confidence in the Government will prove the best means of insuring them, I trust I shall have the satisfaction of seeing it speedily and permanently established.

RA. DARLING.

Government House, 19th January, 1826.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 6, per ship John Barry; acknowledged by Governor Darling, 18th October, 1826.)

2 Feb.

Approval of
increase of
Crawford's
salary.

Sir, Downing Street, 2nd February, 1826.

I have received Sir Thomas Brisbane's Dispatch of the 25th June last, reporting the grounds on which he had been induced to add £200 per Annum to Mr. Crawford's Salary, as first Clerk in the Colonial Secretary's Office.

I do myself the honor to acquaint you in reply that, under the circumstances detailed by Sir Thomas Brisbane in his Dispatch, and considering that Mr. Commissioner Bigge in his Report upon New South Wales recommended this increase, the addition which has been thus made to Mr. Crawford's salary has received His Majesty's Approbation.

I have, &c.,

BATHURST.

GOVERNOR DARLING TO UNDER SECRETARY HAY.

(Despatch marked "Secret and Confidential." per ship Triton; acknowledged by Earl Bathurst, 12th July, 1826.)

Sir, New South Wales, 2nd February, 1826.

1st. I am desirous of mentioning to you that it is not in my power, on the present occasion, to enter into those matters, upon which My Lord Bathurst might wish to receive information, or even to furnish the details of the arrangements, which have necessarily engaged my attention since my arrival.

2nd. The state, in which I found the different Departments, has obliged me to devote my whole attention to their organisation, in order to rendering them more competent to the duties they have to perform.

3rd. The Department of the Civil Engineer and the Private Secretaryship,* united in the same person, had become the grand Engine of the Government, and had engrossed the duties of all

Re-organisation
of departments
necessary.

Department of
secretary and
civil engineer.

the other Departments; while, in fact, the unwieldy nature of the machine prevented its operation and caused a total stagnation in the Public Business. This has added considerably to the burthen of my Office at the present moment, and, without meaning to magnify its ordinary duties in order to gain credit for my exertions, I may safely assert that the most persevering application is indispensable to their due discharge.

1826.
2 Feb.

Department of
secretary and
civil engineer.

4th. On my assuming the Government, every Department appeared to act for itself, without check or control, and indeed without any apparent responsibility. Money was drawn without any specific authority, and issued without any Regulation, or even a Voucher of any validity for its expenditure. Contracts were agreed upon without any written Document to render them binding; and purchases were made and supplies furnished without any representation of the necessity or Authority for the Expence. In short, the common routine and forms of Office were totally neglected.

Chaos in
administration.

5th. I, therefore, judged it necessary immediately to forbid the issue of Money without my special authority, and directed my attention to remodeling the Departments, so as to confine the Civil Engineer to his proper duties, and to assign, to the other Departments, those duties immediately belonging to them. Until this was accomplished, any attempt to carry on the business of the Government would have been fruitless, and I have consequently given these arrangements the precedence of all other matters.

Remodelling
of departments.

6th. In order that you may be enabled to judge of the arrangements alluded to, I enclose, herewith, a copy of the Government Order, containing an outline of them. The Details are in progress, and if required shall be forwarded, when completed, for Lord Bathurst's consideration.

Issue of
government
order.

7th. You will perceive by the arrangements that every Department will have ample employment, when confined to its own immediate Duties.

8th. I have selected an experienced and scientific person as Civil Engineer. His Duties are extensive, and I fear will be burthensome, as they are not confined to the town of Sydney alone, but to the charge of all the Public Buildings and the other points, specified in the general arrangement, throughout the Colony.

Appointment of
civil engineer.

9th. The Charge of the *Roads* and *Bridges* is also a very extensive and important Duty in this rapidly spreading Country. I have placed it under the Staff Corps, the Duties of which embrace objects of this Nature, and the qualifications of the Officers for such charge are therefore insured.

Care of roads
and bridges.

1826.
2 Feb.

Administrative
reforms.

10th. I have placed the Convict Department on what appears to me a proper footing, as likewise the Commissariat and Dock-yard.

11th. You will perceive that the mode of Sales and Purchases has been regulated.

12th. The Routine of the Public Correspondence has been prescribed, in order to place the Colonial Secretary in the immediate discharge of the Duties, which properly attach to his situation.

Assignment
of convict
servants.

13th. The mode of application for Land and Convict Servants has been regulated in a manner to give the Surveyor General and the Superintendent of Convicts that share of the Duties of their Departments, which immediately belongs to them, without permitting any undue influence on their part in the appropriation. The Routine prescribed seems, I think, to prevent this, as effectively as anything can.

New
appointments
necessary.

14th. You perceive that it will be necessary, under the new arrangements, to make some additional Appointments; and, as the efficiency of the Public Establishments and Departments is of paramount importance and essential to economy, I shall not hesitate to make the necessary additions, relying that Lord Bathurst will concur in the view, I have taken of this subject, and confide in my discretion in carrying it into effect.

Revision of
official salaries.

15th. I beg also to apprise you that it has become necessary to revise the Salaries, received by the Officers and Clerks of the older Departments, so as to assimilate them more nearly to the scale of the more recent appointments. It is to be regretted that this had not been done long since. What is to be expected of the Lower Classes, when they can get double and in some cases treble what they receive from Government? It may be apprehended in these cases that they are induced to accept employment, because they have discovered there are means of rendering the situation desirable, independent of the salary attached to it.

Department
of the naval
officer.

16th. I cannot close these observations without adverting to the Department of the Naval Officer, in which a considerable portion of the Revenue is, or at least ought to be, collected. I need not say that the Establishment, which consists of the Naval Officer and one Clerk, who receives no pay, is totally unequal to the Duties it has to perform; and there can be no doubt that the losses sustained by Government have in consequence been very considerable. It would be a waste of time to attempt to remedy what is past. But to put a stop to the Evils, which have existed, and provide, in an adequate manner for the future, is of the very first importance. I propose, in consequence, immediately to form

a more consistent and efficient Establishment for this Department. But I trust Lord Bathurst will see how desirable it is that a proper Establishment of Customs House Officers should be sent out. The Trade is increasing rapidly, and such an Establishment cannot any longer be dispensed with without serious injury to the Revenue. Smuggling, I understand, is carried on to a great extent, and there are no means at present of checking it. The enclosed List of "*Projected Departures*," which comprizes *Seven Ships*, will enable Lord Bathurst to form some idea of the expediency, at least, to say nothing stronger, as to the necessity of the measure proposed. But I shall at an early opportunity report officially on this head.

1826.
2 Feb.

Department
of the naval
officer.

18th. In offering the observations which I have felt it my duty to make, I trust it will not be supposed that I consider my Predecessor as the cause of the evils, which have existed. On the contrary, I must think that the want of means, the Departments being ill organized and totally unequal to the Duties of a Government of the magnitude, which this has now attained, rendered it impossible to conduct them in a satisfactory manner. Even with the advantages I possess in having the assistance of those who have been long accustomed to Public Business, I have seldom had so troublesome a task, and, certainly, was never more constantly occupied than I have been since my arrival.

Causes
of defects.

19th. I have forwarded to your Office, by this opportunity, a series of the *Sydney Gazette* from the time of my assuming the Government. The Orders, which they contain, furnish an outline of the proceedings, in which I have been engaged during this period. More detailed information will be transmitted hereafter.

Transmission
of copies of
Sydney Gazette.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

GOVERNMENT AND GENERAL ORDER.

Colonial Secretary's Office, 5th January, 1826.

General order
re duties of
public
departments.

1st. It having been deemed expedient to revise the arrangement of some of the Public Departments, in order to the apportioning the Duties according to the Nature and Institution of each, and rendering the conduct of the respective Departments more convenient and practicable, a Board was in consequence appointed to consider the best means of carrying the above into effect, and, the Report of the Board having been submitted to the Governor, His Excellency is pleased to direct that the following arrangement shall take place from the first day of the present year.

2nd. The Chief Engineer to be charged with the superintendance of all Public Works, the construction and repair of all Public Buildings, and the making and repairing of Streets, Wharfs, Sewers, Canals and Drains.

3rd. The Inspector of Roads and Bridges to be charged with the construction and repair of Roads and Bridges, the general

1826.
2 Feb.

General order
re duties of
public
departments.

superintendence of Road Parties and Clearing Gangs, and the several details connected therewith, this branch of the Service being considered totally distinct from the Department of the Civil Engineer.

4th. The principal Superintendent of Convicts, to be charged with the general superintendence of the Convicts, employed immediately under Government, as regarding their conduct, victualling, clothing, lodging and accommodation in Barracks, or otherwise; the Civil Engineer, the Inspector of Roads and all other Departments and Establishments, to which Convicts are attached, being responsible for their good order and the proper direction of their Labour, while so attached.

5th. The Master Attendant at the Dockyard to be charged with the superintendence of the Dock Yard, Light House, and of the Government Vessels and Boats. He will make all necessary arrangements respecting these Vessels, according to the orders which will from time to time be communicated to him.

6th. The Major of Brigade to be charged with the Superintendence of the Batteries, Ordnance Stores and Magazines, as likewise of the Telegraph and Signal Establishments.

7th. The Officer at the head of the Commissariat Department to be charged with the sales of Timber and the produce of Government farms and establishments.

8th. The Officer in charge of the Commissariat Stores to have the immediate custody of all Public Stores, Tools, Clothing and Bedding, Building Materials and Supplies sent from Out Stations; as likewise of all Articles manufactured in the Government Establishments, or provided for the use of the Government or the Public Departments. No issue of Stores is to take place except on Requisition signed by the Governor, or the Colonial Secretary, having obtained His Excellency's Authority; and the Officer in Charge will be held strictly accountable for every article of Public Property entrusted to him.

9th. All sales on the part of Government to be effected either by Public Auction, or by Proposals to purchase, as will be directed according to circumstances.

10th. All purchases of Stores and Supplies to be made, as far as may be practicable, through the medium of Public Competition.

11th. The "Proposals" and "Tenders," mentioned in Articles 9 and 10, are to be sent in, sealed, to the Office of the Colonial Secretary, and will be opened in the presence of that Officer, the Head of the Department calling for such Proposals or Tenders, and the Auditor of Colonial Accounts, who will submit a schedule of the same, with their opinion thereon, for the Governor's confirmation.

12th. The Public Correspondence in the Colony is to be carried on generally through the medium of the Colonial Secretary. The Heads of Departments and Commandants of Stations (except when the subject relates to the Military Branch of the Service) will address their Applications and Reports to that Officer for the information or decision of the Governor.

13th. The Superintendents of Agricultural Establishments and Government Farms, etc., will correspond through the Commandants of their respective Stations. In cases where there are no Commandants, they will address themselves direct to the Colonial Secretary.

14th. Applications for Land are to be addressed to the Surveyor General, who will make up an Abstract on the 1st and 15th of

each month according to the dates of the respective applications, annexing such observations in the form of a Report on each case, as he may consider necessary. The Surveyor General will send his Report and the Applications, on which it is founded, to the Land Board. This Board, after considering the several cases, will submit their Report for the Governor's consideration, and His Excellency's decision thereon will be communicated to the respective parties by the Colonial Secretary.

1826.
2 Feb.
General order
re duties of
public
departments.

15th. All applications for Convict Servants are to be addressed to the Principal Superintendent of Convicts, who will, from time to time, make up an Abstract of the Applications according to their dates, and will lay it, with the several documents, before a Board, which will be appointed to report thereon. The Board will submit its Report to the Governor, and His Excellency's decision will be communicated by the Colonial Secretary to the respective applicants.

16th. The Governor requests it may be understood that appointments, made under the present arrangement, will not be confirmed or recommended to the Secretary of State, until His Excellency is satisfied that the persons nominated are fully competent to fill their respective situations, and they shall have proved themselves deserving of them by their assiduity and fidelity in the discharge of their several Duties.

By His Excellency's Command,
F. GOULBURN, Colonial Secretary.

[Enclosure No. 2.]

PROJECTED DEPARTURES.

Return of
projected
departures
of shipping.

Names of Vessels.	Where Bound.	Date of Departure.
Marg's Hastings	China	3rd February, N. S. Wales
Medway	London via Hobart Town ..	3rd " " "
Venus	Sincapore	3rd " " "
Triton	London	5th " " "
Mountaineer	Sincapore	5th " " "
Sir God'fy Webster ..	Do.	10th " " "
Cawdry	Do.	10th " " "

JNO. NICHOLSON, Harbour Master.

Sydney, 2nd February, 1826.

To His Excellency The Governor in Chief.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 7, per ship John Barry; acknowledged by Governor Darling, 19th October, 1826.)

Sir, Downing Street, 3rd February, 1826.

3 Feb.

I have received Sir Thomas Brisbane's dispatch of the 30th June, reporting that, in pursuance of the Instructions, which he had received for a general division of the whole Territory of New South Wales and Van Diemen's Land into Counties,

Despatch
acknowledged.

1826.
3 Feb.

Hundreds and Parishes, he had appointed Commissioners for that purpose, and had fixed the Remuneration at £500 a year during the continuance of their operations.

Allowance
proposed by
Brisbane to
J. Oxley.

Although I am fully sensible of Mr. Oxley's propriety of conduct in declining to accept the offer of any additional Remuneration, as one of the Commissioners, yet the duties required of them approach so nearly to those, which fall upon Mr. Oxley in his capacity of Surveyor General of the Colony, that I should not have considered it my duty to have sanctioned the additional allowance, which Sir Thomas Brisbane proposed to make to Mr. Oxley, had the latter accepted it; and it is, therefore, with much satisfaction that the disinterested manner, in which Mr. Oxley has acted upon the occasion, has relieved me from the necessity of disapproving that measure.

Salaries for
commissioners
of lands.

I still, however, regret that it should not have occurred to Sir Thomas Brisbane that, as associating two Colleagues with the Surveyor General, I could have no other object than to grant to him that *assistance* in carrying into effect my Instructions for a division of the whole Territory of New South Wales, without which he could not have accomplished so arduous an undertaking, so it was unnecessary to fix the remuneration of the other two Commissioners at the high rate proposed by Sir Thomas Brisbane.

Mr. Oxley, as Surveyor General, receives a Salary of £365 pr. annum, and it is certainly unnecessary to give to those persons, who have been appointed to assist him with a view to a special object, a Sum higher than that granted to Mr. Oxley himself for the whole of the duties, which he has to execute, including, as well as those connected with the Public Service in general, those in particular which form the subject of this communication; and I am, therefore, to direct that, from the receipt of this dispatch, you cause the two Commissioners to be informed that they cannot be permitted to receive a higher rate of allowance, during the time their Services may be required, than one Pound per day, which must include all allowances.

I have, &c.,
BATHURST.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 2, per ship Triton; acknowledged by Earl Bathurst, 12th July, 1826.)

My Lord, New South Wales, 3rd February, 1826.

Salary for
clerk in
supreme court.

I have the honor to transmit to your Lordship the enclosed Copy of a Letter, addressed to me by the Chief Justice, recommending that a salary of Two hundred pounds a year should be

allowed to a Clerk, whom he had appointed, under an Act* of Council, for the purpose of Registering in the Supreme Court the Deeds of Conveyance of Lands in this Colony.

1826.
3 Feb.

Salary for
clerk in
supreme court.

I beg to report that, relying on the Chief Justice's recommendation, having myself no means of judging of the necessity of the appointment, I have authorized the proposed Salary to be issued, until I receive Your Lordship's Instructions on the subject.

I have, &c.,

RA. DARLING.

[Enclosure.]

CHIEF JUSTICE FORBES TO GOVERNOR DARLING.

Sir, Sydney, 10th January, 1826.

In consequence of the Act of the Governor and Council, requiring all deeds of Conveyance of Lands in this Colony to be registered in the Office of the Supreme Court, an additional Clerk has become necessary. Your Excellency will find, upon reference to the Act, and His Majesty's *Charter* establishing the Supreme Court, that the appointment is vested in the Chief Justice. It is the spirit of all appointments in the Courts of Justice that they should be paid by fixed salaries, and that the Fees should go into the Public funds, and, in compliance with such spirit, it is provided by the Act of the local legislature that all fees received for the Registration of Deeds should be accounted for to the Colonial Treasurer. As no provision is expressly made as to the amounts of the salaries of the Officers of the Supreme Court, within the appointment of the Chief Justice, agreeably to the Charter, it appears to me that they should be regulated by Your Excellency, and it is with that view that I have the honor of addressing Your Excellency on the present occasion.

Salary and
appointment of
C. D. Moore
as clerk of
supreme court.

I have nominated Mr. Charles Dodwel Moore as an additional clerk of the Supreme Court for the purpose of both carrying into effect the provisions of the Act, and assisting in the general business of the Office. He has been educated as an Attorney, and has served a considerable portion of the regular time, as an articled Clerk to his brother, who is a practising Solicitor in the Supreme Court. Under all the circumstances, I should consider the annual salary of Two hundred pounds not more than a fair remuneration for the Duties, Mr. Moore will be called upon to perform; and I beg to recommend that sum to Your Excellency's consideration.

I have, &c.,

FRANCIS FORBES, Chief Justice.

* Note 47.

1826.
3 Feb.

GOVERNOR DARLING TO UNDER SECRETARY HAY.

(Despatch per ship Triton; acknowledged by Earl Bathurst,
26th July, 1826.)

Sir, New South Wales, Sydney, 3rd February, 1826.

Employment of
J. Busby by
A.A. company.

I have received an application on the part of the Australian Agricultural Company to allow Mr. Busby, the Mineral Surveyor, to proceed to Newcastle for the purpose of obtaining information with respect to the Coal Mines at that place, which it is said are to be transferred to the Company.

Monopoly of
coal-mining
granted to
T. Winder.

Though I have not received any Instructions on the subject, I have permitted Mr. Busby to proceed to Newcastle for the purpose pointed out, rather than impede an arrangement which Government may be desirous of carrying into effect. I consider it, however, my duty to apprise you, that great inconvenience has been experienced by the Inhabitants in consequence of an agreement entered into with a Mr. Winder of this Town, by which he has a monopoly of Coals obtained from that Settlement, with the exception only of such as are required for the immediate use of Government. It may therefore deserve consideration, whether the inconvenience should be perpetuated by placing the Mines in the hands of the Australian Company.

The understanding with Mr. Winder appears to have been (for there is no contract or written agreement further than his proposal) that he should receive Two thousand Tons of Coals at the usual rate, to the exclusion of all other persons. Mr. Winder, I am informed, has received only six hundred Tons, so that Fourteen hundred remain to be supplied.

I am not disposed to prevent him having this quantity, as it might be viewed as a breach of faith on the part of Government, though no contract or engagement exists.

I have, &c.,
RA. DARLING.

GOVERNOR DARLING TO THE COMMISSIONERS OF THE NAVY.

(Despatch per ship Triton.)

Gentlemen, 3rd Febru'y, 1826.

Despatch
acknowledged.

I have the Honor to acknowledge the receipt of your Letter of the 3rd of August last, enclosing a Copy of the Contract, under which the Marquis of Hastings has been employed in the Convict Service, together with a List of the Stores embarked on board that Ship, and requesting to be informed should any deviation take place from the Regulations, prescribed in these Cases. In answer to which, I beg to state to you that Mr. Ostler

has throughout acted most irregularly. Soon after his arrival, he landed 2 Casks of Brandy and two Casks of Wine, with Thirteen Packages of Goods of different kinds. These were detained by the Naval Officer, but have since been given up, the Attorney General being of opinion that the Laws for seizing Goods, landed without a Permit, do not extend to this Colony.

1826.
3 Feb.

Irregularity
in conduct of
Ostler.

I must not omit to mention that, in order to render this imposition the less liable to detection, Mr. McLeay's name, the Colonial Secretary, who came out Passenger in the Marquis of Hastings, was put on the several articles landed; And that, even after this occurrence, another Boat was detained with a quantity of things on board, but Mr. Ostler endeavoured to excuse himself in this case by asserting that they belonged to one of the Officers of the Ship.

I should add that, in addition to these Articles, Mr. Ostler imported *Thirty five Tons* of Pig lead, which it does not appear, by your Letter, he had any authority to Ship, though he produced a Cocket to that effect, and was in consequence permitted to land it.

I have furnished Mr. Ostler with a Certificate of his having landed the Convicts, which were embarked under his charge, in good order, and have stated in it that I should report his Conduct to enable you to take the necessary steps. From what I understand, Mr. Ostler is by no means a solitary case. I shall, however, use all the means in my power to put a stop to the Ships, employed in this Line, trading, as appears to have been the practice.

I have, &c.,

RA. DARLING.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 8, per ship John Barry; acknowledged by Governor Darling, 20th October, 1826.)

Sir, Downing Street, 4th February, 1826.

4 Feb.

I do myself the honor of transmitting to you herewith a Commission of Admiralty by which, as Governor and Commander in Chief in and over the Island of Van Diemen's Land, you are constituted and appointed Vice Admiral of the same.

Commission for
R. Darling as
vice-admiral in
Tasmania.

I have, &c.,

BATHURST.

[Enclosure.]

[A copy of this commission will be found in a volume of series IV.]

1826.
4 Feb.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 3, per ship Triton; acknowledged by Earl Bathurst, 12th July, 1826.)

My Lord, New South Wales, 4th February, 1826.

Headquarters
of 40th regt.
sent to Hobart.

I beg leave to acquaint Your Lordship that, in consequence of the representation of Lieutenant Governor Arthur, I have been induced to send the Head Quarters of the 40th Regt. to Van Diemen's Land, where he had been under the necessity of detaining two Detachments of the 57th Regt., consisting of about sixty Rank and File, which were on their passage to this Colony in charge of Convicts.

Troops required
in Tasmania.

As your Lordship will have heard direct from the Lieut. Governor respecting the state of the Colony before this can reach England, it is not necessary for me to enter into the subject. But his demand for Troops appearing very urgent, I request that a portion of those under orders for this Command may be forwarded without being subject to the Routine of furnishing Guards over the Convicts embarked for these Colonies.

I have, &c.,

RA. DARLING.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 4, per ship Triton; acknowledged by Earl Bathurst, 12th July, 1826.)

My Lord, New South Wales, 4th February, 1826.

Dispute
between Kean
and Carter on
ship Henry
Porcher.

I have the honor to transmit to Your Lordship the accompanying Letter, which was addressed to me on my arrival by Archdeacon Scott, with three Enclosures, respecting a misunderstanding which took place on board the Henry Porcher, Convict ship, between the Revd. Mr. Kean, a Passenger, and Mr. Carter, the superintending surgeon.

The case was in fact disposed of before my arrival, as far as it could be here, Mr. Carter having refused to appear before a Court of Enquiry, which the Lieut. Governor had ordered to investigate the facts stated by Mr. Kean.

I have since seen Mr. Carter, who contends that, having delivered over the Convicts, placed under his charge, in good order, he has fulfilled his duty; and that he is not amenable to an investigation for his conduct towards a Passenger.

Without entering into the merits of the present question, it would appear that Mr. Carter's conduct has not been wholly unexceptionable on other occasions; as the accompanying Paper, which has been delivered to me by the Archdeacon, relates to a

misunderstanding between him and the Revd. Mr. Hill of this service, who is a most zealous and respectable man, when coming out to the Colony some years since.

I am extremely sorry to trouble your Lordship on this occasion, and should not have done so, could the matter have been otherwise disposed of.

I beg to submit that the best means of preventing a recurrence would be to direct that Mr. Carter may not return to this country in the convict service.

I have only to add that I have furnished Mr. Carter with the usual Certificate of his having delivered over the Convicts in good order, and I have signified my intention in the Certificate to make this report to your Lordship, in order that the Commissioners of the Navy may be duly apprized of Mr. Carter's proceedings.

I have, &c.,

RA. DARLING.

[Enclosures.]

[Copies of these papers are not available.]

GOVERNOR DARLING TO UNDER SECRETARY HAY.

(Despatch marked "Separate," per ship Triton.)

Sir, New South Wales, 4th February, 1826.

I think it right to state to you, in reference to Earl Bathurst's Despatch of the 11th of July last, No. 4, that I have not felt it necessary to act on the Authority, which His Lordship was pleased to give me respecting Captain Rossi, as he is extremely zealous in the discharge of his duty, and appears to conduct the Police in a manner satisfactory to the Public.

Conduct of
F. Rossi.

I have, &c.,

RA. DARLING.

GOVERNOR DARLING TO UNDER SECRETARY HAY.

(Despatch marked "Separate," per ship Triton.)

Sir, New South Wales, 4th February, 1826.

I have the honor to acknowledge the receipt of a Letter from Mr. Wilmot Horton, dated the 7th of February, 1825, addressed to Sir Thomas Brisbane, requesting an official Certificate of the death of the late wife of Lieut't Cummins of the New South Wales Corps, and I beg leave to transmit herewith copy of a letter from the Revd. John Youl, with a certified Extract from the Parish Register of Launceston of the death of the said Mrs. Cummins.

Despatch
acknowledged.

I have, &c.,

RA. DARLING.

1826.
4 Feb.

Dispute
between Kean
and Carter on
ship Henry
Porcher.

1826.
4 Feb.

[Enclosure No. 1.]

REVEREND JOHN YOUL TO LIEUT.-GÖVERNOR ARTHUR.

Sir, Launceston, 31st October, 1825.

Death of Ann
Cummins, née
Boyton;

I have the honor to report further particulars, relative to a Mrs. Cummins, as to the time of her demise. Having seen Mr. John Cummins, late a Captain in the New South Wales Corps, his deceased wife's name previous to her marriage, was Ann Boyton, born at Nottingham, was married to Captain John Cummins at a Church near Gosport. She has left three children by marriage, not well provided for.

and of Ann
Cummins, née
Oates.

From the date the Lady died, as stated in the Right Honorable Earl Bathurst's Letter, I am of opinion that it must have reference to the wife of Lieutenant William Cummins, lately deceased, who was in the same Corps, and who came into the Colony some time before the arrival of Captain John Cummins. His wife's name, previous to her marriage, was *Ann Oates*, daughter of a respectable family. She was born at the Isle of Mann. Her death is as far back as 1810, or thereabouts. There are several persons at Port Jackson, who are likely to give the time of her decease, and where interred, particularly the following,—Mrs. Broughton of Appin, Mr. Hume of the same place, and Mr. Kennedy of Windsor.

I am, &c.,

JOHN YOUL.

[Enclosure No. 2.]

CERTIFICATE OF DEATH.

Death
certificate of
Ann Cummins,
née Boyton.

Page No. 3.

ANN CUMMINS, Wife of Mr. John Cummins of Paterson's Plains, was Drowned July the Twenty seventh, Aged 38 Years, was Buried at Launceston, July the Twenty ninth, 1820.

By me, JOHN YOUL, Chaplain.

A true Copy.

Extracted from the Register, this Tenth day of October, 1825.

By me, JOHN YOUL, Chaplain.

GOVERNOR DARLING TO UNDER SECRETARY HAY.

(Despatch marked "Secret and Confidential," per ship Triton; acknowledged by under secretary Hay, 1st August, 1826.)

Sir, New South Wales, 4th February, 1826.

Proposed
removal of
H. G. Douglass
from clerkship
of council.

I beg to explain, in reference to the Earl Bathurst's Despatch of the 4th of July last, No. 3, respecting the situation of Dr. Douglas as Clerk of the Council, that I have not yet had an opportunity of making a suitable arrangement for his disposal, and have therefore not made any communication to him on the subject. I have little doubt, however, he is aware that his removal from the Clerkship of the Council is in contemplation.

Under this circumstance, I was induced, on establishing the Executive Council, to appoint Colonel Dumaresq to the Clerkship, who has been good enough to undertake the Duties for the present without salary. When the arrangement is completed, there will be no occasion to employ two persons, as one will answer as Clerk to both Councils, and the salary, which Dr. Douglas now receives, will be sufficient.

1826.
4 Feb.

Appointment of
H. Dumaresq
as clerk of
executive
council.

I beg to add that finding the Investigation,* which has taken place into Doctor Douglas's conduct, previous to my arrival, had terminated so favourably to him, I received him in the manner, to which his public situation gives him a claim; and I shall make a point of acting on this principle in disposing of him, so as to prevent, as much as possible, his having any ground to complain of injustice or severity being exercised towards him.

Exoneration of
H. G. Douglass.

I have, &c.,
RA. DARLING.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch marked "Separate," per ship Triton; acknowledged by Earl Bathurst, 12th July, 1826.)

My Lord, New South Wales, 5th February, 1826.

5 Feb.

Your Lordship will have been made acquainted by Archdeacon Scott with the case of Mr. Walker, the Master of the Female Orphan School. As it has now been disposed of (as appears by the decision of the Chief Justice in the Supreme Court, † given on the 31st of last Month), I take the liberty of troubling your Lordship with a brief detail of the proceedings since my arrival here.

Suit between
archdeacon
Scott and
master of
orphan school.

The Archdeacon informed me, on the 22nd of December, of the events up to that date; and, as the case was then before the Supreme Court, it would, I imagine, have been improper in me to have used any active interference. But I consulted the Attorney General and the Archdeacon as to the course which might be advantageously pursued, being desirous to afford Mr. Scott all the assistance in my power.

My Instructions were referred to, and extracts were made of those parts relating to the Archdeacon's appointment as King's Visitor. These were verified on Oath, and subsequently laid before the Supreme Court. I also communicated to them the Draft of the Patent of Incorporation of the Trustees for the Church and School Lands, which seems to be the instrument, by which the Archdeacon is appointed "King's Visitor"; and I proposed promulgating it immediately, as a means of supporting the Archdeacon's claims to exercise the functions of "Visitor";

1826.
5 Feb.

Suit between
archdeacon
Scott and
master of
orphan school.

the Attorney General wrote to me to request that any notification of the appointment might be suspended, until the Court should have finally disposed of the case, conceiving, as I imagine, that a notification at that time would be considered by the Court as a proof that the Archdeacon did not previously possess any right to act.

The case being now determined, and the Attorney General no longer seeing any objection to it, the Patent shall immediately be made out.

By the decision of the Court, it may be presumed that the Archdeacon had prematurely assumed the functions of King's Visitor. But the Patent will put him in possession of those functions, and he will be at liberty to act as he may consider proper with respect to Mr. Walker.

I am not aware that I can give a clearer view of this matter; but, should your Lordship be desirous of more particular information, I beg that reference may be made to the "Australian" of the 2nd of this month (forwarded with my present Dispatches), which contains a circumstantial and correct account, as I am informed, of the grounds of the Judgment of the Court.

I have only further to trouble your Lordship with the Copy of the proceedings of a Board, which, on the representation of the Archdeacon that the children in the Female Orphan School were suffering from inflamed Eyes, I assembled to investigate that fact and to report generally on the state of the Establishment.

The Archdeacon embarked for Van Diemen's Land, before the Report was received. But I am proceeding in his absence to act on the recommendation of the Board. I have, &c.,

RA. DARLING.

[Enclosure.]

Report of
board of inquiry
on female
orphan school.

PROCEEDINGS of a Board, assembled at the Female Orphan Institution at Parramatta by the Order of His Excellency the Governor in Chief, for the purpose of investigating into the cause of a disease affecting the eyes of some of the children there, and also for the purpose of enquiring generally into, and reporting upon the state and conduct of that Establishment.

HIS HONOR the Lieut. Governor; James Bowman, Esqr., Principal Surgeon; The Rev. Wm. Cowper, Garrison Chaplain, composing the Board.

Parramatta, 16th January, 1826.

The Board having assembled at the School House, the Master, Matron and Teacher of the Children were called upon to attend, and after the Colonial Secretary's letter, hereunto appended, was read, pointing out the object of the investigation, the whole of the children were assembled in the schoolroom, and having been minutely inspected together with the attending Medical Officer's Prescription book, a proportion of the different classes were ordered to read, in succession, and the Teacher was directed, in the presence of the

Board, to put a number of questions to each child separately, relative to their proficiency in the Church catechism and their knowledge of the Scriptures generally.

The Board afterwards proceeded to inspect the state of the Building, the Sleeping rooms, Bedding, Clothing, Garden, Drains, etc. They then examined the Master's accounts of the Receipt and Expenditure of Supplies; after which, they questioned him generally respecting a variety of details connected with his management of the Institution, and the health, comfort and morals of the children.

The Board, having thus carefully examined the children, and having minutely examined into the state and general conduct of the Asylum, have on due reflection unanimously agreed upon the following report for the information of His Excellency the Governor, Vizt:—

1st. They are of opinion that the Inflammation affecting the Children's eyes may have originally been occasioned by the hot weather, which prevailed about the time when it first made its appearance; and it is very probable the disease was propagated by a number of the children washing their hands and faces in the same water and wiping their faces with the same towel, which is the mode at present practised; but the Board recommend that a proportion of tin and pewter basins be provided, so that each child may have clean water, and be allowed a separate towel. The Board, however, have the satisfaction to report that the inflammatory disease of the eyes, complained of, has readily yielded to the medical treatment prescribed; and there are now only four or five children in a slight degree affected by it.

2. On inspecting the sleeping rooms, the Board remarked that the ventilation is bad, and requires to be much improved. The bedding, also, although it appears tolerably clean, is not regularly aired. Among other regulations, therefore, which are highly essential for the proper management of this Establishment, instructions ought to be given that the whole of the Bedding be carried out in the middle of the day, whenever the weather is fine, and spread on a clean dry spot of ground, or hung upon rails, exposed to the influence of the sun and air, in the same manner as is practised with the Bedding of Soldiers in Camp or Garrison. The Board also recommend that the children's clothing be properly marked and numbered; and as the wooden bottoms of the Iron bedsteads, on which they sleep, are too short, they require to be replaced with longer boards.

3. The children have bread and tea for Breakfast and Supper. The Board, however, are unanimously of opinion that pottage, made of Indian corn or wheaten meal, with half a pint of good milk for each, would contribute more to their health and comfort. The milk might be supplied by contract, or a sufficient number of good milch Cows might be attached to the Establishment; and, in such case, it will be indispensable that the Master be strictly prohibited from keeping more than one cart horse now on the grounds, and required for carrying wood and other supplies. At present, the Master has two or more riding horses or brood mares pastured on the grounds; and those unnecessary horses eat up the grass, so much required for the milch cows. The Board are further of opinion that the Master of this Institution should be restricted to the performance of the important duties of his situation, and prohibited from attending Political Meetings, which they understand he is at present in the habit of doing frequently.

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board of inquiry
on female
orphan school.

4. The Garden consists of about six acres, is at present cultivated by three men, and appears well stocked with vegetables; if properly managed, it will produce a sufficient supply for the Institution.

5. On examining the Registry of Admissions into the Institution, the Board remarked that the names of the Children were not regularly entered, and several were altogether omitted.

They found the children, attending the School, divided into four classes. In the first class, the Teacher appears to have introduced Bell's System of instruction with some degree of success. The Girls in this class have been instructed in the Church Catechism and in a knowledge of the scriptures. The first class read pretty well, but in a low and indistinct tone of voice. The second class has also made some progress; but the children comprising the other classes are too young to have made such improvement.

6. With the exception of the bad ventilation of the bedrooms, already mentioned, the state of the building is good, and sufficiently commodious for the admission of a greater number of children than are at present in the Institution. But the nauseous and unwholesome state of the privies, attached to the building, require immediate attention. The Cellars also under the Building are dirty and full of water from the want of proper drains. The particular attention of the Civil Engineer ought therefore to be called to the remedy of these nuisances, and to the re-opening and enlarging of all the drains communicating with the cellars and privies.

7. On inspecting the present mode of keeping the account of the Receipt and Expenditure of Supplies, the Board are of opinion that it is not sufficiently explicit. They, therefore, recommend that improved forms for keeping Accounts should be furnished, and that all the Accounts of the Establishment should be transmitted, at stated periods, to the Auditor of the Colonial Accounts for Examination. The Master ought also to be restricted from purchasing or procuring supplies, unless upon regular Requisitions, approved of by His Excellency the Governor, or by some person duly authorized by him.

8. With a view, therefore, of establishing a perfect system of regularity in the receipt and expenditure of all supplies, as well as in the general conduct and arrangement of this important establishment, the Board feel it their duty, on this occasion, unanimously to recommend that the Colonial Secretary, as well as the Police Magistrate at Parramatta, or such other two Gentlemen as His Excellency may think fit to appoint, should be forthwith associated with the Venerable the Archdeacon, as a Committee for the general and effectual controul and superintendence of this Institution.

WILLIAM STEWART.
J. BOWMAN.
WILLIAM COWPER.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship John Barry; acknowledged by Governor Darling, 15th September, 1826.)

6 Feb.

Sir,

Downing Street, 6 February, 1826.

I do myself the honor of transmitting to you, by the direction of Earl Bathurst, the enclosed Copy of an application, which has been made to His Lordship on the part of a Mr. A. Scott, in

Application
for additional
land grant for
R. Scott.

behalf of his Brother, Mr. R. Scott, for an additional Grant of 10,000 Acres to the property, which the latter already possesses in that Colony. By the answer, which Lord Bathurst has directed me to return to this application, your Excellency will perceive to what extent his Lordship is disposed to accede to Mr. Scott's wishes; and I am to request that you will be pleased to carry his Lordship's Intentions into effect, exercising your discretion as to the extent of the additional Encouragement, which it may be proper under the circumstances to grant to the party in question.

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

[Enclosure No. 1.]

MR. A. SCOTT TO UNDER SECRETARY HAY.

12 Hinde Street,

Sir, Manchester Square, 3rd February, 1826.

I beg to send, according to your desire, the following statement of my Brother's Memorials to Sir Thomas Brisbane, and his Excellency's answer, and also a few facts explanatory and confirmatory of his claims.

In August 29, 1822, Mr. Robt. Scott presented the Memorial No. 1 to Sir Thos. Brisbane, requesting an additional 10,000 Acres to his and his Brother's, Helenus', original Grant of Land of 4,000 acres, on the ground that they actually meant and had ample means to cultivate and stock Land to that extent.

Sir Thomas a short time after assured my Brother that he knew no persons more fit to receive an additional grant; that he had no power to give land, and that he had sent home the Memorial accompanied with his recommendation. Upon my enquiring of Mr. Wilmot Horton, I found no such papers had been sent. I wrote accordingly to my brother, which gave rise to the letter No. 2, and also one No. 3 from his Excellency to my Lord Bathurst, and to which I beg to call your particular attention.

As the quantity of land given to each Settler is in proportion to his means, allow me, Sir, to state briefly the sum which my Brothers have actually expended on their present small Grant, and what their future intentions are. Up to December last, their expenditure was £5,200, and in their last letter they signify their intention of drawing for £2,750, and, when they may require it, they are at liberty to have as much more. In addition to this, their Father Dr. Scott (formerly and for a length of time, President of the Medical Board and Assay Master to the Mint of Bombay) left this Country under the promise of having, and with an order from Government for a large tract of land, as he had a considerable fortune, and the full intention of becoming a Settler.

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Application
for additional
land grant for
R. Scott.

Previous
applications
by R. Scott
for additional
land grant.

1826.
6 Feb.

Unfortunately Dr. Scott died on his passage to New South Wales, and thus were my brothers at once deprived of their greatest friend and of their justly entertained expectations.

Relying upon the justness of their claim and the well known liberality of Government,

I have, &c.,

A. W. SCOTT.

[Sub-enclosure No. 1.]

MR. R. SCOTT TO SIR THOMAS BRISBANE.

Sir, Sydney, New South Wales, 29th August, 1822.

I am induced from a more intimate knowledge of this Colony to state to your Excellency that I am led to think, with the means I have at my disposal, I can turn to advantage a larger quantity of land than the Two Thousand Acres usually granted to Settlers of the First class.

I have made minute enquiries into the state of the Colony and the best modes of employing capital, and these enquiries have confirmed the opinion that the two thousand Acres would be inadequate to enable me to carry into effect the plans I had in view on coming into the Colony, and without which it would not be an object for me to remain.

My intentions are (if supported by your Excellency) to carry on the rearing of Stock, and particularly of fine-wooled Sheep on a large scale, and to retire into the Interior of the Country beyond the present range of cultivated land, where the grant of a large quantity will not for many years interfere with other Settlers or your Excellency's arrangements.

Influenced by these considerations, I respectfully beg your Excell'y will be pleased to recommend me to the Right Honble. the Secretary for the Colonies as a fit person to have a pasturage grant of Ten Thousand Acres (10,000) subject to such Regulations and conditions, as the Government may require.

I have, &c.,

ROBERT SCOTT.

A true Copy:—A. W. SCOTT.

[Sub-enclosure No. 2.]

MR. R. SCOTT TO SIR THOMAS BRISBANE.

Sir, Sydney, New So. Wales, 15 March, 1824.

Fearful lest the petition, which your Excell'y some time ago was kind enough to forward for the consideration of Earl Bathurst, be mislaid, or by some accident miscarried, I take the liberty of again presenting it.

To this, I am the more emboldened, as Mr. Commissioner Bigge in his report seems to approve of large grants being given to persons of Capital, who intend, bonâ fide, to stock and cultivate

Application of
R. Scott for
land grant.

Renewal of
application.

that Land. I am willing to take the Grant upon Mr. Bigge's conditions, or indeed any other Government may think fit to demand.

1826.
6 Feb.Renewal of
application.

My ardent desire is not to be cramped in my future operations for want of sufficient pasture, and to get my lands as contiguous as possible to avoid the evil effects of having many Establishments, and consequently my attention divided among many objects.

Relying upon the long personal knowledge your Excellency has had of me and of my views, I am led to solicit your Excellency's recommendation to Earl Bathurst, as one whose intentions are sincere and whose means are considerable.

I have, &c.,

ROBT. SCOTT.

[Sub-enclosure No. 3.]

SIR THOMAS BRISBANE TO EARL BATHURST.*

My Lord, Government House, N. S. Wales, 29th April, 1824.

Accompanying I have the honor to transmit Copies of a communication lately received from Mr. Scott, and, as he and his Family are of the highest respectability from my own personal knowledge, and possessed of adequate means to do Justice to any Extent of grant Your Lordship may be pleased to order him, I am induced to recommend him strongly for Your Lordship's most favourable consideration.

Recommendation by Sir
T. Brisbane.

I have, &c.,

THOMAS BRISBANE.

A True Copy:—R. STIRLING, A.D.C.

[Enclosure No. 2.]

UNDER SECRETARY HAY TO MR. A. W. SCOTT.

Sir, Downing Street, 13 Feby., 1826.

Having submitted to Earl Bathurst the Statement contained in your letter of the 3rd Instant on the subject of your Brother, Mr. R. Scott's application for an additional Grant of 10,000 acres of Land in New South Wales, I am directed to acquaint you, in reply, that the communication which you state to have been addressed to Lord Bathurst by Sir Thomas Brisbane, recommending a compliance with your Brother's request has not, as yet, been received. Under these circumstances, Lord Bathurst cannot take upon himself to direct so extensive a Tract of Land as 10,000 acres to be granted to your Brother.

Acknowledgment of letter.

I am directed, however, to add that his Lordship will forward your statement to the present Governor, with authority to extend Mr. Scott's original Grant, provided the outlay of capital, which has already taken place on his property, shall, in the opinion

Papers to be
referred to
R. Darling.

1826.
6 Feb.

Papers to be
referred to
R. Darling.

of General Darling, render him deserving of this additional encouragement. But his Lordship desires me, at the same time, to apprise you that so considerable a Grant, as that for which your Brother has applied, is never given excepting in very special cases.

I am, &c.,

R. W. HAY.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch marked "Separate," per ship Triton; acknowledged by Earl Bathurst, 12th July, 1826.)

My Lord, New South Wales, 6th February, 1826.

Satisfactory
state of colony.

I cannot permit the Triton to leave this, without informing your Lordship of the satisfactory state of the country.

Though the season has been unusually wet, the Rain having fallen almost ever since my arrival without intermission, I am happy to be enabled to state that the effect has been extremely beneficial to the country.

Abundant
harvest.

The wheat harvest has furnished an ample supply, and the Maize, which will be cut in the course of the present month, promises to yield abundantly. This furnishes one means of satisfaction to the Settlers; and another is afforded to the Inhabitants generally by the breaking up of a Gang of Bush Rangers, which has lately infested the country, stopping and robbing travellers on the Road, entering Houses, securing the Inmates, and carrying off every portable article.

Suppression of
bushrangers.

It appeared to me, soon after my arrival, that immediate measures were necessary to put an end to the daring outrages of this Banditti. Some of the Troops were accordingly disguised and sent out with the Police, and a Detachment of Mounted Police was also ordered to the disturbed part of the country. The Banditti, however, eluded their vigilance. But a few nights since, a party of Police, who had been on the look-out, fortunately fell in with a gang of eight of these people. A sharp encounter took place, in which one of the Bush Rangers was killed on the spot, as was also one of the constables, and another of the party was severely wounded and taken. The rest made their escape. By the management of Captain Rossi, the Superintendent of Police, those who had fled were seduced into a House on Saturday night last, which was immediately surrounded, when four of them were taken and some of their Booty secured.

Encounters
between
police and
bushrangers.

They were all well armed, having supplied themselves from the Houses they had plundered. I shall make a point of hastening the Trial of these men, so as to make an early example by their immediate execution, should they be condemned, which I presume there is little doubt of. This event has afforded me much

satisfaction, as it will remove the alarm, which had been occasioned by the daring proceedings of this Gang, and every means shall be used to prevent the formation of another.

1826.
6 Feb.

I have, &c.,
RA. DARLING.

EARL BATHURST TO GOVERNOR DARLING.

(A circular despatch per ship Chapman; acknowledged by Governor Darling; 5th November, 1827.)

Sir, Downing Street, 7 February, 1826 7 Feb.

I have to convey to you Instructions to transmit to me immediately the number and character of all Military Buildings in the Colony under your Government, stating the amount of Colonial Revenue, which has been applied for the construction of Military Defences and Buildings for the last ten years, also the amount of Colonial Revenue expended in the reparation and maintenance of all Military Defences and Buildings for the same period, furnishing me with the minutest specifications of the same, and the amount of Salaries and allowances, paid to all persons employed by the Colonial Government, and hitherto paid out of the Colonial Funds, which it is proposed should be transferred to the Ordnance Department, and to be henceforth paid by the Ordnance, in order that I may be enabled to shew that the proposed transfer to the Ordnance Department of all Military Works and Buildings, as explained by the accompanying Regulations, and with the classification of Buildings annexed thereto, involves only a change of account, and not an increase of expence; and I avail myself of this opportunity of acquainting you that the average sum, which shall appear to have been expended by the Colony on Works of the description referred to, will be required to be paid into the Military Chest to the Credit of the Ordnance Department.

Returns required of military buildings and of persons to be transferred to the ordnance department.

I have, &c.,
BATHURST.

[Enclosures A and B.]

[Copies of these regulations, which were forwarded to the governments of Ceylon, Mauritius, New South Wales, Van Diemen's Land, Cape of Good Hope, Malta, Gibraltar, Sierra Leone, and Gold Coast, Trinidad, Demerara and Essequibo, Berbice, St. Lucie, Heligoland, and Honduras, will be found in a volume in series VII.]

MR. E. BARNARD TO GOVERNOR DARLING.

18th February, 1826.

18 Feb.

[A copy of this despatch, acknowledged by Governor Darling, 28th July, 1826, is not available.]

1826.
19 Feb.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 9, per ship Marquis of Huntly; acknowledged by Governor Darling, 23rd October, 1826.)

Sir, Downing Street, 19th Febr., 1826.

Despatch
acknowledged.

I have received Sir Thomas Brisbane's dispatch No. 50 of the 21st May, in which, after detailing the measures which he has adopted for Establishing Penal Depots at Moreton Bay, and the grounds on which he has formed his opinion that such would be a desirable step preparatory to the opening of that part of the Country to general Colonization, he proceeds to state that he has caused to be purchased a Vessel of about 600 Tons burthen, which will be prepared for the reception of Prisoners, in order to afford that relief to the Goal at Sydney, which, if not granted by the mode which he has pointed out, must be accomplished by means of an additional Goal at an expense far exceeding that resulting from the arrangement suggested.

Approval of
purchase of
hulk for
prisoners.

Upon Sir Thomas Brisbane's representations of the advantages which may be expected to be derived from the measures which he has proposed, I am anxious to give them the sanction of my approbation; but you will not consider this approval of his plans, as precluding you from the adoption of others with reference to this subject, should the result of your enquiries and further consideration lead you to entertain different views from those of your Predecessor, upon the points to which his Dispatch refers.

The Hulk arrangement, however, is one to which, although I have given my sanction, appears to me of a doubtful expediency, as in general this mode of disposing of Prisoners, though certainly at first the easiest of attainment, is productive of greater expense in the end than any other mode of providing for their Security; and I cannot, therefore, conclude this dispatch without expressing my hope that the Establishment of a Hulk, for the purpose in question, is only intended as a temporary arrangement.

I have, &c.,
BATHURST.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 10, per ship Marquis of Huntly; acknowledged by Governor Darling, 15th September, 1826.)

Sir, Downing Street, 19th February, 1826.

Approval of
expenditure
in judicial
department.

I do myself the honour of acquainting you, with reference to Sir Thomas Brisbane's Dispatch, No. 66, of the 26th June, that the explanations, therein communicated, on certain points of Expenditure in the Judicial Department of the Government

are considered satisfactory; and I have accordingly to sanction the payment of £300 a year to the Clerk of the Peace, and the assistance given to the Attorney General, the cost of which is stated to have amounted to £100.

1826.
19 Feb.

I have, &c.,
BATHURST.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 11, per ship Marquis of Huntly; acknowledged by Governor Darling, 15th September, 1826.)

Sir, Downing Street, 19th February, 1826.

With reference to my Dispatch of the 30th June last, by which you were authorized to undertake the construction of a new Government Residence, should you find upon your arrival in the Colony that the present Building was unfit for your accommodation, I do myself the honor of calling your attention to the enclosed Copy of a Dispatch, which I have just received from Sir Thomas Brisbane, dated the 25th May, 1825, as the views entertained by him upon this subject appear to me to be judicious.

Proposals
for new
government
house.

I have, &c.,
BATHURST.

[Enclosure.]

[*This despatch was numbered 57, and will be found on page 616, volume XI.*]

EARL BATHURST TO GOVERNOR DARLING.

(Despatch marked "Separate," per ship Chapman; acknowledged by Governor Darling, 5th November, 1827.)

Sir, Downing Street, 19th February, 1826.

With reference to the Circular Letter, addressed to you under date the 7th Instant, I have to acquaint you that, as the Board of Ordnance have as yet no Establishment of Officers, either Civil or Military at New South Wales, to take charge of the Works and Buildings to be transferred in the manner proposed, they are prevented at present from giving the necessary directions for what may be requisite on the part of that Department to carry the same into effect. But the information called for by my Circular Dispatch is, however, necessary, in order to complete the arrangements, whenever it may be found practicable.

Proposed
transfer of
military
buildings.

I have, &c.,
BATHURST.

1826.
19 Feb.

UNDER SECRETARY HAY TO GOVERNOR DARLING.
(Despatch per ship Marquis of Huntly; acknowledged by Governor Darling, 15th September, 1826.)

Sir, Downing Street, 19th February, 1826.

Instructions re
issue of rations.

I am directed by Earl Bathurst to transmit to you Copies of a Letter and enclosures from Mr. Harrison, dated the 25th August last, on points connected with the issuing of Rations to certain Individuals at New South Wales. These papers ought to have been forwarded to you some time ago; but, as you will have received Instructions from the Board of Treasury in the Spirit of their Lordships' Minute, the omission will not be of much importance. You will observe, by the answer sent to Mr. Harrison's letter (a Copy of which is also enclosed) that his Lordship concurs in the opinion expressed by the Board of Treasury upon the proposed Regulations; and it therefore becomes only necessary for me to call your attention to the different arrangements recommended, and to the propriety of revising the Salaries of those Persons on the Civil Establishment, who have been in the habit of receiving Rations, but to whom they will no longer be continued, in order to their being compensated for the loss, which will thereby be occasioned to them.

I have, &c.,

R. W. HAY.

[Enclosure No. 1.]

[Copies of Mr. Harrison's letter and enclosures are not available.]

[Enclosure No. 2.]

UNDER SECRETARY HAY TO MR. GEORGE HARRISON.

Sir, Downing Street, 29 Augt., 1825.

Approval of
recommendations
re issue
of rations.

I have received and laid before Earl Bathurst your letter of the 25 Instant, transmitting two letters from Assistant Commissary General Lithgow, enclosing Reports* of a Committee, appointed to enquire into the mode of issuing Rations to Individuals at New South Wales, and enclosing a Minute of the Board of Treasury thereon. Lord Bathurst desires me to acquaint you in reply that he fully concurs in the observations, which their Lordships have made in regard to the new Regulations, which have been proposed by the Committee upon that subject, and will address a dispatch to General Darling, desiring that he will take the necessary measures for carrying into effect the arrangements suggested, with a view to the introduction of a more uniform practice in respect to the issuing of ordinary and extra Rations to those Persons, who have a claim to be victualled from the Public Stores, and to the establishment of a more regular system in the *accounts in this important and hitherto

* Note 51.

extensive branch of expenditure. And Lord Bathurst will also direct the attention of the Governor to the propriety of revising the Civil Establishment of the Colony, in order to meet the particular cases of those Individuals, whose Salaries, if deprived of the Rations which they have been accustomed to receive, shall be deemed insufficient, and who may in consequence be fairly entitled to an allowance in lieu of the provisions, of which they may be so bereft.

I am, &c.,

R. W. HAY.

1826.
19 Feb.

Revision of
salaries of
civil officers.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 12, per ship Marquis of Huntly; acknowledged by Governor Darling, 15th September, 1826.)

Sir, Downing Street, 20th February, 1826.

20 Feb.

With reference to a Series of Dispatches, which I have lately received from Sir Thomas Brisbane, the duplicates of which have arrived two months prior to the receipt of the originals, and great inconvenience having been experienced in consequence of the enclosures to those dispatches not having been sent with the duplicates, I have the honor to request, with the view of preventing a recurrence of this inconvenience, that all papers, which may have been enclosed in the original dispatches, shall also be transmitted to me in duplicate, in order that, whether the original or duplicate dispatches be first received, I may have under my view the whole of the documents necessary to enable me to come to an early decision on the points, to which they relate.

Duplicate
enclosures to
be sent with
duplicate
despatches.

I have, &c.,

BATHURST.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 13, per ship Marquis of Huntly; acknowledged by Governor Darling, 18th November, 1826.)

Sir, Downing Street, 21st February, 1826.

21 Feb.

I request that you will take the earliest opportunity of intimating to the Revd. Mr. Therry,* the Roman Catholic Clergyman at New South Wales, that His Majesty's Government have thought fit to direct that the further payment of his Salary should be discontinued, one Month after he shall have received this notification; and that, in case he should be desirous of quitting the Colony for the purpose of returning home, three hundred Pounds will be issued to him to defray the expenses of his Passage, but that this sum will not be paid until he shall have actually embarked, nor even then if he shall have ill conducted himself after he had received notice of his recall, or at any time prior to his Embarkation.

Salary of
J. J. Therry to
be discontinued.

Allowance of
passage money.

I have, &c.,

BATHURST.

* Note 52.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 14, per ship Marquis of Huntly; acknowledged by Governor Darling to Mr. H. Twiss, 21st December, 1828.)

Sir, Downing Street, 22nd February, 1826.

I do myself the honor of transmitting to you the accompanying Statement of Grievances, which has been addressed to me by Mr. George Panton, who appears to have held some appointment in the Department of the Post Office at New South Wales, and to have been entrusted with the temporary duties of Warfinger during the time that Mr. Hutchinson, who nominally filled that situation, was wholly occupied in another way. Mr. Panton complains (in addition to the inadequacy of his remuneration as Post Master) of the Treatment, which he has experienced from the Colonial Government, and of the disappointment of the expectations, which had been held out to him, when he agreed to accept the appointment of Warfinger; and he has stated many circumstances, which appear to require Investigation, connected with the character and conduct of Mr. Hutchinson, who, upon the cessation of his other employment, has resumed and thereby superseded Mr. Panton in the latter Office. I am, in consequence, to request that you will cause enquiries to be made into the statements advanced by Mr. Panton, both as regards his own particular case, as well as the charges of negligence which he has alleged against Mr. Hutchinson, and that you will adopt such measures upon the occasion, as shall appear to you just and equitable towards the Individuals in question on the one hand, and as tending to promote the Interests of the Public Service on the other.

I have, &c.,

BATHURST.

[Enclosure.]

MR. GEORGE PANTON TO EARL BATHURST.

My Lord, Sydney, New South Wales, 7th March, 1825.

From the numerous applications and representations, which I have made from time to time to the Government here, and from the uniform neglect which these applications and representations have met with, I feel strongly induced to crave your Lordship's attention to the subject of them, especially when I consider that, prior to my own and my family's removal from Scotland, a powerful application was made in my behalf to your Lordship by the Right Hon. William Adam, backed by the late Sir David Dundass, the late Lord Chief Baron of Scotland, the present Admiral Sir Alexr. Cochrane, and Sir William Forbes, upon the strength of which application, your Lordship having been pleased to approve of it, I embarked with my large family

1826.
22 Feb.

Statement of
grievances
by G. Panton.

Appeal to Earl
Bathurst.

Patrons of
G. Panton.

at my own expense for this Colony, where I arrived on the 31st December, 1818.

On the 14th November, 1819, I was appointed Postmaster* in consequence of your Lordship's instructions; and although my predecessor had been allowed a Clerk by Government and a free house, these indulgences I happened not to receive when I entered upon the duties of that office; whilst, ever since that period, all letters on service, which constitute nearly a half of all the letters sent for my delivery, have been delivered gratis. The revenue, too, of the Post Office is so very small, so completely inadequate to the expense which would be necessary to place it upon a proper footing, that I feel myself bound, as a public officer, to state the matter for your Lordship's consideration, even supposing I were to waive every personal consideration; though indeed the losses and privations, to which I have been subjected in that situation, have by no means been inconsiderable.

It was, however, discovered by the Colonial Government that the appointment of Postmaster was of no value; and in consequence I was, in March, 1820, offered the half of the fees of Wharfinger to perform the whole of the duties of that most important appointment, the Wharfinger being the only out door officer of customs in the Port, whilst the other half was to be bestowed on Mr. William Hutchinson as a sinecure, as his time was wholly occupied as principal Superintendent of Convicts.

However, I was likewise instructed that the Commissioner of Inquiry, who was then resident here, declared that the sinecure would be abolished in about eighteen months, when Mr. Hutchinson would hold no situation under the Crown, and that then the whole of the fees would be given to me. With this assurance, I carried on the whole of the duties of this arduous department during a period of three years and three quarters, as well as that of the Post Office, to the entire satisfaction of the Colonial Government, after having improved the revenue to an immense amount, which your Lordship may ascertain by referring to the annual returns of the duties of Customs as collected by the Naval Officer. In securing the duties, I entreat your Lordship to observe that I had no assistance whatever, but was constantly on the outlook to prevent smuggling; and indeed I have abundant reason to believe and to assure your Lordship that my unwearied exertions were eminently successful to the 1st of January, 1824, when Mr. Hutchinson, who had been discharged from the office of Superintendent of Convicts, was commanded by a Government and General Order to resume his duties as joint Wharfinger, duties, my Lord, which he had never before performed and of which he was totally unacquainted.

1826.
22 Feb.

Appointment as
postmaster.

Revenue of
post office.

Offer and
acceptance
of duties of
wharfinger.

Services as
wharfinger.

* Note 53.

1826.
22 Feb.

Applications
to Sir T.
Brisbane for
redress of
grievances.

Although I had previously remonstrated with His Excellency Sir Thomas Brisbane on the subject, as your Lordship will perceive by the enclosed copy of letter No. 1, grounding my remonstrance on the inducements that were held out to me when I first took charge, and which I have already stated to your Lordship. Thus driven from the Office (a place 9 feet 9 inches by 5 feet 8 inches) where I had conducted my duties both as Postmaster and Wharfinger, my business had been entirely deranged, compelled as I was to hire a place for the Post Office, to employ a clerk there and another at the Wharf; whilst I had to be in attendance at both departments alternately, the expense of which swallows up the whole of my fees, leaving neither house rent, nor the means of supporting my family, which again induced me after a year's trial to make a second application to His Excellency, as per inclosed No. 2 of date 31st December last, with the reply of 20th January following, with the view of recovering the loss sustained, in expectation and servitude for an individual, I cannot acknowledge nor in any way be connected with. But, however greatly I have suffered and am now suffering, there has been an immense deterioration from the revenue. Smuggling, which was almost unknown from the period I took charge, has become frequent; and Mr. Hutchinson, from his entire ignorance of the mode of conducting the business, from having it done principally by a deputy too, who is more ignorant than himself, and who is sometimes found in a state of intoxication in the office, will eventually ruin the revenue. I have been so well convinced of this that I found it expedient for my own honour not to act with either of them, and therefore agreed to do the whole duty one quarter, whilst he should do the same the next. The consequence has been that smuggling has become frequent in spite of all my energies to prevent it, not only on account of the reasons which I have already stated to your Lordship, but from the inability or seeming unwillingness of the present Government to protect me in the discharge of my duty. In illustration of which, I beg to call your Lordship's attention to the following case, as contained in a letter which I had the honor to address to His Majesty's Attorney General, Saxe Bannister, Esqr., independent of a memorial to His Excellency Sir Thomas Brisbane craving indemnification, the ship and cargo having been given up notwithstanding my strongest remonstrances to the contrary:—

To Saxe Bannister, Esqr.

Sir,

For your information I have the honor to communicate that, upon the 3rd instant when discharging my duties of Wharfinger on the King's Wharf, I found the brig Ann, Capt. Grimes,

Incompetence of
W. Hutchinson.

Increase of
smuggling.

Seizure of
brig Ann for
smuggling.

landing brandy which had been permitted to be landed as wine. I immediately took the necessary steps to secure it by applying to the Police for assistance which was granted. I seized the vessel and cargo, declaring I did so; At the same time putting the broad arrow on her mainmast. The cargo has since been landed by order of the Naval Officer. The Brandy I secured by putting it into His Majesty's Stores, at the same time declaring that the whole of the cargo should have been sent there also. The brandy turns out to be 86 cases, containing two dozens each, and 90 cases containing one dozen each.

1826.
22 Feb.

Seizure of
brig Ann for
smuggling.

Sydney, 4th Decr., 1824.

I have, &c.,
GEO. PANTON.

To the foregoing, I received nothing but a verbal reply from the Attorney General, who stated that, "although Sir Thomas Brisbane has issued a proclamation by virtue of an Act of Parliament for laying on the duties as they existed, and although the same Act empowered him to exact penalties in cases of smuggling, his omitting to do so agreeably to cap. 96 of Geo. IV, sec. 4, he was afraid would render the seizure invalid." In consequence, I memorialized His Excellency on the subject, requesting that he would be pleased to grant me a proper remuneration for my services on that occasion, as the vessel and cargo was not worth less than £6,000 or £7,000, to which I had the honor to receive the following reply:—

Sir, Colonial Secretary's Office, 24th Decr., 1824.

Your application of the 18th instant claiming a proper remuneration for your diligence in detecting a late attempt to defraud the revenue shall be considered, I am instructed to acquaint you, when the case of the Ann is finally disposed of.

Geo. Panton, Esq., Sydney.

I have, &c.,
F. GOULBURN.

I have ever since waited in daily expectation of receiving such remuneration as would have been granted to me under similar circumstances in England; but, to my astonishment, the smuggler, Capt. Grimes, has received the brandy from the public Stores upon paying the duties, which amounted to £589 10s. 0d., and was allowed to depart on a similar voyage without the smallest censure having been passed upon him; and I have great reason to believe that I have been under His Excellency's displeasure ever since. Your Lordship will readily perceive that, after the seizure, I was completely foiled in my attempts to obtain the necessary reward for the performance of my public

1826.
22 Feb.

duties; and, having no salary nor any consideration but such fees as may accidentally arise from the faithful discharge of such duties, I have humbly and respectfully to request that your Lordship will be pleased to take my case into your serious consideration.

Determination
to prevent
smuggling.

To give your Lordship an idea of the extent to which smuggling is practised in this port, and that principally or at least most generally by the masters of prison ships, who, from their frequent returns to this Colony, become well acquainted with the artifices practised in this port, and for some time past have had no difficulty in carrying their designs into effect with scarcely any risk of detection, It may be remarked that when I made the seizure of the *Ann*, which caused some agitation, I publicly expressed my determination to use every effort to discover what ships carried on contraband trade, and to seize all such as did so. This had the momentary effect of influencing the Commanders of the following prison ships to apply for permits at the Naval Office to land the after noted quantity of spirits, though they had made no previous entry or manifest of same, and contrary, I believe, to your Lordship's instructions as elicited by the late Governor Macquarie.

Per *Princess Charlotte*, Capt. Blyth, 7th Decr., 1824, 6 puns.
W.I. Rum, 1 pipe Brandy, 1 ullage piece of Geneva.
Per *Minerva*, Capt. Bell, 8th Decr., 1824, 33 puns. W.I. Rum.
Per *Mangles*, Capt. Cogil, 8th Decr., 1824, 10 puns. W.I.
Rum.

For the protection of the Revenue of the Colony, I landed the whole and consigned it to His Majesty's Bonded Stores, under the charge of Dep. Com. Gen. Wemyss (whose opinion accorded perfectly with my own that, had I not done so, it would have been all smuggled) and thus secured to the revenue, at the then existing duties, in one week not less than £4,000 currency. This, my Lord, I merely state as a specimen, for there are others of great importance which I might have stated also. It may be satisfactory for your Lordship, as well as myself to know, and it can be easily ascertained by your Lordship causing an application to be made to the Custom-house in London, or any port she may have touched at, the exact quantity of spirits put on board the *Mangles* when bound for this port, being quite certain that Capt. Cogil would expend but a very small quantity on his crew during the voyage. Perhaps your Lordship may be more readily disposed to do so, when you are informed that Capt. Cogil was detected landing a small cask of spirits (and the practice usually adopted in smuggling is that of landing small

quantities at a time) and was fined in £60 by a bench of the Magistrates of Sydney, but was allowed to depart without paying the fine, although he had been detected smuggling to a considerable extent the previous voyage.

Thus I have done myself the honour to state to your Lordship such facts as seemed to me to be of great public importance; and in conclusion beg leave most respectfully to request that your Lordship will be pleased to grant me your protection in the discharge of my duties by placing me in His Majesty's commission as an effective officer of Customs, when I will be enabled to act with more independence and greater vigor. It may be proper to state to your Lordship that I was bred to the Customs in my youth, and having been, prior to my departure from Scotland an active partner for many years in an extensive wine and spirit trade, it was necessary to have a thorough knowledge both of customs and excise, in which departments a great deficiency exists here. Although it is unnecessary to state to your Lordship that the exact and careful collection of the revenue forms the first feature in every well managed state, promoting both virtue and industry, yet I conceive myself bound to assure your Lordship that the bad management in these departments in this Colony has excited not only turbulent feelings, but has led to much confusion in general business, promoting both idleness and licentiousness among many of the inhabitants, independent of the enormous loss sustained in the Colonial revenue.

I have, &c.,

GEO. PANTON.

[Sub-enclosure No. 1.]

MR. GEORGE PANTON TO SIR THOMAS BRISBANE.

Sir,

Sydney, 17th Decr., 1823.

For your Excellency's information, I beg leave to lay before you the following statement:—

A few days prior to the first of April, 1820, the situation of Stewart the Wharfinger having become vacant, it was offered to me without any application of mine by Capt. Piper, which I agreed to accept on the positive condition that I would not, after the arrival of the Commissioner's report, which was expected about eighteen months or thereby from that date, have any connexion with Mr. Hutchinson, and that there was no doubt but I would be put in entire possession of the wharf; while, during the interim, I would have nothing to do with him either directly or indirectly. On these conditions and these only did I accept of the appointment. But instead of eighteen months or thereby, from that date I have held it nearly four years in anxious expectation

1826.
22 Feb.

Request for
appointment
as officer
of customs.

Conditional
acceptance of
office of
wharfinger.

1826.
22 Feb.

Non-fulfilment
of agreement.

that these promises would be realized, while, to my utter astonishment and serious loss, the half of the produce of my industry and care has been bestowed upon Mr. Hutchinson, a man of great fortune, notwithstanding the assurances of the Government at home of the furtherance of my best interests; and while the emoluments, derived from both my situations, have fallen considerably short of my annual expenditure, though that has been upon the most economical principles, independent of having been at the entire expense of bringing to this Colony a numerous young family.

I, therefore, request that your Excellency will be pleased to take my case into your serious consideration, humbly hoping that you will be pleased to realize those assurances which have been so strongly held out to me.

I have, &c.,

GEO. PANTON.

[Sub-enclosure No. 2.]

THE MEMORIAL OF GEORGE PANTON.

Memorial of
G. Panton.

To His Excellency Sir Thomas Brisbane, K.C.B., Captain General and Commander in Chief, in and over the Territory of New South Wales and its Dependencies.

The Memorial of George Panton Humbly setteth forth,

That your Memorialist, in March, 1820, was offered the half of the fees of Wharfinger on condition of performing the whole of the duties of that most important appointment, and of allowing the remaining half of the fees to be bestowed, as a sinecure, on Mr. William Hutchinson, whose time was entirely occupied as Principal Superintendent of Convicts; at same time your Memorialist was told that the Commissioner of Inquiry, who was then resident here, declared that the sinecure would be abolished in about eighteen months, having asserted a determination that Mr. Hutchinson would not hold any situation under the Crown, and that the whole of the fees would then fall to Memorialist.

That your Memorialist, under these expectations, carried on the whole of the duties of this department during a period of three years and three quarters to the entire satisfaction of the Government; when, to the surprise of your Memorialist on Mr. Hutchinson's being superseded as Superintendent, he saw your Excellency's order to him to commence his active duties at the Wharf as Joint Wharfinger, after your Memorialist had earned the sum of Nine Hundred and Ninety-two Pounds, Nineteen Shillings and Fourpence Sterling, which was paid by the Naval Officer to Mr. Hutchinson; and your Memorialist was consequently

thrown in arrears to that amount, as the whole of the fees, had he obtained them, would have been barely adequate to the support of his family.

1826.
22 Feb.Memorial of
G. Panton.

That therefore your Memorialist humbly requests your Excellency, in your wisdom, will be pleased to cause this sum to be refunded, or to order Mr. Hutchinson to do the whole of the duties for three years and three quarters, as your Memorialist did, when influenced by specious promises, and to allow him leave of absence with the same fees as Mr. Hutchinson during that period; and as in duty bound your Memorialist will ever pray.

GEO. PANTON.

Sydney, 31st Decr., 1824.

[Sub-enclosure No. 3.]

SECRETARY GOULBURN TO MR. GEORGE PANTON.

Sir, Colonial Secretary's Office, 20th Jany., 1825.

I am commanded by the Governor to acquaint you that the request contained in your Memorial of the 31st Ultimo cannot be complied with.

Refusal of
prayer of
memorial.

I am, &c.,

F. GOULBURN.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Chapman.)

Sir, Downing Street, 22nd February, 1826

I am directed by Earl Bathurst to transmit to you the accompanying Copy of a memorial of Mr. Thomas Harrington, an Inhabitant of New South Wales, praying, in consideration of the circumstances therein represented, that he may be allowed a Grant of 6,600 Acres of Land, subject only to the conditions concerning Quit Rents, and non alienation which were in force during the administration of Governor Macquarie, but without any clause relating to Improvements or other similar Stipulations.

Application of
T. C. Harrington
for additional
land grant.

It is stated in one part of Mr. Harrington's Memorial that upon an application to Sir Thomas Brisbane in 1823, the latter gave him the immediate (conditional) possession of 6,600 Acres, the quantity of Land of which he solicited a Grant. I am directed to call your attention to this circumstance as from Mr. Harrington having, in the concluding part of his Memorial, requested that the Grant of 6,600 Acres should be given to him *in any unappropriated part of the Colony*. Lord Bathurst is doubtful whether Mr. Harrington's object is to obtain confirmation of the quantity of Land of which he has had since 1823 *temporary occupation*, or whether to receive an *additional* Grant

1826.
22 Feb.

Instructions re
compliance
with
application.

to the same extent. In the former case, his Lordship desires me to acquaint you that provided Mr. Harrington's statement be correct, and that you should consider the amount of Capital at his disposal and his general character as an Agriculturist gives him a fair claim to the land in question, he has no objection to confirm him permanently in the possession of it. But should Mr. Harrington's application go to the obtaining an additional Grant of 6,600 acres in another part of the Colony, while he retains temporary possession of a similar quantity which he has been allowed by Sir Thomas Brisbane to occupy, Lord Bathurst cannot entertain such a request, and he *then* very much questions the propriety of granting to him the other Indulgence, from his attempting to conceal the real extent of his application for the purpose of obtaining greater advantages than he might have expected otherwise would be granted to him.

Lord Bathurst trusts that this will not appear to have been Mr. Harrington's motives, and that (although it is not so stated in his Memorial) the Land of which he has had temporary possession has either been given up by him already or that it was his Intention to have relinquished possession of it on receiving a Grant to a similar extent elsewhere.

But Lord Bathurst desires me expressly to acquaint you that under no circumstances can he exempt Mr. Harrington from the operation of the existing Regulations by subjecting him only to the conditions which were in force, with respect to Grants of Land, at the time of the administration of Governor Macquarie.

I have, &c.,

R. W. HAY.

[Enclosure No. 1.]

Memorial of
T. C. Harrington
soliciting
land grant.

THE humble Memorial of Thomas Cudbert Harrington to The Right Honorable Earl Bathurst, K.G., Secretary of State for the Colonies, etc., etc., etc.,

respectfully sheweth,

That Your Memorialist arrived in New South Wales from Bengal in the Year 1820, and subsequently addressed to Your Lordship the accompanying letter, requesting a grant of Six thousand, six hundred Acres; but, being doubtful whether it has reached its destination, as no reply has been received in the Colony, he respectfully begs permission to recall the subject to Your Lordship's notice, and (for the purpose of saving Your Lordship unnecessary trouble) to re-embody the substance of his former application.

That Your Memorialist, as proved by the annexed Document, attested by the Colonial Secretary, has introduced into the

Colony a Capital amounting to above £6,500 Sterling, which, consisting solely of money and belonging exclusively to himself, he believes exceeds almost all that preceded it, and has been rarely equalled by any Emigrant to the present day.

That, in December, 1822, when Your Memorialist first preferred his request to His Excellency Sir Thomas Brisbane, or in December, 1823, when he addressed Your Lordship, no fixed rule was published or observed in apportioning the larger grants of land; but, in the very few cases, which had occurred similar to your Memorialist's, an Acre had been allotted for every Pound Sterling of Capital possessed; and, had Your Memorialist then attended in person at the Colonial Office in Downing Street, the same rule would doubtless have been extended also to him. But a personal application to Your Lordship being impracticable, a written one was made to His Majesty's Representative on the spot, who both undertook to forward the accompanying letter A to its destination, and, in approbation of its contents, gave Your Memorialist the immediate (conditional) possession of 6,600 Acres, the quantity of land of which he solicited a grant.

That, encouraged thereby, Your Memorialist abandoned the intention before entertained of returning to England with the portion of his Capital not then sunk, made more extensive purchases of land, etc., and even borrowed £2,000, in addition to the £6,500, which he already possessed. By the annexed Statement, it is shewn that the amount so invested is upwards of £5,000 Sterling for 1,248 acres, independent of very considerable sums expended in cultivation, stock, etc., on which no stress is laid, as the proofs, being contained in private account books, are not submitted in this place. Deducting from the above amount the Sum of £624, as the price of 1,248 acres of mere unimproved Soil, at the highest valuation put by Mr. Commissioner Bigge on lands, lying in the immediate neighbourhood, but generally speaking far superior, there are left (£4,476 Stg.) considerably more than Four thousand pounds, as paid for the improvements effected. The sum, required by the last and strictest Regulations to be expended in Seven Years on 6,600 Acres (the extent of Your Memorialist's request), is, at the foregoing price of land, £1,650 or less than half of what he has already laid out.

That Your Memorialist, however, makes no pretension to the *present* possession of the above Capital, or of Property, which if sold would not realize nearly its amount. But he humbly conceives the bonâ fide introduction of so much money into an infant Colony (for particulars of which Your Lordship is respectfully referred to his former letter A), and the expenditure of a

1826.
22 Feb.

Memorial of
T. C. Harington
soliciting
land grant.

1826.
22 Feb.

Memorial of
T. C. Harington
soliciting
land grant.

considerable portion of it under expectations, certainly encouraged by the Local Government, do assuredly "exempt him from the fair operation of rules," published sixteen months after the date of his application, and entitle him to be placed on the most liberal footing that had been previously recognised.

In consideration of these several statements, Your Memorialist respectfully trusts Your Lordship will be pleased to direct:—

That, in any unappropriated part of the Colony, Your Memorialist may be allowed a Grant of Six thousand, six hundred Acres of land, subject only to the conditions, concerning quit rents and non alienation, which were in force during the administration of His Excellency Governor Macquarie (or in the year 1823), but without any clause relating to improvements or other similar stipulation; Your Memorialist having already expended on improvements effected in the Colony on the Property, where he resides, a sum equal to the fee simple of the lands now about to be granted.

And your Memorialist will ever pray,

T. C. HARINGTON.

Elderslee in N. S. Wales, 28 June, 1825.

[A] MR. T. C. HARINGTON TO EARL BATHURST.

30th December, 1823.

[A copy of this letter will be found on page 231, volume XI.]

[B] EXTRACT of a letter addressed to T. C. Harington, Esq.

Calcutta, 31 January, 1823.

[A copy of this extract will be found on page 233, volume XI.]

[C] STATEMENT of lands in New South Wales, purchased by
T. C. Harington.

Statement
of lands
purchased by
T. C. Harington.

	Acres.	Sp. Doll.	Sterling.	
			£	s. d.
Elderslee	820	...	3,000	0 0
Fletcher's	40	640	140	0 0
Nettleton's	40	...	150	0 0
Lamb's Retreat	68	...	300	0 0
Droxford	100	...	450	0 0
Trotter's	95	2,400	520	0 0
Jones's or Pleasant Hill	35	...	400	0 0
Wells's	50	640	140	0 0

1,248 Acres £5,100 0 0

Elderslee, 28 June, 1825.

T. C. HARINGTON.

[Enclosure No. 2.]

1826.
22 Feb.

SURVEYOR-GENERAL OXLEY TO GOVERNOR MACQUARIE.

Sir, Sydney, 29 January, 1821.

Your Excellency having directed me to report my opinion as to the number of Acres of Land, which might be deemed adequate to the capital proposed to be invested in Agricultural pursuits by Settlers, arriving from England, and that I should consider Two Thousand Acres as the maximum, except upon special occasions, and under particular circumstances,

Report on
relation of
capital required
to acreage
granted.

I beg leave respectfully to submit the following scale, which is formed upon the best information I have been able to collect upon the subject, and approximates to the quantity of Land at present granted to the Individuals, to whom it refers.

To persons proposing to employ a Capital, £500, 500 Acres; £750, 640; £1,000, 800; £1,500, 1,000; £1,700, 1,280; £2,000, 1,500; £2,500, 1,760; £3,000, 2,000.

It is not probable that a greater Sum than £3,000 will be often employed in the cultivation and stocking of a Farm in this country, more especially if the Capital, so employed, was required to be principally in Money and not in Goods, which at present is often the case. If a greater Capital is intended to be bonâ fide invested, such a circumstance would certainly be taken into consideration by your Excellency.

I should have considered the number of Acres allotted to the several Capitals before mentioned, as far too few to carry on with success an extensive grazing concern, more particularly in sheep, if I did not entertain hopes that, sanctioned by your Excellency's recommendation, Govern't might be induced to permit such Settlers, as might be inclined to purchase from the Crown an additional quantity of Land (adjoining) to the Farms they may receive on account of the Capital employed, not exceeding three times the amount of such Grants, upon such terms and conditions, as may prove equally advantageous to the Crown and Individual Purchaser.

I have, &c.,

J. OXLEY, Surv. Genl.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 15, per ship Marquis of Huntly; acknowledged by Governor Darling, 15th September, 1826.)

Sir, Downing Street, 23rd February, 1826.

23 Feb.

I have to acknowledge the receipt of Sir Thomas Brisbane's Dispatch of the 5th of July, in which he transmits the Reports on the cases of two Lunatic persons, whose recovery being considered hopeless, he had, under the authority of his Commission as Governor, which especially vests him with the

Return of
insane patients
to England.

1826.
23 Feb.

care and keeping of Individuals under mental derangement, determined to send them to England, thereby incurring an expense to the Government of £120 for each Individual on account of his Passage.

Instructions *re*
treatment of
insane persons.

The two unfortunate persons in question being already on their way to this Country, it is not the object of my present dispatch so much to disapprove of the measure adopted by Sir Thomas Brisbane, as it is to guard against a recurrence of the Inconvenience, which must ensue from it. Acting under what he conceived to be his Instructions, however erroneous that Interpretation may have been, I am not surprised that he should have resorted to the means reported in his Dispatch, to rid the Colony of the expense of maintaining these persons. But as there may be found, hereafter, other Individuals labouring under the same Calamity, with respect to whom the same principle may be adopted (unless directions are given to the contrary) as that, on which Sir Thomas Brisbane has now acted, I deem it necessary to acquaint you that persons of this description should not be sent to England without a previous communication with the Secretary of State, and without the fullest information being first afforded respecting them, in order that the Government at home may have sufficient time to apprise the friends of the Parties of their unfortunate situation, and that the Government may not be placed in the awkward predicament, in which they will stand with respect to the Individuals in question, so soon as they shall arrive in this Country, from not knowing in what manner to dispose of them. And I have further to request that you will, with as little delay as possible, transmit to me an account, shewing the amount of the Profits of the Estates of these two persons, with an Estimate of the charges incurred by the Colonial Government in supporting and maintaining them from the period of their commitment to the Custody of the Public Authorities up to that of their departure from New South Wales.

I have, &c.,

BATHURST.

EARL BATHURST TO SIR THOMAS BRISBANE.*

Dear Sir,

Downing Street, 23rd February, 1826.

As, by your dispatch of the 9th February of last year, you allude to Mr. Field, late Judge of the Supreme Court, as the Author of the Attack upon your character which appeared in the Morning Chronicle of the 19th August, I think it but fair towards that Gentleman that you should be made acquainted with the contents of the enclosed letter, Mr. Field having,

Allegations
made by
Brisbane
against
B. Field.

* Note 54.

without any previous communication from me on the subject, requested that I would receive the declaration in it, and I therefore do myself the honor of forwarding to you a Copy.

I remain, &c.,

BATHURST.

[Enclosure.]

MR. BARRON FIELD TO EARL BATHURST.

My Lord, Harcourt Buildings, Temple, 12th February, 1826.

I am afraid the poor matter of this Letter is hardly worth troubling your Lordship with; but, as a friend of mine in New South Wales writes to me that Sir Thomas Brisbane is possessed with the notion that I am the Author of certain anonymous Letters, in abuse of him, which were published in the Morning Chronicle soon after my return to England, and as that Governor may perhaps have made a similar complaint to your Lordship, will you condescend to receive my declaration upon honor that I am not only not the Authour of any part of those Letters, but that I had nothing to do with them.

1826.
23 Feb.
Denial of authorship of anonymous letters.

I have, &c.,

BARRON FIELD.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Marquis de Huntly; acknowledged by Governor Darling, 18th December, 1826.)

Sir, Downing Street, 25th February, 1826.

25 Feb.

Lord Bathurst has desired me to call your particular attention to the condition of the new Settlement* at Melville Island, as communicated to his Lordship in the accompanying letter and Enclosures from the Treasury, and to suggest the propriety of your dispatching without delay one of the Colonial Vessels to that destination with such supplies as may be judged useful, should you not have already adopted such a course in consequence of his Lordship's Instructions of the 9th September last, or from having received accounts from the Settlement of a later date than those to which I now refer, which may have induced you to consider any present Assistance unnecessary.

Condition of settlement at Melville island.

I have, &c.,

R. W. HAY.

[Enclosure.]

MR. GEORGE HARRISON TO UNDER SECRETARY HORTON.

Sir, Treasury Chambers, 20th Febr., 1826.

I have it in command from the Lords Commissioners of His Majesty's Treasury to transmit to you, for the information of Earl Bathurst, Copy of a Letter from Commissariat Clerk Miller, dated Fort Dundas, Melville Island, New South Wales,

* Note 55.

1826.
25 Feb.

7th May, 1825, relative to the health of the infant Colony, the consequent necessity for altering the Established Ration, and the Means adopted for procuring a Supply of Fresh Provisions.

I am, &c.,

GEO. HARRISON.

[Sub-enclosure No. 1.]

MR. G. MILLER TO MR. GEORGE HARRISON.

Sir, Fort Dundas, Melville Island, 7th May, 1825.

Report from
Melville island.

Referring to my Letter of the 9th November last, I now do myself the honor of bringing under your notice the occurrences in this Settlement, so far as the Commissariat Department is concerned.

Supplies
obtained from
Timor.

I stated, in my Letter above referred to, the intention of Captn. Barlow, the Officer in command, to dispatch the Colonial Vessel Lady Nelson to Coepang in the Island of Timor, and that I should accompany her there to ascertain the State of the Market and what Supplies could be had from thence. Buffalo, Pigs and Sheep can be procured there in any quantity, and at moderate price; but the Year here being divided into two Monsoons, the East and West, and Coepang lying to the West of us, renders the Communication difficult. Our Voyage to and from that place was long, the latter consisting of eighteen days, though the distance is only 400 Miles.

Live stock
obtained in
brig Lady
Nelson.

Within a Week after the return of the Lady Nelson to this Port on 2d January, 1825, she was again dispatched to some of the Islands, lying North of this Settlement, for the purpose of procuring Stock; after being away five weeks, she returned with Thirty Pigs, small, lean and unfit for immediate use. During the period she was absent, the disease of Scurvy had made its appearance among the Prisoners; in consequence of which, an alteration in their rations took place on 25th January, substituting Peas for a Portion of the Salt Meat; but, the disease having encreased and making its appearance among the Soldiers on 8th Febr., I received Instructions from the Commandant to consult with Dr. Turner, the Medical Officer here what Rations should best be issued under the then state of the Colony. 2,400 pounds of Preserved Meat had been included in the Supplies from Sydney, with Nine Months Provisions for his Majesty's Ship Tamar, the greater portion of which, in consequence of her leaving this earlier than it was at first intended, remained on hand; in consequence of which circumstances, a complete alteration of the Ration was enabled to be made. I enclose Copy of my Letter to Captn. Barlow, submitting a Scale of Rations which he approved.

Outbreak of
scurvy, and
alteration in
rations.

Four or five days after the second return of the *Lady Nelson*, she again sailed for these Islands, with directions from the Commandant to the Master to purchase whatever Stock he could get, he having stated that Sheep, Goats and large Buffalo were easier procurable there than Pigs, and to return as soon as possible with his Cargo.

A Vessel from England for the purpose of Trade arrived here, the Master of which, having made a Tender to Captn. Barlow to land on the Settlement a Cargo of Buffaloe, averaging each in weight 250 pounds at 25 Spanish Dollars each, and binding himself to return in five Weeks, which offer Captn. Barlow having handed to me, stating his approval of it, I intimated its acceptance; and on 23d February the Vessel sailed for completion of her engagement.

These Vessels have been away, the *Lady Nelson* from the 19th, and the other from 23d February, the first expected back in fourteen days, and the latter bound to return in five Weeks; and neither have since been heard of. On the 31st March last, the Preserved Provisions having been nearly exhausted, it became necessary to make an alteration in the Rations. I do myself the honor to enclose the correspondence on that subject containing the present Scale of Rations.

I have, &c.,

GEO. MILLER, Comm. Clerk

[Sub-enclosure No. 2.]

MR. G. MILLER TO CAPTAIN BARLOW.

Sir, Fort Dundas, Melville Island, 9th February, 1824.

In obedience to your instructions that I would consult with Dr. Turner what Rations should most properly be issued in the present state of the health of the People in this Settlement, taking into consideration the Provisions in His Majesty's Magazines here, I now do myself the honor of submitting the sub-joined Scale.

To discontinue the use of Salt Provisions, and to substitute in their place a daily issue of Fresh Meat and Vegetables is what Dr. Turner recommends to prevent the increase of the Disease of Scurvy. But it is at present impossible to procure the latter Article; and the unsuccessful issue of the first Voyage of His Majesty's Colonial Brig to Timor, and the length of time she has now been away on a second, promise at present only a precarious Supply of fresh Meat. In the absence of other Means, it will therefore be necessary to use preserved Provisions; but, as the quantity in store would soon be exhausted by a full and constant issue, I have, to make them go as far as possible,

1826.
25 Feb.

Departure of
vessels to obtain
live stock.

Suggestions *re*
issue of rations.

1826.
25 Feb.
Suggestions *re*
issue of rations.

marked in the scale a small issue of Salt Meat for two days in the Week, and added a number of other Articles, besides the usual Supply of Bread or Flour; and, in doing this, I have been guided, so far as the Supplies in hand allow me, by the Navy Board Regulations respecting Rations; and, as prospect now exists of obtaining occasionally supplies of Fish, these, when caught, if you consider it proper, may be substituted in room of the Salt Meat.

I have, &c.,

GEO. MILLER, Comm. Clerk.

[Sub-enclosure No. 3.]

SCALE of Rations to be issued on Melville Island, 9.2.24.

Weekly scale
of rations.

Day of Week.	Flour. Pounds.	Biscuit. Pounds.	Preserved Meat. Pounds.	Suet. Ounces.	Raisins. Ounces.	St. Pork or Beef. Pounds.	Pease. Pints.	Oatmeal. Pints.	Rice. Ounces.	Sugar. Ounces.
Sunday	$\frac{1}{2}$	$\frac{1}{2}$	..	..	..	$\frac{1}{2}$	$\frac{1}{2}$	..	..	..
Monday	$\frac{1}{2}$	$\frac{1}{2}$	$\frac{1}{2}$	2	4	..	..	..	..	..
Tuesday	$\frac{1}{2}$	$\frac{1}{2}$	$\frac{1}{2}$	..	..	..	..	$\frac{1}{2}$	4	2
Wednesday	$\frac{1}{2}$	$\frac{1}{2}$	..	..	..	$\frac{1}{2}$	$\frac{1}{2}$	..	..	..
Thursday	$\frac{1}{2}$	$\frac{1}{2}$	$\frac{1}{2}$	2	4	..	..	..	..	..
Friday	$\frac{1}{2}$	$\frac{1}{2}$	$\frac{1}{2}$	..	..	..	..	$\frac{1}{2}$	4	2
Saturday	$\frac{1}{2}$	$\frac{1}{2}$	$\frac{1}{2}$	2	4	..	..	..	..	..

The Military to draw their usual Ration of Spirits. The few Mechanics and Prisoners, a Weekly Allowance of 2 oz. Tea, 8 oz. Sugar, and 4 oz. Soap as formerly.

This ration to commence on Thursday, 10th Current, and continue till further orders.

Approved:—MAURICE BARLOW, Commandant.

[Sub-enclosure No. 4.]

MR. G. MILLER TO CAPTAIN BARLOW.

Sir, Fort Dundas, Melville Island, 31st March, 1825.

Suggestions by
medical officer
re issue of
rations.

Agreeably to your Orders that I would prepare for your consideration a Scale of Rations to be issued at the Settlement, comprising as little Salt Meat as possible, first submitting it to Dr. Turner that he might suggest any alteration, which he might deem necessary for the health of the Settlement, I now do myself the honor to report that, having submitted the annexed Scale to Dr. Turner, I have received a Letter from him to the following effect:—

“I beg to recommend that, in the alteration about to be made in the Rations, Flour should be substituted for Biscuit, with a daily Issue of sufficient Raisins and Suet for Puddings, and an

allowance of one third of a Pint of Spirits to each Man. These Articles, with the others contained in the Scale submitted, will form the best Ration in my opinion that can be issued from the Stores, although quite inadequate for the emergencies of the Colony under its state of Malignant disease; no change, but such as I have already had the honor of recommending to the Commandant, presents a prospect of permanent benefit."

1826.
25 Feb.

Suggestions by
medical officer
re issue of
rations.

On these suggestions of Dr. Turner, I beg merely to remark in the first place that the quantity of Biscuit now in store is one third greater than Flour; and, while the latter Article keeps well, the first is daily deteriorating, the Bags being constantly torn by Rats and other Vermin.

It doubtless, therefore, becomes a matter of consideration whether, in our present prospect of receiving Supplies, the Issue of this Article should be laid aside altogether; the second will easily be complied with in altering the Thursday's issue of $\frac{1}{2}$ a pound of Pork and $\frac{1}{2}$ a pint of Pease for $\frac{1}{2}$ a pound of Beef, 2 ounces of suet, 4 ounces of Raisins, which will give, with the Suet and Raisins issued on the other days, the same Allowance of these Articles for 6 days in the Week, as is issued on board His Majesty's Ships, when they are served out.

I have also the honor to observe the Scale of Rations submitted is taken from the Navy Board Regulations in Victualling His Majesty's Ships; and that, agreeable to your request, the Allowance of Tea and Sugar to the Prisoners is increased one third.

I have, &c.,

GEO. MILLER, Comm. Clerk.

Scale of rations.

Day of Week.	Biscuit. Pounds.	Flour. Pounds.	St. Pork. Pounds.	S. Beef. Pounds.	Pease. Pints.	Suet. Ounces.	Raisins. Ounces.	Rice. Ounces.	Oatmeal. Pints.	Vinegar.
Sunday	$\frac{1}{2}$	$\frac{1}{2}$	$\frac{1}{2}$..	$\frac{1}{2}$	One Quart for Six Men per Week.
Monday	$\frac{1}{2}$	$\frac{1}{2}$	$\frac{1}{2}$	..	$\frac{1}{2}$	..	..	..	$\frac{1}{2}$
Tuesday	$\frac{1}{2}$	$\frac{1}{2}$	..	$\frac{1}{2}$	..	2	4	..	..
Wednesday	$\frac{1}{2}$	$\frac{1}{2}$	$\frac{1}{2}$	..	$\frac{1}{2}$	..	..	4	..
Thursday	$\frac{1}{2}$	$\frac{1}{2}$	..	..	$\frac{1}{2}$	..	..	..	..
Friday	$\frac{1}{2}$	$\frac{1}{2}$	$\frac{1}{2}$	..	$\frac{1}{2}$	..	..	..	$\frac{1}{2}$
Saturday	$\frac{1}{2}$	$\frac{1}{2}$	..	$\frac{1}{2}$	..	2	4	..	..

The Military to receive their usual Allowance of Spirits.

The Prisoners an Allowance of 6 oz. of Cocoa, or 3 oz. of Tea, 12 oz. of Sugar and 4 oz. of Soap Weekly. When Fresh Meat is issued, one Pound of this Article with one pound of Biscuit or Flour to be the ration.

1826.
25 Feb.
Approval of
proposed issue.

I approve of the issue of the annexed Ration with the Alteration proposed for Thursday, and that Flour should be issued in lieu of Biscuit, to those to whom Dr. Turner may consider it necessary, $\frac{1}{2}$ of each being issued to the others; and, as Dr. Turner recommends an Issue of Spirits to all the Men, the Prisoners will receive from 5th of April one third of a pint of Spirits each, so long as he considers it necessary for their health.

[Sub-enclosure No. 5.]

MR. G. MILLER TO DR. TURNER.

Sir, Fort Dundas, Melville Island, 1st April, 1825

Advice
requested from
medical officer.

Having submitted Your Letter of Yesterday's date, along with the Scale of Rations to Captn. Barlow, I have pleasure in informing you that, agreeably to your suggestions, he has ordered an additional Issue of Suet and Raisins, and that the Prisoners should receive one third of a pint of spirits daily, the Military already receiving that quantity.

In submitting Your Letter to Captain Barlow, it became my duty to report to him that the quantity of Biscuit in Store is one third greater than Flour and deteriorating, being attacked by Rats and other Vermin, and may become ultimately unfit for use; as it doubtless became a matter of consideration under these Circumstances, and in the present chance of receiving Supplies, whether the Issue of this Article should be laid aside altogether, and as I did not make this Statement to You before, may I now beg your opinion whether you consider the Substitution of Flour for Biscuit as Material.

The issue of Spirits to the Prisoners is not warranted by Precedent in New South Wales; Captain Barlow has, therefore, requested me to state that it will only continue, while you deem it necessary for their health.

I have, &c.,

[Unsigned.]

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 16, per ship Marquis of Huntly; acknowledged by Governor Darling, 10th October, 1826.)

1 March.

Settlements
proposed at
Western port
and Port
Phillip.

Sir, Downing Street, 1st March, 1826.

Although I am not aware that I have received from Sir Thomas Brisbane any Official Report of the proceedings, which have been adopted by the Local Government of New South Wales for the examination of Western Port* in Latitude 38° 30' South, and Longitude 146° 10' East, and the line of Coast extending as far as Port Philip in Latitude 38° 20' South, Longitude 146° 40' East, yet, as I observe that an Expedition has recently returned to Sydney from that part of the Coast of New Holland, and that the accounts, which have been given by the Individuals employed

* Note 56.

upon the Service, are highly favorable both with respect to the fertility of its soil, and the other advantages and capabilities which it possesses for colonization, His Majesty's Government are impressed with the importance of forming Settlements in one or both of these positions, as their comparatively short distance from Sydney, and above all their vicinity to Van Diemen's Land will render such Establishments of essential advantage to your Government.

1826.
1 March.

Settlements
proposed at
Western port
and Port
Phillip.

Should any further information be necessary than that which has been already obtained, you will detach the Surveyor General or other competent person, for the purpose of taking a more correct Survey of that part of the Coast, and you will authorize him to make the necessary preparations for a Settlement. But should you, on the other hand, be of opinion that one can immediately be planted there without the delay of any further examination, you will direct a certain number of Convicts with a sufficient guard and Superintendance to be embarked for the purpose of proceeding to Western Port, placing the expedition under the Command of the Officer, whose intelligence may dispose you to select him for this Service. You will give him such Instructions for his guidance, in regard to the choice of the proper Spots for erecting Habitations, for providing for the due protection of the new Settlement, and for the most judicious mode of clearing the Ground to be hereafter appropriated to Settlers, as from the Information possessed by the Colonial Governm't shall appear to you to be most likely to fulfil the views of His Majesty's Government, and to contribute to the prosperity of the Settlement.

Instructions *re*
settlement of
Western port.

With respect to the Stores and necessaries with which it may be proper to accompany the expedition, I forbear to give you any Specific Instructions, as you will of course direct that any Articles, which may be required at the commencement by persons proceeding to form a permanent Establishment in such a Country, should be provided for them, and that the utmost care be taken to ensure to them frequent and regular Supplies.

I have, &c.,

BATHURST.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 17, per ship Marquis of Huntly; acknowledged by Governor Darling, 10th October, 1826.)

Sir,

Downing Street, 1st March, 1826.

In my Dispatch No. 16 of this day's date, you were instructed to commence immediate preparations for the formation of a Settlement at Western Port by directing a Survey to be made of the adjoining Country, or by sending from Sydney a

Proposed
settlement at
Western port.

1826.
1 March.

certain number of Convicts for the purpose of clearing the ground for future Settlers, should you be of opinion that sufficient Information has already been obtained to justify your taking steps for its immediate Settlement.

Shark's Bay to be examined as site for penal settlement.

After you shall have adopted the necessary measures in execution of this Service, you will endeavour to procure accurate Information respecting the Country immediately adjoining to Sharks Bay, situated on the Western side of New Holland in Latitude $25^{\circ} 30'$ South, Longitude 114° East, in order that, should it be deemed advisable to establish a penal Settlement at some distant point, to which those Convicts may be sent whose offences might not require their rigorous confinement in Norfolk Island, His Majesty's Government might have the means of accomplishing that object, and that possession may be gained of a Port, which it may hereafter be found important to have retained. Moreton Bay, the Settlement which is already employed as a second place of Punishment on the Eastern Coast, might then become that to which Prisoners convicted, for the first time, of offences in the Settlement and Convicts occasionally from hence may be consigned; and Port Macquarie, which is now devoted to that purpose, may then be thrown open to general Colonization as suggested by Sir Thomas Brisbane in his Dispatch of the 21st May, 1825.

Proposed use of settlement at Moreton bay;

and at Port Macquarie.

Survey to be made of Western port and Shark's bay.

The Surveyor General should accordingly be directed, so soon as he shall have completed a Survey of Western Port, to proceed to Sharks Bay for the purpose of examining the fitness for such an Establishment as that which is proposed; and he should also be directed to survey the Coast adjoining to the Bay to a certain distance inland, in order to ascertain what facilities it may afford for the maintenance of those persons, whom it may be determined to send to that spot, as well as to prepare a rough Estimate of the expense of the undertaking with a view to the objects to which I have alluded.

I have, &c.,

BATHURST.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch marked "Private," per ship Marquis of Huntly; acknowledged by Governor Darling to under secretary Hay, 9th October, 1826.)

Dear Sir,

Downing Street, 1st March, 1826.

Secret instructions.

In addition to my dispatches of this date, I deem it necessary to address to you a private Communication in order that you may be apprised of the motives,* which have induced me to select this particular time for sending out the Instructions, which will be conveyed to you by the present opportunity.

* Note 57.

The sailing of Two French Ships on a Voyage of discovery have led to the consideration how far our distant possessions in the Australian Seas may be prejudiced by any designs, which the French may entertain of establishing themselves in that quarter, and more especially on that part of the Coast of New South Wales, which has not as yet received any Colonists from this Country. I allude to that line of Coast, which extends to the Westward from the Western point of Bathurst Island in 129° East Longitude, where the North West boundary of the New South Wales Government has been lately fixed in order to comprize, within its Jurisdiction, the newly made Settlement on Melville Island, to the Parellel of 129° East Longitude, at the point where the territorial boundaries of the Government are fixed to the Southward. As this Tract of Shore is understood to be for the most part barren and devoid of all circumstances, which could invite a Settlement, it is probable, if the French Government should entertain any serious intention of forming an Establishment on that side of the Continent of New Holland, that so advantageous a point as Western Port would not be neglected by them; and it is therefore with a view of avoiding any pretensions, to which the touching at that Port by either of the Discovery Ships in question, might give rise for the formation of a Settlement there, that your attention has been so earnestly directed to the formation of a Colony at that place in the manner and for the objects pointed out in my Instructions. In giving that Instruction, you will observe that I have carefully avoided any expression, which might be construed (in the event of the Instruction being hereafter referred to) as an admission of there not having been a pre-occupancy by us, before the French may have attempted to establish themselves there; and you will regulate your language accordingly

The Establishment to be formed at Sharks Bay is, as you are aware, partly for a different object; but it is equally necessary that our projects in that quarter should not be anticipated.

I remain, &c.,

BATHURST.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 5, per brig Columbia.)

My Lord,

New South Wales, 1st March, 1826.

I have the honor to report to your Lordship that the indisposition of Mr. Forbes, the Chief Justice, has obliged me to permit of his absenting himself from his Office in order to his retiring to the Country and paying the necessary attention to his Health.

1826.
1 March.

Possible
anticipation in
colonization
by French
government.

Leave of
absence granted
chief justice.

1826.
1 March.
Temporary
appointment of
J. Stephen as
chief justice.

I have, in consequence, appointed Mr. Stephen, the Solicitor General, who has for some time past been employed as an Assistant Judge, to act as Chief Justice during Mr. Forbes's absence, according to the provisions of the Act of the 4th George IV, Chapter 96. But I trust the necessity, which has caused the arrangement, will not exist for any length of time, as I apprehend from Mr. Stephen's general health and constitution that he would prove unequal to the burthen, which Mr. Forbes's absence has just now imposed upon him.

Necessity for
appointment of
third judge.

In drawing your Lordship's attention to the state of the Judicial Establishment, it must be unnecessary to point out the embarrassment, which would be occasioned by the event above adverted to; and in urging the immediate appointment of a third Judge, I must express my hope that a person may be selected whose Health and Strength of Constitution will at least afford a reasonable ground to expect that he will be able to perform his duties without that interruption, which is incident to a debilitated state of Health, as the evils arising from such interruptions and the want of a competent person to act (which would be the case at present should Mr. Stephen prove unequal to continue the exertion he is now called on to make) must, in a Population of this peculiar description, be of a very serious nature.

I have, &c.,
RA. DARLING.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 6, per brig Columbia.)

New South Wales, Government House,

2 March.

My Lord,

2nd March, 1826.

Appointments of
H. G. Douglass
and
H. Dumaresq.

1st. In reference to my Despatch No. 5, I have the honor to acquaint Your Lordship that I have appointed Dr. Douglas to act as Commissioner of the Courts of Request during the employment of Mr. Stephen as Chief Justice. Colonel Dumaresq, who has been employed as Clerk of the Executive Council from its formation, has been appointed to replace Dr. Douglas, uniting the Clerkship of the Executive and Legislative Councils in the same person, which I presume was Your Lordship's intention.

Salary of
H. Dumaresq;

2nd. Colonel Dumaresq has hitherto acted as Clerk of the Executive Council without salary, but he will now receive the salary of Clerk of the Legislative Council, which will be sufficient for the double appointment.

and of
H. G. Douglass.

3rd. Doctor Douglas will receive salary as Commissioner of the Court of Requests; and

4th. Mr. Stephen will thus be without any fixed salary, as Mr. Forbes will of course retain that of Chief Justice. I beg in consequence to recommend to Your Lordship that, during the period Mr. Stephen officiates as Chief Justice, he may be allowed salary at the rate of £2,000 (two thousand pds.) a year. Your Lordship will be satisfied that a small salary could not consistently be assigned to him, as he now performs the whole of the Duties, which, since his appointment as Assistant Judge by Sir Thomas Brisbane, have been divided between him and Mr. Forbes.

1826.
2 March.
Salary
proposed for
J. Stephen;

5th. Your Lordship will, I trust, excuse my pointing out that, whenever a new arrangement may take place, it would be highly expedient to augment the salary of the Chief Justice, which, considering this situation and the importance of its being supported in a proper manner, should not, I think, be less than three thousand pounds (£3,000) a year.

for chief
justice;

6th. The salaries of the Assistant Judges will probably be fixed according to some general scale; but I respectfully beg to observe that they should not be under Two thousand pounds a year.

and for
assistant judges.

7th. From the manner in which the Colony is extending, and the distance of some of the Districts and Settlements, which are already very populous, it will ere long become necessary to appoint Circuits, as much inconvenience is experienced in sending offenders from the more remote parts of the Country to Sydney for Trial. It is, therefore, desirable that the Judges should be provided for in a suitable manner and the salary, which I have mentioned, will not, I trust, appear to your Lordship as more than adequate to their situations. I have the honor to be with the utmost deference and respect,

Necessity
for holding
circuit courts.

Your Lordship's, &c.,

RA. DARLING.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 7, per brig Columbia; acknowledged by Earl Bathurst, 13th July, 1826.)

New South Wales, Government House,

My Lord,

2nd March, 1826.

1st. I have the honor to transmit for Your Lordship's information copy of the Proceedings of a Board of Inquiry, appointed previous to my arrival, to investigate the conduct of Mr. West, Assistant Surgeon on the Medical Establishment of this Colony; and I beg leave to acquaint Your Lordship that I have in consequence suspended Mr. West, until I shall be honor'd with Your Lordship's commands respecting him.

Inquiry into
conduct of
M. West.

Suspension of
M. West.

1826.
2 March.
Misconduct of
M. West.

2nd. I beg leave to add that Mr. West's neglect of his duties renders him undeserving of any employment. Immediately after my arrival, I received some affidavits from private individuals to the effect that a woman, whom Mr. West had taken charge of during her confinement, had died from want of the necessary care and attention.

Mr. West was unable to exculpate himself; but he escaped, as the parties had not the means of prosecuting him. The fact, I believe, is that Mr. West's professional employment is only a secondary consideration, His farming concerns are to some extent and occupy his whole time and attention.

I have, &c.,
RA. DARLING.

[Enclosure.]

Proceedings at
court of inquiry
into conduct of
M. West.

PROCEEDINGS of a Court of Enquiry, held by order of His Honor Colonel Stewart, Acting Governor and Commanding the Forces, etc.

Major E. Lockyer, 57th Regiment, President; Members—Dr. Jones, 40th Regt., and Dr. Ivory, 3rd Regt.

Sydney, 19th December, 1825.

THE Court having met adjourned to Wednesday the 21st Instant.

Wednesday, the 21st December, the Court, having met pursuant to adjournment, proceed to investigate the subject communicated by His Honor to the Court and enclosing sundry Papers relating thereto.

DR. BOWMAN, Principal Colonial Surgeon, states that, in consequence of frequent representations having been made to him of Mr. West's neglect of duty and on calling on him for an explanation, he always denied that he had been absent; that, to prevent in future any misrepresentation, he desired Mr. West would insert daily in the Visiting book the hour of his daily visits. On the 15th of the present month December, Dr. Bowman inspected the Hospital, and examined the Visiting book, and learned that, since the period of having desired Mr. West to insert his visit, which was on the 12th of September, 1824, found that he had not been at the Hospital 160 days at different times within that period. That it was also his duty to visit Emu Plains, once a week, a distance of seventeen miles, which he might have done by visiting the Hospital at Windsor in the morning, and proceeding afterwards to Emu Plains, where he could visit the Hospital that evening and the next morning, returning to Windsor the same day, by which he would not be absent a whole day from the Hospital there. On the 15th December instant, Doctor Bowman wrote to Mr. Kinghorne, the Superintendent of Emu Plains, to ascertain if Mr. West had visited regularly the Hospital there once a week, agreeably to his instructions, and received an answer, dated 16th December, from Mr. John Stewart, Assistant Superintendent in the absence of Mr. Kinghorne, by which it appears that Mr. West had visited that station fifteen times only during the year 1825, as will appear by the documents, marked No. 1 and No. 2.

That, on the 31st of August, Dr. Bowman obtained Leave of Absence for Mr. West from that date for one month, provided proper medical attendance was given to the sick during his absence by a competent person.

1826.
2 March.

Proceedings at
court of inquiry
into conduct of
M. West.

Dr. Bowman states that he was satisfied that necessary arrangements were made during the time Mr. West was to be absent. Dr. Bowman had reason to believe that he did not avail himself of the Leave granted, as it appears by the Hospital Book that he had visited the Hospital fourteen days in September, about the end of that month. Dr. Bowman met Mr. West in the streets of Sydney, when he informed Dr. Bowman that he wished to go to Bathurst the following week, which Dr. Bowman refused, at the same time acquainting him that he intended to visit his Hospital at Windsor the latter end of the ensuing week. On the Saturday morning, the 5th of October, when on his way to Windsor he saw Mr. West at Parramatta, and told him he was about to visit his Hospital, and desired him to accompany him, which he refused to do stating that he had no conveyance and would not walk.

Question from Court.—"Was Mr. West allowed compensation to keep a Horse?" *Ans.*—"He is allowed two shillings and sixpence per diem."

Mr. Bowman further states that, on his arrival at the Hospital at Windsor, he found Dr. Ross had visited the sick for Mr. West at different times, and for which Dr. Bowman called on Dr. Ross and thanked him.

On the 16th December, Dr. Bowman wrote a letter to Dr. Ross (enclosing Mr. West's letter to the Lieutenant Governor) to attend at Sydney (No. 3), to which he received a reply marked No. 4.

Dr. Bowman, on his return from Windsor, made a representation to His Excellency Sir Thomas Brisbane of Mr. West's general neglect of Duty; in consequence of which he had reason to believe that arrangements were making for Mr. West's retirement, which however was prevented from taking effect from the illness of the late Private Secretary. Dr. Bowman went to Newcastle about the middle of October, and on his return he received a letter, dated 21st November (marked 5), from the Overseer, with a copy of the Visiting Book, an attested copy of which is hereto annexed (marked No. 6); and, in consequence of this report, Dr. Bowman ordered Dr. Allan, Assistant Surgeon at Parramatta, to visit the Hospital at Windsor and received his Report (marked No. 7). Dr. Bowman states that, in consequence of Dr. Allan labouring under ill health, he sent Mr. Anderson on the 29th November from Sydney to Windsor to take charge of the Hospital during the absence of Mr. West, with Instructions (marked No. 8) and received his Report (marked No. 9). On one occasion, Dr. Bowman visited the Hospital at Windsor: Finding Mr. West absent, was informed by the Overseer that he was attending the Criminal Court in Sydney. On referring to the Attorney General, Dr. Bowman was informed by him that Mr. West was not subpoenaed at that particular time.

Question by Mr. West to Dr. B.—"Did I not request that you would inform me who were the persons that had made the representations of my having neglected my Duty?" *Ans.*—"You did."

Question by West.—"Did you inform who they were?" *Ans.*—"I did not."

Question.—"On your refusing my request, Did I not entreat that you would have the charges strictly enquired into?"

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Ans.—"I declined doing so at that time, as I was not certain that the persons would specify the precise periods of such neglect. I therefore desired you would enter into your Visiting Book the time of each visit in future."

Question.—"Please to inform the Court who the persons were that made these representations against me?" *Ans.*—"I decline doing so."

Question.—"Did you not inform Dr. Ross, immediately previous to your going to Newcastle, that you were aware of my having obtained an extension of Leave from the Governor?" *Ans.*—"No."

Question.—"Did you after having desired Dr. Ross not to attend the Hospital till he had heard from you write to him to request that he would do so?" *Ans.*—"I did not, as you never applied to me for an extension of Leave and having ordered you positively not to go without."

JAMES TURNER, Overseer and Dispenser of the Hospital at Windsor, states that he has been in the situation about eighteen months, and during that time, when Dr. Bowman had called to visit the Hospital, Mr. West has been occasionally absent, but whether on Duty or not he cannot say. The Visiting Book, the attested copy of which is now produced, was kept partly by Mr. West and partly by Evidence by his orders. That many times when Mr. West visited the Hospital as stated in the Book, he did not see the Patients, but merely desired the Hour entered; and that he, the Evidence, at these times prescribed the medicines, and at others when Mr. West was absent; and that the Patients he has heard complaining one to another of Mr. West's neglect.

Question.—"What trade are you?" *Ans.*—"A Salesman of Covent Garden Market."

James Turner in continuation says that Mr. West returned from Bathurst on the 25th of November, and did not visit the Hospital until the 28th at four o'clock in the afternoon, when he was in a state of intoxication and incapable of prescribing for the Patients; and he has observed Mr. West five or six times, when he came to the Hospital, to be intoxicated, but not so bad as he was on the 28th. He recollects on one particular occasion that a servant of Mr. Bell's, Henry Simpson, was admitted into the Hospital on the 21st September, 1825, being very ill with an obstruction in his bowels. Mr. West saw him three or four times from 21st to 28th, when he died; that Mr. Bell, not being satisfied with the treatment of Mr. West, desired Dr. Ross would see the man; that Dr. Ross did see him and prescribed.

Question.—"Did you understand that you were to send for Dr. Ross at any other time than that during the absence of Mr. West at Bathurst?" *Ans.*—"No."

West's question.—"On your being appointed to the Windsor Hospital, did Dr. Bowman authorize you to alter the diet of the Patients, prescribe medicines, withhold or give medical comforts, or discharge servants at your discretion?" *Ans.*—"Not at first; but some time afterwards I was in consequence of some occurrence during the absence of Mr. West."

Question by W.—"Were you not arraigned before the Magistrates at Windsor for misapplying the Hospital Milk and fined Five pounds?" *Ans.*—"Yes, I was."

Question.—"While I was over the Mountains, why did you not call on Dr. Ross to attend cases in the Hospital according to the

understanding you have before stated?" *Ans.*—"I went to Dr. Ross occasionally, but did not see him at his house. Once or twice I saw him ride past the Hospital; I saluted him and he asked me how is all going on."

Question.—"Did you know of any reason for Dr. Ross's not attending the Hospital?" *Ans.*—"I do not."

Question.—"When I have entered my visits in the Book and retired without seeing the Patients, have I not returned and examined them?" *Ans.*—"Once you did; you might have done so two or three times."

JOHN NICHOLSON, Gate Keeper at the Hospital, was discharged by Mr. West for being absent without his leave having the Overseer's leave. He recollects the first visit Mr. West paid to the Hospital after his return from the Mountains; that he appeared a little in liquor. He observed that he staggered when he went out. He frequently heard that the Patients were dissatisfied at the absence of Mr. West from the Hospital.

THOMAS VISACULA, Wardsman in the Windsor Hospital, recollects Mr. West going to visit the Hospital on his return from the Mountains. He was in liquor.

THOMAS CRUSH, a Patient in the Windsor Hospital, was admitted on the 10th of last February with diseased hip about four o'clock in the afternoon, and did not see Mr. West till the morning of the 12th, though he was very ill. Mr. West then ordered the Overseer to put in a seton in his hip, and that he was discharged on the 18th June quite recovered. He was well treated in the Hospital.

SAMUEL MILES, a cook for the last six months at the Windsor Hospital, states that Mr. Turner, the Overseer, did the principal part of the Duty of the Hospital in prescribing for and giving medicine to the Patients, more particularly when Mr. West was absent; and that Mr. West came occasionally to the Hospital without seeing the Patients; recollects Mr. West going to visit the Hospital after his return from Bathurst, and that he appeared to be in liquor.

DR. BOWMAN re-examined by Mr. West.—*Question*: "Did you not visit the Hospital at uncertain times?" *Ans.*—"I did."

Question.—"Did you ever find me in a state of intoxication?" *Ans.*—"Never."

The Court adjourned until Monday next, the 26th Instant December.

Mr. West having stated to the President that, in consequence of his not being able to obtain the attendance of some persons material to his defence from the Country on Monday the 26th, requests to be allowed until Monday, January 2nd, 1826, which being granted the Court adjourns to that day.

Monday, January the 2nd, the Court having met pursuant to adjournment.

Mr. West produces a written defence, marked No. 10, and calls in Evidence as follows:—

1st. MR. JOHN HOWE, Coroner for Windsor and the lower part of the Hawkesbury, states that the period of times he called on Mr. West to attend Inquests are,

On the 18th and 19th of October, 1824, forty miles, part by land and part by water; 8th November, 6 miles; 10th and 11th November, 22 or 24 miles; 13th November, 18 miles; 25th and 26th

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December, 3 miles; 6th February, 1825, 21 miles; 8th February, 1825, 3 miles; 6th, 7th, and 8th March, 50 miles; 20th June, 12 miles; 10th and 12th December, 10 miles.

Mr. Howe also states that there were five Trials for Murder, but cannot state the exact number of days, and that one was put off twice or three times before it was brought on. He further says that, in his Office of Chief Constable, Patients discharged from the Hospital came to him for the purpose of getting passes to enable them to return to their respective masters; and he never heard any complaint made by these persons; and that at all times he has found Mr. West ready to attend him when called on, if at home; and within the period stated he only recollects one instance of Mr. West being absent, when required by Evidence to attend him on Inquest Duty.

2nd. Evidence. The REV. MR. FULTON states that about the beginning of October he was present at Government House at Parramatta and saw Mr. West deliver a Paper to Lieut. Stirling, the Aid-de-Camp, praying His Excellency to extend his Leave of Absence, as he had not been able to avail himself of his former Leave of Absence, having been attending the Criminal Court for nearly three weeks; that Lieut. Stirling took the Paper to His Excellency Sir Thomas Brisbane, and returned stating that the Governor had complied with his request.

Evidence also states that the Governor came out and confirmed what Lieut. Stirling had stated, and further that Mr. McHenry was also present.

3rd. Evidence. WILLIAM JONES, a Wardsman in the Hospital for a period of three months, states that Dr. West regularly visited the Hospital and examined as also prescribed for the patients, when he was at home; and that he has occasionally called him up in the middle of the night to Patients who were very ill.

Mr. West also produced a letter from the Rev. John Cross, the clergyman at Windsor, containing Queries and Answers, which having been read and admitted is annexed, No. 11.

Mr. West has nothing more to adduce and closes his Defence.

The Court adjourns until Ten o'clock to-morrow forenoon, Tuesday 3rd instant.

Tuesday, January 3rd.—The Court having met, Dr. Bowman read the reply hereto annexed, Marked No. 15, also a Letter to the Magistrates at Windsor, No. 16, and a certificate marked No. 17.

The Court, having duly considered and investigated the evidence and documents brought before them, is of opinion that Colonial Assistant Surgeon Major West has been extremely negligent in the performance of his Medical duties, not only in the irregularity of his attendance at the Hospital of Windsor and Emu Plains, but in delegating his professional duties to an unqualified person; and it is further of opinion that Mr. West's conduct towards the principal Surgeon was highly disrespectful in refusing to accompany him to Windsor when about to inspect the Hospital. His conduct likewise appears to the Court to have been irregular and reprehensible, in obtaining His Excellency Sir Thomas Brisbane's permission to proceed to Bathurst without the previous sanction and in direct opposition to the wishes of the Principal Surgeon.

E. LOCKYER, Major, 57th Regt., President.

W. JONES, M.D., Surgeon, 40th Regiment.

ROBT. IVORY, Assistant Surgeon, 3rd Regiment.

GOVERNOR DARLING TO EARL BATHURST.

1826.
3 March.

(Despatch No. 8, per brig Columbia; acknowledged by Earl Bathurst, 14th July, 1826.)

New South Wales, Government House,

My Lord,

3rd March, 1826.

I have the honor to report, for your Lordship's information, that, in consequence of the re-establishment of Norfolk Island as a Penal Settlement and the removal of Mr. West, reported in my Despatch No. 7, I have found it necessary to increase the Hospital Establishment; and I beg leave to recommend for your Lordship's confirmation the appointment of Mr. Wm. Richardson and Mr. George Busby to be Assistant Surgeons.

Appointment
of W. Richard-
son and
G. Busby
as assistant
surgeons.

I have, &c.,

RA. DARLING.

GOVERNOR DARLING TO SECRETARY HARRISON.

(Despatch per brig Columbia.)

Sir,

3rd March, 1826.

I have the honor to acknowledge the receipt of Your Letter of the 16th of August last, No. 14275, adverting to the circumstance of Surgeons of the Royal Navy, in charge of Convict Ships, drawing Rations from the Commissariat Stores during their stay here, and conveying Orders from the Lords Commissioners of the Treasury to discontinue this practice. I beg to acquaint You for the information of their Lordships that the necessary directions have been given accordingly.

Prohibition
of rations for
surgeons of
transport ships.

I have, &c.,

RA. DARLING.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 9, per brig Columbia; acknowledged by Earl Bathurst, 16th July, 1826.)

New South Wales, Government House,

My Lord,

4th March, 1826.

I have the honor to transmit to your Lordship the accompanying copy of the Proceedings of the Board, appointed to investigate the claim of Mr. Busby, the Mineral Surveyor, for remuneration for his services in proceeding to New Zealand and recovering the Government Brig "Elizabeth Henrietta,"* which was stranded on that Island; and I have in consequence granted a Warrant for the payment of Three hundred pounds sterling to Mr. Busby, of which I hope your Lordship will approve.

4 March.

Claim of
J. Busby for
salving brig
Elizabeth
Henrietta.

1826.
4 March.

Dissatisfaction
of J. Busby *re*
compensation
awarded.

2nd. I have not thought it necessary to forward Mr. Busby's Memorial, as the proceedings of the Board point out the grounds on which the remuneration was recommended.

3rd. I understand Mr. Busby is not satisfied with the Award; but I have not felt myself justified in exceeding the sum, recommended by the Board, though I am fully sensible of the zeal, which Mr. Busby (who was employed eight months) manifested on this occasion in voluntarily subjecting himself to the fatigue and privations necessarily attendant on such an undertaking, and of his skill by which the Vessel was saved after the failure of His Majesty's Ship *Tees*.

4th. From the conversations I have had with Mr. Busby, I am satisfied his services may be rendered extremely advantageous to the Colony; and I shall not fail to avail myself of his assistance, as soon as I can pay the necessary attention to those objects, which appear to be within the line of his Profession.

I have, &c.,
RA. DARLING.

[Enclosure No. 1.]

MINUTE No. 25 BY GOVERNOR DARLING TO THE COLONIAL
SECRETARY.

8th February, 1826.

Report to be
made on claim
of J. Busby.

LET the Board for General purposes take into consideration and report on the claim, set forth in the accompanying Memorial of Mr. John Busby, Mineral Surveyor, for services rendered the Government in proceeding to New Zealand and getting off the Colonial Brig "Elizabeth Henrietta," which was stranded on that Island in the month of February, 1824.

RA. DARLING.

[Enclosure No. 2.]

REPORT ON MR. BUSBY'S CLAIM.

Board Room, 13th February, 1826.

Compensation
awarded to
J. Busby by
board.

THE Board for General Purposes having assembled in conformity with His Excellency The Governor's Minute, dated the 8th inst., No. 25, to consider on the remuneration claimed by Mr. J. Busby, Mineral Surveyor, for services set forth in his Memorial, dated the 9th Ultimo, and having taken into consideration the circumstances of Mr. Busby's volunteering on the occasion alluded to, a service totally unconnected with his Official Duties, considering also the length of time he was employed, the great danger and personal inconvenience, to which he was exposed, together with the value of the Vessel and the Stores he saved

1826.
5 March.
Schedule of
prices of
provisions.

[Enclosure.]

AVERAGE PRICES of Provisions according to the Contracts for the year 1826.

	s.	d.		s.	d.
Wheat per Bushel ...	6	9	Beef, fresh	0	3
Maize	5	3	" salt	0	4
Bread per pound	0	2	Pork Do.	0	6

Maize is at present selling in the Market for 4/6 per Bushel, and it is expected it will be lower when the Crop is got in, which promises to be much more abundant than at any former period.

R.D.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 18, per ship Marquis of Huntly; acknowledged by Governor Darling, 7th December, 1826.)

6 March.

Sir,

Downing Street, 6th March, 1826.

Allegations
against
F. Rossi re
slave traffic at
Mauritius.

I transmit to you herewith the Copy of a declaration signed by William Kendrick, formerly a private of His Majesty's 22nd Regiment of Foot, who states that, while serving in the Mauritius, he had on many occasions seen new Slaves immediately after their having been landed in the Colony, and that in one particular instance, on or about the 12th or 13th August, 1823, he remembers "meeting with a party of about 50 new Slaves, escorted by ten frenchmen and five or six old Slaves near the Black River, not far from the Sea Shore, and landed from a Schooner he saw lying close to the Shore," to which he adds (as a reason for his not making known the circumstance to the Local Authorities) "that it was of no use for him to speak, and that Rossi, who had been his Chief in the Convict Department, when he (Kendrick) was Overseer of Convicts, had always told those under him not to mind such things, that they were not supposed to see them."

As Captain Rossi, the officer with whom this conversation is reported to have been held, fills an important Civil Situation under your Government, I deem it necessary that he should be apprized of the contents of the enclosed paper, in order that so grave an allegation, as that which has been brought forward against an Officer in the Public Service, may not remain one moment longer than circumstances will admit of without the most unqualified contradiction; and with a view therefore of affording to Captain Rossi the means of disproving this statement, I have to desire that his examination, on the allegations contained in it, may be conducted by the Attorney General in such manner and form, as you may deem best calculated to place Captain Rossi's character above all suspicion of having made himself a party to these illegal proceedings by such a compromise of his duty.

As you were in charge of the Govern't of the Mauritius some part of the period referred to in this deposition, it is possible that you may have the means of affording information, which it may be desirable to receive on this subject; and I request that you will have the goodness, when you forward the result of Captain Rossi's examination, to furnish me with any particulars which may have come to your knowledge, and with which you may consider it of importance that I should be made acquainted.

I have, &c.,

BATHURST.

[Enclosure.]

AFFIDAVIT OF WILLIAM KENDRICK.

Chatham, 2nd March, 1826.

WILLIAM KENDRICK, formerly Private of His Majesty's 22nd Regt. of Foot, and now of the Corps of Pensioners under orders of embarkation for New South Wales, was in the Mauritius from the taking of that Island in 1810, to 1824; on the 8th of June, of which latter year, he embarked on board the "Albion" Transport for England. Being asked, if he knew of the landing of new Slaves in the Isle of France, he answered, he did not recollect being present at the moment of landing, but had on many occasions seen them immediately afterwards. Being asked if he remembered any particular instances, he answered that he remembered, on or about the 12th or 13th of August, 1823, meeting with a party of about 50 new Slaves, escorted by Two Frenchmen, and five or six old Slaves, near the Black River, not far from the Sea Shore and landed from a Schooner, he saw lying close to the Shore: the particulars were as follow; he had left the Barracks at Black River about 4 o'Clock in the Morning, and was proceeding on his course to Bel Ombre, where he was going at the time; he perceived at the Break of Day, near the Mountain of Morne, between that and Black River, a Schooner lying close to the shore. This, however, did not excite in his mind any very particular degree of suspicion, till he shortly afterwards fell in with the Party beforementioned, about half a Mile from the Sea, and just as they were striking across the Main Road, where he was, in a place between two old Buildings, that conducted to the high Road; with the party, there were Two white Men and about six old Slaves; the white men, armed with Sticks, led the van, and the old Slaves with guns brought up the Rear. As soon as Kendrick, who had just issued from an avenue of Trees, came upon the party, which he did very suddenly, one of the Frenchmen saluted him in English with "good morning"; and which Kendrick returning next asked him whither he was going to carry those Madagascar people? to which the Frenchman made for rejoinder "What is that to you? You had better take what I will give you, and go your way, and say nothing," and, thrusting some Dollar Notes and small Money into his hands, pointed to a Canteen or public house about half a mile ahead, where he might spend it; the other white man and Frenchman, after his example, did the same; and Kendrick, knowing the ways of the Isle of France, and that it was of no use for him to speak, and that Rossi, who had been his Chief in the Convict Department when he was overseer of Convicts and the Governor's Aid de Camp, had

1826.
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Darling to
make a report.

Affidavit of
W. Kendrick.

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Affidavit of
W. Kendrick.

always told those under him not to mind such things, "that they were not supposed to see them," admits he received the money and went his way to the house, that had been pointed out to him by the Frenchman, where, upon his arrival, he was a little disappointed to find that what both the Frenchmen gave him amounted only to between 9 and 10 Dollars: 9 Dollars and a half as nearly as possible.

The Negroes were Natives of Madagascar, naked with only what is called Langoutin in the Isle of France, or Rag just to cover their Privities, and appeared to have been greatly cramped during the voyage, being lame and hardly able to walk; besides looking sickly and half starved, some of them seemed ready to drop. When, at the Canteen, Kendrick remarked to the person in charge what he had seen; and this Individual informed him that these Slaves were for Mr. Geneve and another person, whose name Kenrick does not now recollect, and that he (the Keeper of the Canteen) had seen them land from the Schooner, which was then lying close to the Shore. This was what Kenrick was pretty well assured of before, but was not sorry to find it thus confirmed by another, who was keeper of a Canteen, close to the place, where the Landing must have been effected, though he says he did not want to be told they were new Slaves, which no one, who has been any time in the Isle of France, can, he says, mistake, so very different is their appearance from old Slaves.

I do declare that the foregoing, which has been read to me, is a correct account of what I have stated.

WILLIAM KENDRICK.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 11, per brig Columbia; acknowledged by Earl Bathurst, 12th July, 1826.)

My Lord, Government House, 6th March, 1826.

I had the honor to acquaint your Lordship in my Letter of the 6th of last month, marked "Separate," that I had just then, when closing my despatches, received information that a party of Bushrangers had been secured. The numbers, which have been taken, amount to eighteen, eight of whom are Bushrangers, and the remaining Ten, one of whom is a Woman, have been their accomplices and employed in receiving and disposing of the stolen property. This latter is a very numerous Class and a principal cause of the Evils, which are experienced here. The facility of disposing of stolen property is a powerful inducement to the commission of crime, and the Address of these people is such, though their pursuits are well known in general, as to elude every exertion to detect them.

The ill health of Mr. Forbes, the Chief Justice, and other circumstances have interposed to prevent the trial of these people until last week, when Mr. Justice Stephen presided. The whole have now been gone through, and the Bush Rangers, who have not yet suffered, will with the exception of two be executed to-morrow.

Arrest of
bushrangers
and their
accomplices.

Trial and
conviction of
bushrangers.

These, though capitally convicted, will be sent to Norfolk Island in commutation of their sentence, there appearing to be much doubt as to their having been concerned in the fact, of which they have been found guilty.

1826.
6 March.

The ten Accessories, who were the Receivers of the Stolen Property, are all *Free* people, and have been sentenced to seven years Transportation. The men I have ordered to Norfolk Island, knowing how generally it is dreaded as a place of punishment, and considering it of great importance to check at once proceedings, which are productive of the most distressing consequences to the Colony; and I shall experience the truest satisfaction, should it have that effect.

Sentences
passed on
accessories.

I do myself the honor to enclose herewith the Copy of a Government Order, which I have just prepared for this occasion; and, intending to render the example about to be made as impressive as possible, I have deemed it advisable, as your Lordship will perceive by the enclosed, to assemble the Convicts and to direct the observance of every due solemnity.

I have, &c.,
RA. DARLING.

[Enclosure.]

GOVERNMENT ORDER.

Colonial Secretary's Office, 6th March, 1826.

HIS EXCELLENCY the Governor, feeling that the tranquillity of the Colony and the safety and preservation of the lives and Property of the Inhabitants imperiously demand that measures should promptly be adopted for preventing a repetition of the daring outrages, which have recently been committed, has directed that, in addition to the execution of William Corbett, who suffered this day, the awful sentence of the Law shall be carried into effect to-morrow morning at nine o'clock on the following Prisoners, who were condemned on Monday, the 27th Ultimo, vizt.

Government
order *re*
punishment
and
suppression of
bushrangers
and their
accomplices.

Charles Patient, Peter Roberts, Duncan McCallum, William Morrison.

The Governor has further directed that the persons hereafter named, vizt.

Darley Haggarty,	James Laragy,	Christopher Henderson,
Ralph Howe,	William Turner,	William Highorn,
James Bayley,	Richard Johnson,	Jacob Peter,

who have been convicted as receivers of the Property stolen by the Banditti above mentioned, and who have been sentenced to be transported, shall, after witnessing the execution of their accomplices, be immediately removed to the Phoenix Hulk under a Military Escort, and be forwarded from thence by the first opportunity to Norfolk Island, there to be confined during the period of their sentences.

His Excellency has also directed that the men at the Convict Barracks and those, who are allowed to sleep out, shall be assembled and attend the Execution.

1826.
6 March.

Government
order *re*
punishment
and
suppression of
bushrangers
and their
accomplices.

The Troops in Garrison will parade for the purpose of preserving order.

The Governor is willing to hope that the example, which a due regard to the peace and tranquillity of the Colony under his charge has obliged him to make on this occasion, will put an immediate stop to the lawless proceedings, which have lately kept the Inhabitants of the Country Districts in a state of anxiety and alarm.

The inducements to Plunder, which lead to murder and other atrocities, would be much diminished, were the Receivers of Stolen Goods prevented from pursuing their nefarious traffic.

These People are the root and foundation of the Evils, which have been experienced, and the general safety and the tranquillity of the Colony require that all classes should heartily unite in exterminating them. The Public welfare demands the exertions of every honest man for the attainment of this object, and the Governor pledges himself to reward liberally, and in a manner, which may be most agreeable to the Individual as far as may be consistent and practicable, any person who shall be instrumental in bringing a "Receiver" to punishment.

His Excellency, in expressing his unalterable determination to punish with the utmost severity of the Law any Person, who shall be convicted as a "Receiver of Stolen Goods," takes this opportunity of warning those, who are so employed, that such of them, as shall be convicted will, without exception, be sent to Norfolk Island, which Settlement has been allotted for their confinement and for that of malefactors, who have forfeited their lives; and in order to render the example now made as effectual and impressive as possible, the Governor declares in the most solemn manner that he will on no account mitigate or remit the sentence passed upon "Receivers of Stolen Goods."

By His Excellency's Command,
ALEX. MCLEAY, Colonial Secretary.

GOVERNOR DARLING TO UNDER SECRETARY HAY.

(Despatch marked "Secret and Confidential," per brig Columbia; acknowledged by Earl Bathurst, 12th July, 1826.)

Sir, Government House, 6th March, 1826.

I beg to enclose the copy of a Letter, addressed to me by the Attorney General and of my answer. The subject relates to some observations* in the "Australian" of the 26th of January and the 16th of February, which Papers I shall forward to your Office with my present Dispatches.

It appears that the Archdeacon took offence at the conduct of Mr. Mackaness, the Sheriff, on the occasion of the Public Meeting, at which the Address† was voted, which accompanied my Despatch No. 1; and it is understood that, on embarking shortly after for Van Diemen's Land, Mr. Scott left a message to that effect to be delivered to Mr. Mackaness.

* Note 59. † Note 60.

Dispute
between
archdeacon
and sheriff.

I have examined the Article in the "Australian," in which, though no doubt extremely impertinent and irritating to the Individual, I can discover nothing that attaches to the Archdeacon's Public Character, or that reflects on his conduct as a member of this Government. The object evidently is to ridicule the course, which he appears to have adopted in expressing his disapprobation of the Sheriff's conduct. I am not, however, prepared to say whether his conduct was objectionable or not, though, from what I have heard, I am inclined to think, without any bias to Mr. Mackaness, that it was not inconsistent with his duty.

1826.
6 March.

Dispute
between
archdeacon
and sheriff.

Having thus put you in possession of the case, as I understand it, I shall be very glad to be informed whether the principle laid down in my letter to Mr. Bannister is correct.

I do not persuade myself that the Government can be expected or ought to step forward to defend the acts of its members, when those acts are unconnected with their public situation, or to institute prosecutions against Individuals, who may think proper to comment on them.

If the contrary were the fact, and the Government should be burthened with a captious, wrong headed man, it will be seen that it would have ample employment in defending him, and that attention to party squabbles would supercede matters of real importance.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

ATTORNEY-GENERAL SAXE BANNISTER TO GOVERNOR DARLING.

Sir, Sydney, 18th February, 1826.

It having been stated to me privately and the newspapers of this morning having also mentioned that improper reflections have been recently published in the Australian Newspaper upon the Archdeacon, I take the liberty of observing to your Excellency that I have not hitherto thought it to be part of my duty to read publications with a view to prosecution.

Duties of
attorney-
general *re*
alleged libels.

Personal experience induces me to believe that any unfounded slander in this Paper is without weight.

But lest your Excellency may rely upon any vigilance, which it may be thought I am exercising as Attorney General over the supposed illegalities of the Press, I beg permission to state that I do not apprehend that I am bound to examine libel cases, unless called upon to do so in my profession or officially.

I have, &c.,

S. BANNISTER.

1826.
6 March.

[Enclosure No. 2.]

GOVERNOR DARLING TO ATTORNEY-GENERAL BANNISTER.

Sir, Government House, 18th February, 1826.

Duties of
attorney-
general *re*
alleged libels.

I have been favoured with your Letter of this date, and, though I have not considered the subject maturely, I incline to the opinion you have expressed that you are not bound to examine libel cases, unless called upon to do so in your profession or officially, and more particularly when, as in the case alluded to, the subject matter has no immediate reference to the public measures or acts of the Government or its Officers.

For my part, I can see nothing in the matter in question, which can be considered injurious to the Archdeacon's public character as a member of this Government, and I therefore presume the interposition of Government cannot be necessary.

I have, &c.,
RA. DARLING.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 19, per ship Marquis of Huntly; acknowledged by Governor Darling, 24th October, 1826.)

7 March.

Sir, Downing Street, 7th March, 1826.

Transmission
of acts and
ordinances of
legislative
council.

With reference to a recent communication from Sir Thomas Brisbane, in which he has transmitted to me Copies of the Ordinances passed by the Governor in Council of New South Wales, and to that part of your instructions, which directs that the operation of all Ordinances, which may be passed, is to be subject to His Majesty's approbation, I have to direct that you will transmit to me, by the earliest opportunity, four copies of every Ordinance or Legislative Act passed or promulgated in the Colony; and you will also be pleased to direct that all Copies of such Ordinances should be printed in an uniform manner, and that, at the end of every year, a printed collection of all such Ordinances and Acts from the commencement of the year, bound up in a distinct volume and accompanied with a full and methodical Index, should be regularly transmitted home.

I have, &c.,
BATHURST.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 20, per ship Marquis of Huntly; acknowledged by Governor Darling, 26th May, 1827.)

8 March.

Sir, Downing Street, 8th March, 1826.

Practice of
paying for
labour in
live stock.

The Lieutenant Governor of Van Diemen's Land having adverted to a practice, which has recently grown up in that Colony, of Settlers paying in Cattle and Sheep for the labour

performed by Convicts, I inclose for your Information a Copy of the answer, which I have addressed to Colonel Arthur, in order that your Excellency, being aware of the sentiments of His Majesty's Government upon that subject, may take the necessary steps for checking a similar practice in case it should be found to prevail to any great extent in New South Wales.

I have, &c.,
BATHURST.

1826.
8 March.
Practice of
paying for
labour in
live stock.

[Enclosure.]

EARL BATHURST TO LIEUTENANT-GOVERNOR ARTHUR.

Sir, Downing Street, 5 March, 1826.

I have had the honor to receive and lay before The King your dispatch of 11th August, 1825.

I shall reserve for a future opportunity the expression of His Majesty's Commands upon most of the points, to which you have therein called my attention; but, towards the concluding part of your letter, you advert to a practice, which has recently grown up in Van Diemen's Land and which appears so very objectionable in principle that I deem it necessary without a moment's loss of time to instruct you to put a stop to it, wherever it is found to prevail. I allude to the payment of Convicts for their labor by the Settlers in Cattle and Sheep, for the increase and maintenance of which Convicts have recourse to the following expedient. Having no land on which to graze such Stock, as they may have acquired in payment of their labor, they place them in the hands of Settlers, who are in circumstances the very reverse of their own, having land but without means of stocking it; the conditions of the Compact, which follow from this transaction, being that the Receiver shall have one third of the Increase, and thus many, who have imposed upon the Local Government by a shew of Stock, acquire property and become importunate for additional Land, without possessing any means of their own for its improvement.

Evils resulting
from practice.

I have accordingly to desire that you will take immediate Steps for preventing the continuance of this practice; and you will direct that it should be explained to those Settlers, who have so employed their Land, that, by neglecting its cultivation and not laying out Capital in Cattle and Sheep, bonâ-fide their own property, they have failed to comply with the terms upon which it was granted to them, and that their Land has thereby become liable to resumption, whenever the Government may think proper to enforce the conditions of the original Grant.

Instructions for
prohibition
of practice.

I have, &c.,
BATHURST.

1826.
9 March.

UNDER SECRETARY HAY TO GOVERNOR DARLING.
(Despatch per ship Marquis of Huntly; acknowledged by Governor Darling, 18th December, 1826.)

Sir, Downing Street, 9th March, 1826.

Shipment of
preserved meat
for Melville
island.

In reference to my letter of the 25th Ultimo, respecting the provisioning of Melville Island, I am further directed by Earl Bathurst to acquaint you that The Lords Commissioners of the Treasury have issued their Instructions to the Commissioners of Victualling to cause a sufficient quantity of Preserved Meat for the occasional wants of about 100 persons to be Shipped, as soon as possible, for New South Wales consigned to the Officer in charge of the Commissariat.

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

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch marked "Private," per ship Marquis of Huntly; acknowledged by Governor Darling, 16th December, 1826.)

My dear Sir, Downing Street, 9th March, 1826.

Transmission
of annual
estimates.

I am directed by Earl Bathurst to transmit to you a Copy of the Estimate, which has been submitted to Parliament this Session, for the expenses of the Civil Establishments of New South Wales and Van Diemen's Land. The sum, for which application has been made, amounts to £11,942, one half of that which has been usually obtained to meet this Service, being calculated for a period only of six Months, namely from the 1st of January to the 30th June next.

I refer you to the enclosed Copy of a Letter, which has been addressed to the Treasury for an explanation of the Principle, on which it is intended that the expenses of the Civil Establishments of the two Colonies shall in future be defrayed.

Proposed new
system for
financing the
colonial
establishments.

You are aware that at present there are two descriptions of Persons employed under the Colonial Government; those composing the regular Civil Establishment of the Colony in its character as a British Settlement, and those whose employments originate from its appropriation as a Place of Punishment for persons convicted of offences in this Country. If the latter description of Salaries, instead of being paid, as they now are, out of the Colonial Revenues, which are consequently unable to bear the expense of its regular Civil Establishment, were defrayed out of the Sum annually appropriated by Parliament to the maintenance of the Convicts (to which sum a proportionate addition must be made), there seems to be no doubt that ample provision will then remain for defraying the other expenses of the two Colonies without the necessity of applying to Parliament, as heretofore for assistance in the form of a Special Grant.

Under the new system, which I have just detailed, it will be proper that a separation of the two Classes of public Servants above mentioned should take place, and that the system, according to which their respective Salaries are now paid, should be changed.

1826.
9 March.

You will accordingly be pleased to transmit to Earl Bathurst by an early opportunity a List containing the names of all persons who are employed solely in the management of the Convicts, together with the amount of Salary assigned to them respectively, in order that the Treasury may be informed of the probable amount of the Bills which they may expect to be called upon to pay annually on this account, and that they may provide the necessary funds for such an increase to the usual Estimate, as may appear, by reference to that List, to be requisite. You will at once see the propriety of authorizing no increase to that Establishment, without obtaining the previous sanction of the Government at home, by whom provision will be made for defraying the expense.

Officials
employed in
management
of convicts.

Any surplus Revenue, which may accrue (after paying the expense of the Civil Establishment in the manner herein pointed out, and such other Colonial Services as shall appear indispensably necessary, and shall have received the approbation of the Secretary of State, including the necessary remittances to the Colonial Agent resident in this Country to enable him to defray current Services), should be paid over to the Military Chest to meet the charge incurred by Great Britain on account of the Colony; and as this Letter, the object of which is to discontinue the system of drawing Bills upon England for the Salaries of the Civil Officers accruing subsequently to the 5th of July, may not reach the Colony until some Bills may have been drawn for Salaries becoming subsequently due, which Bills, if drawn, the Lords Commiss'rs of the Treasury have undertaken to pay, Lord Bathurst desires that you will cause an equal amount, to that which may be so drawn for, to be paid from the Colonial Revenues into the Military Chest.

Disposal of
surplus revenue.

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

[Enclosure.]

UNDER SECRETARY HAY TO SECRETARY HARRISON.

Sir, Downing Street, 6th Feby., 1826.

I am directed by Earl Bathurst to transmit to you herewith an Estimate of the charge of defraying the Civil Establishments of New South Wales and Van Diemen's Land for the current half year, namely from the 1st January to the 30th June next.

Estimates of
cost of civil
establishments.

1826.
9 March.
Proposed new
system for
defraying
colonial
expenditure.

In laying this Estimate before the Lords Commissioners of H.M. Treasury, I am to request that you will acquaint their Lordships that an arrangement is in contemplation, which, if carried into effect, will supersede the necessity of any further application to Parliament beyond the Sum, which is annually voted for the expenses attendant upon the Convict part of the Establishment of that Colony, as it is proposed that the Officers of the Civil Establishment, whose Salaries are now defrayed by an annual Parliamentary vote, should be henceforth paid from the Colonial Revenues, and that those Civil Officers, who are connected with the controul of the Convicts, should receive their Salaries out of the Sum, annually voted by Parliament, to defray the amount of Bills, drawn from New South Wales for the maintenance of Convicts, to meet which a small increase to that Sum will, it is conceived, be necessary.

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

[Sub-enclosure.]

NEW SOUTH WALES.

Estimates
for civil
establishments
of N.S.W. and
Tasmania.

ESTIMATE of the charge of defraying the civil Establishments of New South Wales and Van Diemen's Land, from the 1 Jany. to 30 June, 1826.

£11,942 Os. Od.

Proposed distribution of the above Sum of £11,942 Os. Od., on account of the civil Establishments of New South Wales and Van Diemen's Land for the above period.

	£	s.	d.
Governor	2,100	0	0
Private Secretary	150	0	0
Lieutenant Governor	225	0	0
Chief Justice	1,000	0	0
Attorney General	300	0	0
Provost Marshal	45	12	6
Archdeacon	1,000	0	0
Chaplain	200	0	0
2 Assistant Chaplains at £300 pr. annum each*	300	0	0
10 Do. Do. 250 do. *	1,250	0	0
Master of the Male Orphan School	50	0	0
Matron of the Female Orphan School	50	0	0
2 Schoolmasters at £60 per annum	60	0	0
Surveyor of Lands	182	10	0
4 Assistant Do. at £250 per annum each*	500	0	0
1st Deputy Assistant Do.	100	0	0
2nd Do. Do. Do.	75	0	0
3rd Do. Do. Do.	50	0	0
Superintendent of Convicts	100	0	0
2 Assistant Overseers at £60 per annum each*	60	0	0
8 Do. Do. ,, 30 per annum each*	120	0	0

* Note 61.

Proposed distribution of the above Sum of £11,942 0s. 0d., on account of the civil Establishments of New South Wales and Van Diemen's Land for the above period—*continued*.

1826.
9 March.

	£	s.	d.	Estimates for civil establishments of N.S.W. and Tasmania.
Allowance to Mr. White, late Surgeon	45	12	6	
Do. to Mrs. Thompson, Widow of Surgeon Thompson	15	0	0	
Do. to Mrs. King, widow of Governor King ..	100	0	0	
Do. to Mrs. Collins, widow of Colonel Collins	60	0	0	
Do. to Mrs. Jamieson, widow of Surgeon Jamieson	20	0	0	
Do. to Mrs. Bent, widow of Judge Advocate Bent	100	0	0	
Do. to Mrs. Lewin	25	0	0	

Hobart Town.

Lieut. Governor	1,250	0	0
Colonial Secretary	400	0	0
Chief Justice	600	0	0
Attorney General	150	0	0
Chaplain	130	0	0
2nd Do.	125	0	0
3rd Do.	125	0	0
Surveyor of Lands	100	0	0
Assistant Do.	75	0	0
Overseer of Convicts	30	0	0
4 Do. Do. at £30 pr. annum each*	60	0	0
Schoolmaster	30	0	0

Port Dalrymple.

Officer in Command	91	5	0
Chaplain	125	0	0
Agent	75	0	0

	11,650	0	0
On account of fees for Receipt and Audit	292	0	0

Total .. £11,942 0 0

Colonial Office, 1st January, 1826.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 21, per ship Marquis of Huntly; acknowledged by Governor Darling, 25th October, 1826.)

Sir, Downing Street, 10th March, 1826. 10 March.

In addition to the Instructions, which I have addressed to your Predecessors and to those which you yourself have more recently received, respecting the exercise of that discretionary power of remitting the sentences of Convicts, which is given to you by your Commission as Governor of New South Wales, I have to signify to you The King's Commands that in no case shall a pardon be granted to any description of Convict, above the condition of the labouring Class, unless he shall first subscribe a declaration, to be drawn up or approved by the Chief

Certain convicts to quit colony when emancipated.

* Note 61.

1826.
10 March.
Certain
convicts to quit
colony when
emancipated.

Judge, by which the Convict shall bind himself to quit the Colony immediately on receiving such pardon, and neither return to it, nor to proceed to Van Diemen's Land, without the especial license of the Secretary of State; in default of performing which agreement, he shall be exposed to all the Penalties of the original Sentence.

I have, &c.,

BATHURST.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 22, per ship Marquis of Huntly; acknowledged by Governor Darling, 10th October, 1826.)

11 March.
Instructions
re survey of
King George's
sound.

Sir, Downing Street, 11th March, 1826.

With reference to the dispatch, which I did myself the honor of addressing to you on the 1st Instant, directing a Survey to be made of the Country around Shark's Bay on the Western Coast of New Holland, I have to instruct you, previously to your making the Survey as therein directed, to cause one to be made of the Land bordering on King George's Sound, in Latitude 35° South, Longitude 117° 50' East, in order that if the Soil should be found good (that around Shark's Bay being by every information extremely barren) and if the circumstances of the place be in other respects favorable, a Settlement may be first made in that quarter. Among other advantages which it is understood to possess, it has that of lying in the tract of Vessels from England, and by that means enjoys an easy communication with Port Jackson.

I have, &c.,

BATHURST.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 23, per ship Marquis of Huntly; acknowledged by Governor Darling, 26th October, 1826.)

12 March.
Custody of
money and
property
belonging to
convicts.

Sir, Downing Street, 12th March, 1826.

Referring to the dispatch which I addressed to Sir Thomas Brisbane dated the 9th of September, 1822, I deem it necessary to call your attention to that part of it which directs that "the Money and Property,* which a Convict may possess at the time of his arrival in the Colony, should be taken and deposited under Regulations for the ultimate use of the Party," and to convey at the same time additional Instructions, respecting the employment of such sums of Money, as he may acquire by his labor, when permitted from his good behaviour or otherwise to work for his own benefit.

* Note 62.

It appears very essential to the ends of Justice that no practicable means should be neglected of keeping up in the minds of Criminals that salutary apprehension of Transportation to New South Wales, which originally existed when New Holland was first selected as the place of Banishment for Offenders, but which it is to be feared has been scarcely felt at all by many of those, who have been sent there for their crimes at a later period.

1826.
12 March.
Diminution
of dread of
transportation.

There appears to be no mode more effective for the attainment of this object than the following:—First, to debar the Convict from all those Privileges which, as a free person, he would be entitled to enjoy; Secondly, to withhold from him those Indulgencies which the possession of money may afford him the means of obtaining; and lastly by a rigid adherence to such Regulations, as it may be considered advisable to adopt for this purpose, to convince him by experience that it must entirely depend upon the propriety of his conduct whether he shall regain any portion of those rights, from the enjoyment of which he has been debarred by his crimes.

Necessity for
restrictions on
privileges
of convicts.

The necessity of acting upon this principle cannot be too strictly enforced; and it is with this view that I consider it expedient to direct that no Convict shall henceforth be allowed, on any pretence whatever, to have the possession of any money or property, which he may be entitled to at the time of his arrival in the Colony. He should be recommended to dispose of it in the Savings Banks, according to the suggestions contained in Mr Commissioner Bigge's first Report, Page 158, but on no account must he be permitted to retain possession of it. The time, when he may be allowed the free use of his money, will depend upon his conduct; but it must not at the soonest be under two years, in cases where the Convicts are transported for life, and then only in special cases wherein you shall have every reason to believe, from the character and uniform good conduct of the Convict, that the use of his money can be allowed without the risk of its misapplication. It might be desirable in all cases that this permission should be granted gradually, and that only a portion of his money should in the first instance be allowed to any Convict, the payment of the remainder, at some subsequent period, depending upon the use made by him of the first Instalment.

Instructions
re payments
of money to
convicts.

You will cause a Return to be made regularly to the Colonial Office of all the cases, in which this allowance of Money to Convicts may be granted.

I have, &c.,
BATHURST

EARL BATHURST TO GOVERNOR DARLING.

1826.
13 March.

(Despatch No. 24, per ship Marquis of Huntly; acknowledged by Governor Darling, 19th December, 1826.)

Sir, Downing Street, 13th March,* 1826.

His Majesty, having taken into consideration the great extent and variety of the duties, with which the Chief Justice of the Supreme Court of New South Wales is charged, and the propriety of affording some adequate relief to that Officer, has been graciously pleased to exercise the powers, with which he is invested by the Statute, 3rd Geo. 4 Cap. 96, and has accordingly issued a Warrant, under His Signet and Sign Manual, for augmenting the number of the Judges of the Supreme Court.

I have the Honor to enclose this Warrant, by which you will perceive that the King has been pleased to appoint Mr. Stephen, the Solicitor General of New South Wales, to the situation of Second Judge of the Supreme Court; and you will immediately make known to that Gentleman this mark of His Majesty's favor, and cause him to be sworn into that Office with the usual Solemnities.

You will be authorized to grant to Mr. Stephen out of the Police Fund an annual Salary of £1,500 to commence from the time of his taking the Oaths of Office.

It has not been possible to frame in this Country any definite regulations as to the manner in which the Judicial business should be divided between the Chief Justice and the Puisne Judge. This question must depend upon a variety of local circumstances, which cannot be correctly understood except upon the Spot. You will, therefore, take this subject into your earliest consideration. If, as I earnestly hope, the Judges themselves shall concur in settling a plan for this purpose, you will adopt and sanction any measure supported by their joint recommendation.

In case of any difference of opinion between them, you will feel it your duty to adopt and sanction the plan for the division of their judicial duties, which the Chief Justice may suggest, unless the objections to it should appear to you to be of a very grave and conclusive nature.

I have, in a separate dispatch,* signified to you His Majesty's pleasure, respecting the manner in which the legal offices of the Colony, which will become vacant on Mr. Stephen's promotion, are to be filled up.

I have, &c.,
BATHURST.

* Note 63.

Puisne
judge for
supreme court.Appointment of
J. Stephen.Salary for
J. Stephen.Division of
duties between
chief justice
and puisne
judge.

[Enclosure.]

WARRANT appointing John Stephen, Esquire, to be a Puisne Judge
at New South Wales.

G. R.

GEORGE the Fourth, by the Grace of God of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith, To Our Trusty and Well Beloved John Stephen, Esquire, Greeting. Whereas, by an Act of Parliament passed in the fourth Year of Our Reign, intituled, "An Act to provide, until the first day of July, One thousand, Eight Hundred and Twenty seven, and until the end of the next Session of Parliament, for the better administration of Justice in New South Wales and Van Diemen's Land, and for the more effectual Government thereof, and for other purposes relating thereto," it is enacted that it should be lawful for Us, Our Heirs and Successors, by Charters or Letters Patent, under the Great Seal of the United Kingdom of Great Britain and Ireland, to erect and establish Courts of Judicature in New South Wales and Van Diemen's Land respectively, which should be styled the Supreme Court of New South Wales and the Supreme Court of Van Diemen's Land for the purposes and with the jurisdictions, powers and authorities, specified in the said Act. And Whereas, in pursuance of the Act above recited, We did by Letters Patent, under the Great Seal of the United Kingdom of Great Britain and Ireland, bearing date the Thirteenth day of October, One Thousand, Eight Hundred and Twenty three, in the Fourth year of Our Reign, erect and establish a Court of Judicature, styled the Supreme Court of New South Wales, and nominate and appoint a Chief Justice, and did also prescribe and ordain certain Rules and Regulations touching the proceedings of the said Court, as relation being had to the said Letters Patent may more fully and at large appear. And Whereas it is provided by the Act before mentioned that, if it should at any time appear to Us, Our Heirs and Successors, expedient to augment the number of Judges of both or either of the Courts of Judicature aforesaid, then and in that case it should be lawful for Us, Our Heirs and Successors, from time to time, as occasion may require, by Commission under Our or Their Royal Sign Manual, to augment the number of Judges of both or either of the said Courts to three, and to grant such additional Judges such reasonable Salary or Salaries, as to Us, Our Heirs and Successors, should seem meet, and which should be in lieu of all fees and emoluments whatever. And Whereas We have deemed it expedient that an additional Judge should be appointed to the Supreme Court at New South Wales. Now know ye that We, reposing especial trust and confidence in the Loyalty, Integrity

1826.
13 March.

Warrant
appointing
J. Stephen
to be a puisne
judge.

1826.
13 March.
Warrant
appointing
J. Stephen
to be a puisne
judge.

and Ability of you, the said John Stephen, Esquire, do in pursuance of the provisions of the before recited Act of Parliament, passed in the Fourth Year of Our Reign, hereby constitute and appoint you, the said John Stephen, to be one of the Judges of the Supreme Court at New South Wales, to have, hold, exercise and enjoy the said Office during Our Pleasure, together with all the Rights, profits, Privileges and Salaries unto the said Office and place belonging.

Given at Our Court at Carlton House, the First day of April, One Thousand, Eight Hundred and Twenty Six, In the Seventh Year of Our Reign.

By His Majesty's Commands,

BATHURST.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch marked "Private," per ship Marquis of Huntly.)

My dear Sir, Downing Street, 13th March, 1826.

Appointment of
puisne judge.

With a view to relieve the Chief Justice from some part of the laborious duties, which devolve upon him, and at the same time to facilitate the Dispatch of the Judicial business of the Colony, Lord Bathurst has deemed it necessary to recommend to His Majesty the appointment of a second Judge, which has been done by Warrant under his Signet and Sign Manual. Lord Bathurst is aware that no provision is made by this arrangement for the distribution of the Judicial Business between the Chief Justice and the Puisne Judge, and that it may be doubted even whether a Court can legally be held in the absence of the former, without which no considerable relief can be afforded to him by associating with him a Colleague upon the Bench; still however Lord Bathurst is willing to persuade himself that, in many respects, the Chief Justice may derive advantage from Mr. Stephen's appointment, until by a new Act of Parliament, which at all events will be required in the course of next Session, the difficulties, which may be found to arise from the mode of appointment, which has been adopted, can be remedied. Lord Bathurst has only thought it necessary to notice them to shew that he is alive to the impediments, which will prevent the appointment in question operating so fully in aid of the Chief Justice, as was to have been desired. He requests that the Chief Justice may be directed to report officially through you on the subject, to which this letter refers, but more particularly as to the manner in which the Judicial Business should be divided between the Chief Justice and Puisne Judge with reference to the relief, which the former requires.

Division of
judicial duties.

Legality of a
court held in
absence of
chief justice.

Proposed
amending act.

I have, &c.,

R. W. HAY.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

1826.
16 March.

(Despatch per ship Chapman.)

My dear Sir, Downing Street, 16th March, 1826.

I have received a letter from General Phipps, in which, at the request of one of his Constituents at Whitby, he solicits a recommendation to you in favor of Mr. Thomas Clarkson, general Merchant at Sydney. I do not know whether it will be in your power to be of any service to him in his Mercantile pursuits, but I shall be much obliged, if you will avail yourself of any opportunity that may offer of assisting his view.

Yrs. very truly,
R. W. HAY.

UNDER SECRETARY HAY TO GOVERNOR DARLING.*

Sir, Downing Street, 16th March, 1826.

Mr. R. W. Parker having been recommended to Lord Bathurst by Sir N. Colthurst, the Member for Cork, I am directed by his Lordship to request that he may receive a Grant of Land proportioned to his means of bringing it into cultivation, and that you will afford him every facility in the choice of situation that may not be inconsistent with established Regulations.

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

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 25. per ship John.)

Sir, Downing Street, 2nd April, 1826.

2 April.

In consequence of the appointment of Mr. Stephen to the Situation of second Judge of the Supreme Court at New South Wales, I am to acquaint you that His Majesty has been pleased to nominate James Holland, Esqre., the late Attorney General of Bermuda, to succeed Mr. Stephen as Solicitor General and Commissioner of the Courts of Request, lately established in that Colony; and you are hereby authorized to pay to Mr. Holland, out of the Colonial Revenues, an annual Salary at the rate of Eight Hundred Pounds according to the arrangement communicated to Sir Thomas Brisbane in my dispatches of the 20th and 21st January, 1824. Mr. Holland will be entitled to half Salary from the date of his embarkation, until the period when he may enter upon the duties of his Office, and has already received £300 on account of the same.

I have, &c.,
BATHURST.

* Note 64.

UNDER SECRETARY HAY TO GOVERNOR DARLING.*

1826.
6 April.

Introduction
of Robison.

My dear Sir, Downing Street, 6th April, 1826.

I beg to introduce to your notice Captain Robison, who goes out to New South Wales in command of the Veteran Companies now under orders for that Colony. Captain Robison is, I believe, already personally known to you; but in consequence of the strong testimonials, which I have received in his favor from Mr. Charles Grant, I cannot deny myself the pleasure of giving Captain Robison this especial introduction to your favor and protection.

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

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 26, per ship Marquis of Huntly; acknowledged by Governor Darling, 18th December, 1826.)

7 April.

Proposed
removal of
settlement
in north
Australia.

Sir, Downing Street, 7th April, 1826.

The unsuccessful result of the first venture, made by the Merchants to the Northern Coast of New Holland, has led the East India Trade Committee to entertain doubts of the eligibility of the Spot, already selected for a Settlement on Melville Island; in consequence of which, I have recommended to the Lords Commissioners of the Admiralty that a further trial should be made of the Coast to the Eastward of the New Settlement with a view to ascertain how far it may be practicable to form an Establishment, which may offer those advantages to the Trader, in which Melville Island is said to be deficient.

I do myself the honor of transmitting for your information a Copy of the Communication, which has been addressed to the Lords Commissioners of the Admiralty on the subject; and it only remains for me to request that you will issue to the Commandant at Melville Island such orders, as may be required to carry into effect these arrangements; and you will afford the necessary co-operation to the Naval Officer, who may be employed by their Lordships on this Service, and who will be instructed to call at Port Jackson on his way to the New Settlement.

I have, &c.,
BATHURST.

[Enclosure No. 1.]

UNDER SECRETARY HAY TO MR. JOHN BARROW.

Sir, Downing Street, 6th April, 1826.

I am directed by Earl Bathurst to transmit to you, for the information of the Lords Commissioners of the Admiralty,

* Note 64.

the enclosed copy of a letter from Mr. Begbie, Secretary to the East India Trade Committee, on points connected with the new Settlement at Melville Island.

1826.
7 April.

Without entering into the question of the eligibility of the situation already chosen for that purpose, Lord Bathurst is disposed to recommend to their Lordships that one of the first Ships of War, appointed to the East India Station, should be directed to Melville Island, and to transport from thence a small number of Troops to such part of Croker Island in Latitude 11° S., longitude 132° E., as may appear most adapted to their temporary accommodation, until a fit spot may be selected for the formation of a permanent Establishment in that Quarter. From thence, parties may be sent to explore the neighbouring Coasts and Inlets, and there such articles of Merchandize may safely be deposited as may suit the Malays, who it is understood frequent those Coasts for the purpose of fishing.

Proposed
settlement on
Croker island.

Although it is believed that the Piratical Vessels belonging to the Islands do not come down to the Coasts of New Holland, yet it may be expedient to instruct the Officer, commanding the Ship of War, so employed, to remain for a certain time on the northern Coast of New South Wales, and thereby to dispel those apprehensions of attack from the Pirates, which the Inhabitants represent to have hitherto prevailed among the Traders.

Naval
protection
against pirates.

As it appears by the last accounts that the want of fresh Provisions has been severely felt at the new Settlement, Lord Bathurst would recommend to the Lords of the Admiralty that the Commander of the Ship of War, employed on this service, should be directed to call at Timor (as suggested by Mr. Begbie) to take stock from thence for the immediate use of the Settlers, and that they should be supplied with a few materials for the construction of Fishing Boats, in case they should not have already been furnished with them from Port Jackson.

Live stock to
be procured
from Timor.

His Lordship would further recommend that Buoys should be taken out for the purpose of being laid down off the Harbour, so as to render the entrance up the Straits to Fort Dundas more easy to such ships, as may hereafter resort thither.

Buoys to be
laid in straits
at Fort Dundas.

A communication on the subject of this letter will be immediately made to the Governor of New South Wales, who will be instructed to issue to the Commandant at Melville Island such orders, as may be required to carry into effect these arrangements, as well as to afford the necessary co-operation to the Naval Officer, who may be employed on this Service.

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

[Enclosure No. 2.]

MR. JOHN BEGBIE TO UNDER SECRETARY HAY.

East India Trade Committee Room,
53 Old Broad Street, 18th Mar., 1826.

Sir,

Report on
settlement at
Melville island.Necessity
for naval
protection.Capture of
brig Stedcomb
by pirates.Disadvantages
of settlement
at Fort Dundas.Fresh
provisions
required by
settlers.

I am desired by the Merchants, who took the liberty of suggesting to Lord Bathurst about 2 years since the eligibility of forming a Settlement on the N.W. coast of New Holland, to lay before you, for the information of his Lordship, the accounts lately received by them from Melville Island, dated in August last, thro' Captain Hugh Stewart, Master of the Merchant Ship Lallah Rook. It is stated that the settlement was then without any naval protection whatever, which is in fact essentially necessary in that part of the world, so much infested with Pirates, until the Settlers are more firmly established than can be expected at so early a period of the Establishment. The naval protection is not only requisite for the safety of the Settlement itself, but also to afford security to any Merchant Vessels, which may endeavour to open a trade with the Neighbouring Coast and Islands. In confirmation of this opinion, I am desired to mention that the Brig Stedcomb, sent out by the Merchants, shortly after the sailing of H.M. Ship Tamar, for the express object of opening the Trade, has, there is great reason to apprehend, fallen into the hands of the Pirates for want of that protection; and they regret to state that the report from Batavia mentions that all the Crew, with the exception of 2 boys, were put to death. It is also represented that the Settlement at Melville Island has been ill chosen, and is not likely to answer the object for which it was formed from the frequent shifting of the shoals and difficulty of the Navigation at the entrance of the Port, also from its distance up the Strait, being thereby entirely detached from the Malay fishing ground, situated to the Eastward of Melville Island and in the Gulph of Carpentaria. The Merchants are aware of the difficulty experienced by Captain Bremmer in finding water upon the immediate spot, pointed out in Lord Bathurst's Instructions (Port Essington); at the same time, they think it probable that, if a little more time had been given to the examination of the coast to the Eastward, a settlement might have been formed in that direction, near the West point of the Gulph, which would have afforded the advantages looked for. Should His Majesty's Government determine upon sending any Ship from England, it would be desirable that she should touch at Timor on her passage out, and take fresh provisions from thence for the immediate use of the Settlers, the last accounts

having left them entirely destitute of that refreshment; and as the Lallah Rook carried up a stock of salt provisions to last the settlement for a considerable time, under the supposition that they would be supplied with fresh Meat and Stock from the neighbouring Islands, it is probable that great inconvenience may be experienced before relief can be afforded from the circumstance of their not having even a boat at the Settlement for fishing, when Captain Stewart left it.

I have, &c.,

JOHN BEGBIE,

Secretary to the East India Trade Committee.

1826.
7 April.

Fresh provisions required by settlers.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 27.*)

Sir,

Downing Street, 7 April, 1826.

The frequent applications, which I have received from Mr. Bannister, His Majesty's Attorney General at New South Wales, since I had the honour of addressing to Sir Thomas Brisbane my Dispatches of the 2d of June and 1st of July, 1825, and the urgency, with which he has pressed upon the question of an encrease to his official Salary, have induced me to enter upon a reconsideration of his case with reference to that subject; and it has led to my having recommended to His Majesty that the Attorney General's Salary should be augmented to £1,400 per Annum from the date, at which you may receive this Communication.

Augmentation to salary of attorney-general.

The above amount of Salary will be the Maximum of the compensation which can be authorized to be made to that Officer; and you will therefore be pleased to inform Mr. Bannister that, this being His Majesty's final determination, if he does not consider that amount adequate to the duties which he is called upon to perform, it will be desirable that he should no longer retain his present situation. In case, however, of his chusing the alternative of relinquishing it, he must not expect to be provided with a passage at the public Expence for the conveyance of himself and his family to either of the places, to which he has signified his wish of proceeding, should his Salary not be augmented in proportion to his expectations; and I should be equally unable to hold out to him any prospect of his being nominated to any other appointment.

Possible resignation of S. Bannister.

I have, &c.,

[Unsigned.]

* Note 64.

1826.
13 April.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 28, per ship Marquis of Huntly; acknowledged by Governor Darling, 15th September, 1826.)

Sir, Downing Street, 13th April, 1826.

Despatches
acknowledged.

I had the honor of receiving yesterday Sir Thomas Brisbane's Dispatches of the dates and numbers, mentioned in the Margin*; but as the Vessel, which will convey this letter is on the point of sailing, I must defer replying to such of them as require observations until the next opportunity.

I have, &c.,
BATHURST.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Marquis of Huntly; acknowledged by Governor Darling, 15th September, 1826.)

20 April.

My dear Sir, Downing Street, 20th April, 1826.

Copies of
newspapers to
be sent to
England.

Lord Bathurst has had occasion to call Sir Thomas Brisbane's attention to the expediency of his sending home by every opportunity regular series of the Colonial Newspapers. I have no doubt that, previously to your arrival, he will have taken measures for complying with Lord Bathurst's wishes on this point; but, as such consequence is attached to our possessing them, his Lordship has desired me to mention the subject again to you, for fear Sir Thomas Brisbane should have inadvertently omitted to give directions for their being regularly forwarded to England.

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

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Marquis of Huntly; acknowledged by Governor Darling, 15th September, 1826.)

21 April.

Sir, Downing Street, 21st April, 1826.

Proposed
land grant to
H. C. Antill.

I am directed by Earl Bathurst to transmit to you the enclosed Copy of a letter from Captain Antill, and to acquaint you that his Lordship has no objection to the additional Grant of Land, applied for by that Officer, being given to him upon the usual conditions, provided that the outlay of Capital upon his former Grant and the further means at his disposal give him a claim to favorable consideration; and that it shall not appear upon enquiry that Sir Thomas Brisbane had any particular grounds of objection thereto, when he declined acceding to Captain Antill's Request.

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

* *Marginal note.*—1825, No. 76, 16 August; 77, 10 Septem'r; 78, 29 August; 79, 30 August; 80, 7 Sept.; 81, 12 Sept.; 82, 13 Sept.; 83, 12 Sept.; 84, 1 Sept.; 85, 13 Sept.; 86, 28 Sept.; 87, 24 Sept.; 88; 89, 30 Sept.; 90, 3 Oct.; —, 10 Oct.; —, 10 Oct.; 91, 11 Oct.; 92, 10 Oct.; 93, 11 Oct.; 94, 25 Oct.; —, 15 April.

[Enclosure.]

1826.
21 April.

CAPTAIN ANTILL TO EARL BATHURST.

My Lord, Jarvisfield, N.S. Wales, 20th Septr., 1825.

I have taken the liberty of intruding on your Lordship's time and attention, trusting from the Statement of my case to receive such indulgence as your Lordship may think my past services deserving of.

Application
from
H. C. Antill for
additional
land grant.

I arrived in this Colony the latter end of the year 1809 on the Staff of the late General Macquarie, in which situation I remained till his return Home in 1822, a period of 12 years. Wishing to remain and settle in the Colony, I was placed on Half pay after serving my King and Country 25 years, 21 of which I have been in the East Indies and this Country with my Regiment, the 73d Regiment; on retiring, I received a Grant of 2,000 Acres of Land from the late Governor Macquarie, which was the utmost he could give me, he said, without orders from Home, but promised to represent my past service to your Lordship.

I have lately made application to Sir Thomas Brisbane for an extension of my grant adjoining my present Estate, which His Excellency has declined doing from the regulations lately received; but I have a promise of being allowed to purchase an additional 1,000 Acres.

As I have settled in this Colony with my wife and 3 Children, I trust your Lordship will take my past services into consideration and allow me to receive the additional quantity of Land as a gift from the Crown instead of being obliged to purchase it.

I have, &c.,

H. W. ANTILL,*

Captn. H.P. New Brunswick Fencibles.

 UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Marquis of Huntly: acknowledged by Governor Darling. 15th September, 1826.)

Sir, Downing Street, 21st April, 1826.

I am directed by Earl Bathurst to transmit to you the enclosed Application from Captain Skene, late of the 4th Veterans, in behalf of his Nephew, Mr. Skene Craig, who emigrated to New South Wales in the year 1824, and who is desirous of receiving a Grant of Land in that Colony. Should Mr. Craig be in a condition to comply with the terms on which Lands are now given, I am to request that you will comply with his Application.

Proposed
land grant to
Skene Craig.

I have, &c.,

R. W. HAY.

1826.
21 April.

[Enclosure.]

CAPTAIN SKENE TO UNDER SECRETARY HORTON.

Sir,

Aberdeen, 18th April, 1826.

Application for
land grant
on behalf of
Skene Craig.

I have the honor to adress you, at the request and on the behalf of my nephew, Mr. Skene Craig, who emigrated to Sydney, New South Wales, in the year 1824; since his settlement in that Colony, which he had selected for his future exertions, he has communicated to me an anxious wish to obtain a grant of Land under Government.

With the view therefore of forwarding his wishes, I use the freedom of requesting that you will be pleased to submit this application to The Right Honorable Earl of Bathurst, in order that directions may be issued by His Lordship to the Local Authorities to comply with Mr. Craig's solicitation to the extent and under the conditions usual in such cases.

I may state that Mr. Craig is 23 years of age, has received a liberal education, and has been regularly bred to business; he possesses an enterprising spirit, and, from his general habits and disposition, gives earnest of proving an industrious and respectable Colonist; at present he is under the guidance and protection of Commissary General Wymiss, who will afford the Colonial Government any information that may be necessary.

I have to apologise for this intrusion; but I trust that my anxiety for the interests of a deserving young man and the claims of an old Soldier, who has been disabled in His Majesty's Service, will plead an excuse; With sentiments of the Highest Respect,

I have, &c.,

A. C. SKENE, Captn.,
late 4th Royal Veterans

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 29, per ship Marquis of Huntly; acknowledged by Governor Darling, 15th September, 1826.)

22 April.

Sir,

Downing Street, 22nd April, 1826.

Approval
of rules of
supreme court.

I have received Sir Thomas Brisbane's despatch, No. 88, dated in the month of September last, submitting for the approval of His Majesty certain Rules of the Supreme Court of New South Wales, bearing date the 22nd June, 1825, made by the Chief Justice in pursuance of His Majesty's Order in Council, dated October 19th, 1824; and I have received His Majesty's Commands to signify to you His approbation of the same.

I have, &c.,

BATHURST.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Marquis of Huntly; acknowledged by Governor Darling, 15th September, 1826.)

1826.
22 April.

Sir, Downing Street, 22nd April, 1826.

In transmitting to you the Accompanying Memorial from Mrs. Fulloon, Superintendent of the Female Factory at Parramatta, respecting certain arrears of Salary which she states to be due on her own account as well as that of her late Husband, I have to acquaint you that, should the parties not have been paid their Salaries in the Colony for the period for which it is now claimed, there will be a balance due to Mrs. Fulloon, equal in amount to what she has stated, which you will be pleased to authorize to be paid to her.

Alleged arrears
of salary due to
E. Fulloon.

I have, &c.,

R. W. HAY.

[Enclosure.]

MRS. FULLOON TO EARL BATHURST.

Female Factory, Parramatta, New South Wales,

My Lord, 10th Octr., 1825.

When I arrived in this Colony, as Superintendent of this Female Factory at a Salary of 100 Pounds per Annum Sterling, and had Entered on the duties of my Situation,

Claim of
E. Fulloon for
arrears of
salary.

I made application for the Money due to me at the time of my arrival, deducting 6 Months from the date of my appointment (5th of April, 1823), which we received in England. But a doubt, having arisen in the Minds of the proper authorities here as to the period, when my Salary commenced, and no Dispatches on the subject having arrived to satisfy those doubts,

I would be much obliged by your Lordship ordering such Communication to be made to his Excellency the Governor, as will enable me to receive the Balance of Salary due to me, According to an order issued from your Lordship's office, dated the 15th Sepr., 1823, No. 19, 835.

My late Husband and myself received a Half years Salary, being up to the 5th of Octr., 1823.

I landed in this Colony on the 7th of May, 1824, *having received my Salary from that date only*, leaving due to me 7 Months and two days, the Period from the 5th of Octr., 1823, to the 7 of May, 1824; And, on account of my Husband, 146 days from the 5th of Octr., '23 to the day of his Death, which was on the 28th of Feby., following.

Hope that your Lordship in your Benignity will consider the great inconvenience this delay has caused me, and will cause to be forwarded to Me, as early as possible, the above information, I shall be in duty ever bound to pray. I am, &c.,

ELIZ' TH FULLOON, Superintendent.

1826.
23 April.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 30. per ship Marquis of Huntly; acknowledged by Governor Darling, 27th October, 1826.)

Sir, Downing Street, 23rd April, 1826.

Despatch
acknowledged.

I have received Sir Thomas Brisbane's dispatch of the 11th of October last, enclosing Copies of a Correspondence, which had taken place between himself, as Governor, and Mr. Saxe Bannister, as Attorney General, arising out of the refusal of the latter Officer to prepare a Bill pursuant to a recommendation of the Council previously to its being passed into a Law.

Appointment of
successor to
S. Bannister.

As it was deemed advisable by His Majesty, previously to the Receipt of that dispatch, to appoint another person* to succeed Mr. Bannister in the Office of Attorney General at New South Wales, in consequence of his desire to be relieved if the Salary annexed to that appointment was not increased to double the amount of his present Income, I do not think it necessary to trouble your Excellency with any remarks on the Correspondence in question.

I have, &c.,

BATHURST.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 31. per ship Marquis of Huntly; acknowledged by Governor Darling, 19th November, 1826.)

Sir, Downing Street, 23rd April, 1826.

Despatch
acknowledged.

I have received Sir Thomas Brisbane's dispatch, No. 85 of the 13th September last, in reply to one, which I had addressed to him on the subject of Ensign King's Appointment as Barrack Master in the room of Mr. McIntosh.

Approval of
removal of
C. McIntosh
from office.

Under the peculiar circumstances, which rendered Mr. McIntosh so totally unfit to discharge the duties of the Office, which he held, there cannot be a question of the propriety of his removal; and I should not have thought it necessary to have made any observations in reply to the late Governor's dispatch, had it not been in consequence of the Pension and allowances, which had been given to Mr. McIntosh conditionally, and which I now cannot consent to bestow upon a person so little deserving of consideration.

Pension refused.

Rations and
land grant
authorised.

From feelings of compassion, however, towards a numerous and helpless family, and out of regard to his long services, I am disposed to continue to Mr. McIntosh the rations which he has hitherto received, and to permit him to retain the Grant of Land, which has been made to him, if he should possess the means of bringing it into cultivation.

* Note 66.

Sir Thomas Brisbane having offered no explanations with reference to that part of Lieutenant King's conduct, which relates to alleged negotiation for the purchase of Mr. McIntosh's office, nor having instituted any Enquiries into the circumstances, I am led to believe that the statement is not entirely without foundation; and I have therefore no other alternative than to desire that you will select another person to fill the situation, to which that Officer has been appointed, unless he shall prove to your most perfect satisfaction that there are not the least grounds for the charge.

I have, &c.,

BATHURST.

1826.
23 April.

Proposed
removal of
E. King from
office.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Marquis of Huntly; acknowledged by Governor Darling, 15th September, 1826.)

Sir, Downing Street, 23rd April, 1826.

With reference to Lord Bathurst's dispatch of the 1st March last,* I am directed by his Lordship to transmit to you the enclosed List of Prisoners, selected from those Convicts recently embarked in the Ship "Chapman" for New South Wales, who in the opinion of His Majesty's Government are fit objects to be disposed of, in such manner as you shall deem fit, apart from the rest of the Convicts under your charge; but of these, the two, who are sentenced to Transportation for life, appear to be fit subjects to be transferred to Norfolk Island.

I have, &c.,

R. W. HAY.

Convicts
selected for
special
treatment.

[Enclosure.]

[This list contained the names and particulars relating to thirteen convicts.]

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 32, per ship Marquis of Huntly; acknowledged by Governor Darling, 15th September, 1826.)

Sir, Downing Street, 24th April, 1826.

24 April.

I have to acknowledge the receipt of Sir Thomas Brisbane's dispatch of the 18th of October last, in reply to a communication which I had addressed to him on the subject of Mr. Horton James' Application for a Building Allotment in the Town of Sydney; and I have the honor to acquaint you that I am perfectly satisfied with the explanation given by Sir Thomas Brisbane of the reasons, which induced him to decline acceding to the request of a person, who appears to have been so undeserving of any Indulgence from the Colonial Government, even had his application been one with which it would have been possible for them to have complied.

I have, &c.,

BATHURST.

Refusal of
building
allotment for
T. H. James
approved.

* Note 67.

1826.
24 April.

GOVERNOR DARLING TO MR. E. BARNARD.

Sir, (Per ship Leander.) 24 April, 1826.

Despatches
acknowledged.

I have the honor to acknowledge the receipt of Your Letters hereafter Specified, Vizt.

3rd August, 1825, Intimating that a Case containing Olive Plants has been Shipped on board the Mangles for this Colony.

8th August. Transmitting Copy of a Bill of Sale of the Hull of the Ship Phœnix, and intimating that the Bill drawn in payment thereof had been duly accepted by the Lords of the Treasury.

10th August. Transmitting Copy of the Instructions for the Management of the Lithographic Press, Shipped on board the Mangles, an account of the Expence of its purchase, as likewise the Cost of the Copying Machine, also Shipped on board the Mangles.

20th September. Transmitting Copy of a Letter from Mr. Hay, relative to the Course to be pursued in procuring information respecting Persons in New South Wales. I have, &c.,

RA. DARLING.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 33, per ship Marquis of Huntly; acknowledged by Governor Darling, 15th September, 1826.)

25 April.

Sir, Downing Street, 25th April, 1826.

Refusal of
W. Stewart's
application
for expenses
of passage to
colony.

I have received Sir Thomas Brisbane's Dispatch of the 10th of October last, transmitting for my consideration an Application from Colonel Stewart for some allowance to defray the expenses of his passage out to that Country, a request with which I am sorry to state that I cannot comply.

Even had Colonel Stewart been correct in stating that all the Civil Servants of the Colony received their Salaries from the date of their Embarkations in this Country, and that he was the only Individual whose pay did not commence from the same date, it does not follow that a similar Rule should be observed in his case, between which and the other cases, adverted to by him, there is this very material difference that, as the Appointment of Lieutenant Governor is not a permanent one being generally held by the Military Officer next in rank to the Commander of the Forces, an officer in the Colony was already discharging the duties and in receipt of the Emoluments to which Colonel Stewart now prefers a claim.

I have in addition to observe that Colonel Stewart's application is still less susceptible of favorable consideration from the circumstance of a Passage having been provided for him by the Commissioners of the Navy on board the "Asia" Transport, in which Vessel he appears to have embarked and proceeded to the Colony.

I have, &c.,

BATHURST.

EARL BATHURST TO GOVERNOR DARLING.

1826.
26 April.

(Despatch No. 34, per ship Marquis of Huntly; acknowledged by Governor Darling, 15th September, 1826.)

Sir, Downing Street, 26th April, 1826.

I have to acknowledge the receipt of Sir Thomas Brisbane's dispatch, No. 83, of the 12th of September last. Despatch acknowledged.

The communication, which I had the honor of addressing to you on the 1st April,* enclosing a Warrant under the Sign Manual appointing a Second Judge in the Supreme Court, renders it unnecessary for me to trouble you with any observations in answer to the late Governor's dispatch, excepting in reference to that part of it, which states that Mr. Stephen has been allowed to retain his situation as Commiss'r of the Court of Requests with the Salary annexed to that Office, so much being added to his former Income as will make his whole Salary as Puisne Judge equal to that of the Chief Judge at Van Diemen's Land. The mode resorted to by Sir Thomas Brisbane for the remuneration of Mr. Stephen in his new Capacity of Judge appears to have been highly proper under the circumstances of the case; but in consequence of the appointment, which has since been made of a person to succeed Mr. Stephen in his late situations, it will now be necessary to issue a separate Salary to Mr. Stephen at the rate assigned to him by my dispatch before adverted to, reserving the Salary, which he received as Commiss'r of the Court of Requests, as a means of remunerating his Successor, who will be entitled to receive half the amount of his Emoluments from the date of his embarkation until his arrival in the Colony, when he will enter upon the receipt of the full Salary annexed to that situation. Salary paid to J. Stephen.

I have, &c.,

BATHURST.

GOVERNOR DARLING TO MR. C. HERRIES.

(Per ship Leander.)

Sir, 26 April, 1826.

I have the honor to acknowledge the receipt of Your Letter of the 17 Sept. last, No. 16019, transmitting Copy of a Minute of the Treasury Board, dated 15th December, 1812, respecting the form in which Bills should be drawn for the Salaries of Officers, provided for upon the Civil Establishment of this Colony; and My Lords Commissioners of the Treasury may rest assured that the Instructions, therein contained, will be duly attended to. Instructions re bills on treasury.

I have, &c.,

RA. DARLING.

* Note 63.

EARL BATHURST TO GOVERNOR DARLING.

1826.
27 April.

(Despatch No. 35, per ship Marquis of Huntly; acknowledged by Governor Darling, 15th September, 1826.)

Sir,

Downing Street, 27th April, 1826.

Instructions
re additional
land grants.

With reference to the Thirty first and Thirty Second Paragraphs of the Instructions,* which were addressed to Sir Thomas Brisbane under date of the 1st of January, 1825, explaining the Principles, on which Grants of Land were in future to be made in New South Wales and Van Diemen's Land, I have to express my desire that no additional Grant shall be made to any Settler, who cannot prove to the most perfect Satisfaction of the Local Authorities that, besides having laid out the necessary expenditure on the cultivation of the Land, which has been already given to him, he has sufficient Funds in hand to employ, on the additional Grant for which he applies, in proportion to the improvement which the Regulations require.

I have, &c.,

BATHURST.

GOVERNOR DARLING TO UNDER SECRETARY HAY.

(Despatch per ship Leander.)

New South Wales,

Government House, 28th April, 1826.

28 April.

Sir,

Report re
G. Wesson.

I have the honor to acquaint you, in reference to your letter of the 5th November last, that George Wesson, the prisoner, therein alluded to, is reported to have died at Port Macquarie in the second quarter of the year 1825; and I beg leave to transmit the Enclosure, which was omitted to be forwarded with Sir Thomas Brisbane's Dispatch of the 13th of May last.

I have, &c.,

RA. DARLING.

[Enclosure.]

[A copy of the letter from major Goulburn to Sir Thomas Brisbane, dated 9th April, 1825, will be found on page 571, volume XI.]

GOVERNOR DARLING TO MR. E. BARNARD.

(Per ship Leander.)

Sir,

28 April, 1826.

Pensions
granted to
J. Clyde and
B. Field.

I have the honor to acknowledge the receipt of your Letter of the 28th September last, intimating that His Majesty has been pleased to order that Pensions should be paid, out of the Revenue of this Colony, to Mr. John Clyde and Mr. Baron Field, the former at the rate of Five Hundred Pounds Sterling per Annum

from the 16th of May, 1824, the latter at the rate of Four hundred Pounds Sterling per annum from the 4th February, 1824; and directions have been given to remit to you the necessary funds to meet the several demands, which will be made on you on the above and other accounts.

I have, &c.,

RA. DARLING.

1826.
28 April.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 36, per ship Marquis of Huntly; acknowledged by Governor Darling, 15th September, 1826.)

Sir, Downing Street, 29th April, 1826.

29 April.

The Australian Agricultural Company having submitted to His Majesty's Government certain proposals for undertaking the working of the Coal Mines at New Castle in New South Wales, I do myself the honor of transmitting for your information a Copy of the terms upon which His Majesty's Government have consented to grant to the Company a Lease of the same. The Instrument, by which the Mines in question are to be assigned to the Company, will be forwarded to you as soon as it is completed. But in the mean time, I am to desire that you will furnish to the Agent of the Company as many Convicts as can conveniently be spared from other Services for the purpose of repairing the Pier, from which the produce of the Coal Mines will be embarked, it having been represented to His Majesty's Government that the Pier in question has become, from neglect, almost wholly unserviceable.

Lease of coal mines at Newcastle to A.A. company.

Pier at Newcastle to be repaired.

I have, &c.,

BATHURST.

P.S.—Your Excellency will of course understand that the Company will be required to provide for the maintenance of the Convicts, who may be thus employed in the repairing of the Pier, as they will be the persons principally benefitted by the measure.

Convicts to be maintained by company.

[Enclosure No. 1.]

UNDER SECRETARY HAY TO THE DIRECTORS OF THE AUSTRALIAN AGRICULTURAL COMPANY.

Gentlemen, Downing Street, 7th July, 1825.

With reference to the proposals, which have been submitted by you for the consideration of His Majesty's Government for working the Coal Mines that have been discovered in New South Wales, founded on the recommendation of Mr. Commissioner Bigge* "that leases for terms of years should be granted of the Coal, reserving an annual Rent for the same with a certain proportion of the Coal raised," I am directed by Earl Bathurst to acquaint you that his Lordship is willing to grant to the

Lease of coal mines.

* Note 69.

1826.
29 April.

Conditions of
lease of
coal mines to
A.A. company.

Australian Agricultural Company a Lease of the Coal mines at Newcastle in New South Wales for the term of thirty one years, on the payment to the Crown by the Company, from the date at which they may come into possession of the Mines, of one twentieth part of the produce at the Market price of the day in the Colony, provided the Crown deems it advisable to dispose of the same to them. But, if disagreement should exist between the Crown and the Company as to what may be the Market price, that point is to be settled by two Arbitrators, mutually chosen with power to appoint the third.

As from the imperfect manner, in which the Coal mines have been hitherto worked on account of the Government, it is not possible accurately to ascertain the quantity of Coal capable of being raised, Earl Bathurst must reserve to the Crown the right of retaining a fifteenth portion of the produce instead of a Twentieth, should it be deemed expedient hereafter to alter the terms of the agreement with the Company in this particular. But you will distinctly understand that such additional portion will not be demanded, unless the result of the experiment of working them be such, as in the opinion of His Majesty's Government may justify the demand of an increase.

I have, &c.,

R. W. HAY.

[Enclosure No. 2.]

PRECIS OF THE CHARTER OF THE AUSTRALIAN AGRICULTURAL COMPANY.

Précis of
charter of
A.A. company.

1st. Grant not to be passed until His Majesty's Warrant has been obtained.

2d. Land to be valued at 1/6 per Acre, paying a Quit Rent of 30s. per £100.

3d. Exemption of Quit Rent for five Years from date of Grant.

4th. Quit Rent redeemable at 20 Years Purchase.

5th. If Quit Rent be redeemed in part, Payment of the Remainder to be continued.

6th. One free Superintendant to every 50 Convicts.

7th. Lands not to be alienated for 5 Years.

8th. 50,000 Acres may be alienated, when the Surveyor General shall have reported to the Governor and Council that £10,000 has been expended in improvements, and so on upon every Expenditure of £10,000 so reported.

Said Report to be enrolled in the Supreme Court.

Lands may be alienated upon the special License of Secretary of State.

Every Grant or Conveyance of land to be null and void, except the same refer to the Surveyor General's Report or Secretary of State's License, as the case may be.

9th. Quit rent not to be collected, until the expiration of 10 Years from the date of Grant; and the Arrears then due to be remitted, should it appear that the Company have maintained 600 Convicts for the greater part of the latter 5 Years.

1826.
29 April.

Précis of
charter of
A.A. company.

10th. Quit Rent, accruing for the 3rd period of 5 Years, to be remitted, if 1,000 Convicts have been maintained.

11th. Quit rent for the following 4 Years to be remitted, if 1,400 Convicts have been maintained.

12th. If after 20 Years the Treasury shall have been exonerated from a Charge equal to £100,000, all Payment of Quit Rent shall cease.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Marquis of Huntly; acknowledged by Governor Darling, 15th September, 1826.)

Sir, Downing Street, 29th April, 1826.

With reference to Lord Bathurst's dispatch of the 1st March last,* I am directed by His Lordship to transmit to you the enclosed List of Prisoners, selected from those Convicts recently embarked in the Ship "England" for New South Wales, who, in the opinion of His Majesty's Government, are fit objects to be disposed of in such manner as you shall deem fit, apart from the rest of the Convicts under your charge; but of these, the two, who are sentenced to Transportation for life, appear to be fit subjects to be transferred to Norfolk Island.

Convicts
selected
for special
treatment.

I am, &c.,

R. W. HAY.

[Enclosure.]

[A copy of this return is not available.]

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Marquis of Huntly; acknowledged by Governor Darling, 7th December, 1826.)

Dear Sir, Downing Street, 29th April, 1826.

Lord Bathurst, in his dispatch of 6th March, No. 18, forwarded to you a deposition of a Soldier of the Name of Kendrick, relative to certain transactions alleged to have taken place at the Mauritius connected with the Introduction of Slaves into that Colony. Since that Dispatch was written, we have received the Declaration of another Individual of the name of Higginson to the same effect. As the Abolitionists in this Country will endeavour to make out a case against the Colony, founded on the information derived from these and similar sources, we wish to be prepared with as many particulars as possible to invalidate their Testimony. It is with that view that I now trouble you with the enclosed paper; and, as I believe you were in charge of the Government of the Mauritius during some

Depositions re
slave traffic in
Mauritius.

* Note 67.

1826.
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part of the period alluded to, I shall be much obliged to you for any light which you may be able to throw on the subject to which these men have sworn in their Affidavits.

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

[Enclosure.]

Deposition of
R. Higginson re
slave traffic in
Mauritius.

DEPOSITION of Richard Higginson, resident in the Mauritius from the Capture of that Island, at which he assisted in the year 1810, to 1824.

RICHARD HIGGINSON, formerly Private of His Majesty's 22nd Regiment of Foot and now an Out Pensioner of Chelsea Hospital, also at one time Overseer of Indian Convicts employed in making roads in the Mauritius, being duly sworn on the Holy Evangelists of Almighty God, deposes and saith: that, in or about the month of June, 1821, being on a certain day, which he is now unable with greater precision to determine than in or about the said month and year, he recollects that, whilst on a visit to his friend, Corporal Richard Storey of His Majesty's 82nd Regiment of Foot, in the Command of a Military post, consisting of himself and three men, stationed at the "Bay du Cap" in the said Island of Mauritius, he saw, somewhere about 3 o'clock in the afternoon, a Schooner, which he well knew, and had himself been several times on board, and commanded by a White Man, whom also he well knew of the name of "John Louis" (Jean Louis), coming and come into the aforesaid "Bay du Cap," which it entered about one half the depth of the Bay. That deponent's friend Corporal Storey, according to his duty and in presence of Deponent, hailed the Schooner, so commanded, which Deponent knows by no other name than the name of the Resident Owner of the property Bel Ombre, to which she belonged, and hence called "Mr. Telfair's Schooner," and ordered the Captain, the aforesaid John Louis, to lower his boat and come and fetch him, Corporal Storey, on board, to see and inspect what was on board. To which John Louis, the Captain, in the hearing of the Deponent and from the Deck of his Schooner, replied, "Stop a bit" (arrestez un peu); and, whilst deponent and his friend were waiting for the boat to come to the side of the Bay, on which they were, Deponent, who, from the high ground on which he was, could very plainly see every thing around or beneath him, observed a great stir in the Vessel, and black people, who from the matting and plaiting of their hair and other marks he knew to be natives of Madagascar, come up from out of the hold of the Vessel, and go over her side into a boat, placed at the side of the Schooner to receive them; and one Pierre, a black man, whom Deponent well knew, and who frequently had told Deponent that he Pierre belonged to Govr. Farquhar, having placed himself in the place of helmsman, and three other Blacks, all evidently sufficiently used to the place to be called Old Slaves, having seated themselves as rowers in the Boat, made for the opposite side of the Bay, to that on which was the Military Post in this place rather more towards the mouth of the Bay than where the Schooner herself was at this time lying. Deponent saw the Black People, whom he had watched from the hold of the Schooner, Land, and at the Landing place perceived that certain persons were stationed to receive them, two of whom conducted the first two or three that put foot ashore into an adjoining wood, which here

stretches itself nearly down to the Sea side, and the other two waited near the boat and directed those, that next came out, to follow the steps of their companions into the wood, whilst the two who conducted them thither returned to superintend the rest of the Disembarkation. Thus was the first boat's load, consisting as Deponent believes of from 16 to 20 persons, landed and disposed of, and the boat returned to the Schooner for more. Corporal Storey, Deponent's friend still continuing to hail her and to order her Commander, the aforesaid John Louis, to lower his boat for him, Corporal Storey, to come on board. To which, John Louis only replied by an execrable Oath, telling Deponent's friend at the close thereof that he had no occasion for him (Corporal Storey), and saying in French, as well as Deponent can now describe it, "au farre Fouter ne pas besoin de vous." Whereupon Deponent's friend, in presence of Deponent, ordered his men to fire, *not* however *into* the boat, but *over* her, to bring her to; notwithstanding which, however, Deponent saw the Boat, by this time loaded again with the same description of persons, push off for the shore, which she duly reached, and landed about 20 more naked Madagascars or Malgache, in the face of Deponent and his friend in charge of the Post; the aforesaid Corporal Richard Storey, who seeing his power thus contemned and in fact obviously insufficient either for prevention or punishment, set off for the civil Commissioner or Magistrate of the district, one Mr. Blanchard; but Deponent remained behind with the three men of his friend's Regiment, the 82nd, and saw the boat for the third time loaded with Slaves, and, as before, push away for the shore, which, in like manner with itself on former occasions, it duly reached. Thus what Deponent considers as the whole Cargo were landed and lodged in a wood adjoining the property, to which the Vessel, they were landed from, belonged, and to which he concludes as a matter of course they were shortly conducted.

(Towards the mouth of the Bay is a depth of water of 12 or 14 feet; but higher up it is fordable, and still further on is a crossing formed of stones placed at certain distances and constituting a sort of imperfect causeway.)

They were all in a state of Nudity. Deponent says Corporal Storey returned to his post time enough to see the third boat, or boat for the third time, return to the Vessel; after which, between 5 and 6 o'clock as near as Deponent can judge, she set sail; but, unable from contrary winds to weather the point and get round to Bel Ombre, to which she was bound, she was, as Deponent observed whilst on his own Road to Bel Ombre, on which his party of convicts were employed in making roads, obliged to put back and return to Bay du Cap. On the return of Corporal Storey to Bay du Cap, which was previous to the departure of Deponent from thence, he reported to Deponent that Mr. Blanchard, the Magistrate, not liking the errand in which he Storey had come, told him to look to his men, mind his business, and, if anything were wanting, he, Blanchard, would supply it. Blanchard was at this time or had been, as Deponent believes, a part owner in Bel Ombre.

RICHD. ^{his}
X HIGGINSON.
mark

Sworn before me at the Mansion House, this 14th day of March, 1826, being first read to the Deponent.

London, 14th March, 1826.

WM. VENABLES, Mayor.

1826.
29 April.

Deposition of
R. Higginson re
slave traffic in
Mauritius.

1826.
29 April.

GOVERNOR DARLING TO EARL BATHURST.
(Despatch No. 12, per ship *Leander*.)

My Lord, Sydney, New South Wales, 29th April, 1826.

Identification of
W. Edwards as
A. Lockage.

I have the honor to acquaint you, in reference to your Lordship's Dispatch, dated the 20th of June last, No. 42, addressed to Sir Thomas Brisbane, that the person calling himself William Edwards, who was transported from the Cape, has been identified in the most satisfactory manner as the convict Alexander Lockage, who has made his escape from this Colony.

I have the honor to transmit, for your Lordship's information, a copy of the proceedings of a Board, appointed to investigate the fact, at which Mr. Carter, the Chairman of the Quarter Sessions, presided.

I have, &c.,
RA. DARLING.

[Enclosure.]

REPORT ON THE IDENTITY OF ALEXANDER LOCKAGE.

Report on
identity of
A. Lockage.

Sir, Police Office, Sydney, 13th March, 1826.

In obedience to the commands of His Excellency the Governor, expressed in your Letter, dated the 24th February, We formed ourselves into a Board for the purpose of investigating into the identity of the Prisoner, calling himself William Edwards, transported from the Cape of Good Hope to this Colony in December, 1824, and a Prisoner of the name of Alexander Lockage, who came to this Colony by the Ship *Atlas* in the year 1819 and who afterwards absconded.

The conclusion, we might come to, was a matter of so much importance to the individual concerned, that we have been led to take a mass of evidence, which may appear unnecessary. The conclusion, we have come to, is against the Prisoner; and it is a great satisfaction to us to be enabled to state that the evidence, we have the honor to transmit for His Excellency's consideration, is such as cannot leave a doubt on the mind of any unprejudiced individual that the prisoner, calling himself William Edwards, is Alexander Lockage.

Lockage came to this Colony in the ship *Atlas* in the year 1819, and, for some offence committed during his passage, was sent a few days after his arrival to Newcastle; the identity of the Prisoner, calling himself Edwards, with Alexander Lockage at Newcastle is most satisfactorily made out by the Affidavits of Isaac Elliott, John Smith and Henry Moore.

In the year 1821, Lockage was brought back to Sydney in consequence of his having been much crushed by the fall of a Cedar Log, by which accident his Collar bone was fractured and he was otherwise hurt. After his return from Newcastle, he was employed for some time as a Clerk in the Lumber yard and the Prisoners' Barracks, during which period he is identified by Lucas, Hutchinson, Brown and Chapman.

During this period, it was a part of his Duty to convey the sick from the Barracks to and from the Hospital. In the discharge of this duty, he was seen almost daily, and sometimes three or four times a day, by Drs. Bowman and Allan and Mattingly, the Overseer of the Hospital. When he was produced before Dr. Bowman,

he was immediately identified; and the Doctor stated that, if the Prisoner was Lockage that, upon his being examined, it would appear that his Collar bone had been fractured or dislocated and had been badly set. He was examined, and his Collar bone was found in the state described by Dr. Bowman. The same remark is applicable to the evidence of Dr. Allan.

1826.
29 April.

Report on
identity of
A. Lockage.

Lockage was afterwards assigned to Mr. Solicitor Wylde, with whom he lived till the death of that Gentleman, and, on the night of his death, absconded with, it was believed, a considerable sum of money, and was never heard of again until his being sent here as a convict from the Cape of Good Hope.

Since his arrival from that place, and while confined in the Prisoners' Barracks, he, in conversation with Chapman (see Affidavit No. 13), stated that he hoped Chapman would not testify too strongly as to his identity, as he had married a respectable woman.

The Prisoner brought three witnesses, Best, McCormick and Keans. The first stated that the Prisoner much resembled Alexander Lockage, but that he did not think the Prisoner was the man. The second, who is a Prisoner of the Crown, testified to the same effect; but he gave his evidence in such a manner as induced us to give no weight to his testimony. The last allowed that he never saw two persons so much alike as the Prisoner and Lockage, but stated that Lockage had, at the time he knew him, a contracted little finger and a swelled ancle, neither of which defects appear at present.

The evidences, produced against the Prisoner, though all (with the exception of the Medical Gentlemen) originally were prisoners, are now most of them men of property, and have all, from their good conduct for some years, acquired the character of respectable men; no possible motive can be imputed to them for giving the evidence, they have done, beyond that of its being the truth; and the situations, they respectively held, brought them so frequently in contact with the Prisoner that it is impossible they can be under a mistake as to his identity. We cannot help saying in conclusion that we consider the conduct of Lockage one of the most impudent impositions ever attempted.

We have, &c.,

WM. CARTER, J.P., Chairman.

F. ROSSI, J.P., Sup't of Police.

F. A. HELY, Sup't of Convicts.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 13, per ship Leander; acknowledged by Earl Bathurst, 2nd November, 1826.)

My Lord,

Government House, 30th April, 1826.

30 April.

I have the honor to report, for your Lordship's information, that William Curtin, found Guilty of the Wilful Murder of Joseph Jackson of Bringelly, and sentenced to suffer Death, has, in consequence of the extraordinary circumstances of the case, been reprieved until His Majesty's pleasure shall be known.

Reprieve of
W. Curtin.

I beg leave to enclose a copy of the Report of the Chief Justice in the case of William Curtin, which was submitted to the Executive Council at its sitting on the 21st January last, when his Honor produced the Notes, which he had taken on the Trial;

1826.
30 April.

Commutation
of sentence by
executive
council.

and, these having been fully gone into, it was the opinion of the Council that William Curtin should suffer the sentence, which had been passed upon him.

The accompanying Copy of the Minute of the Proceedings of the Council of the 17th of February last explain the circumstances, which subsequently occurred, and likewise express the opinion of the Council that the Sentence of Death, passed on William Curtin should in consequence of the event that took place when the sentence was carrying into effect, be commuted for hard labour and imprisonment for life at Norfolk Island; and I have the honor to acquaint your Lordship that the Prisoner has, in pursuance of that opinion, been removed to that Settlement.

- I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

CHIEF JUSTICE FORBES TO GOVERNOR DARLING.

Sir,

Sydney, 20th January, 1826.

I have to report the following case for your Excellency's consideration.

The King ag't William Curtin.

The Prisoner, together with one Thomas Ryan, was proceeded against by Information for the wilful murder of Joseph Jackson at Bringelly on the 31st of October last. The evidence against the Prisoners I beg permission to lay before Your Excellency, as it was taken down by me at the time of the Trial and appears upon my notes.

Thomas Ryan was acquitted; but the Prisoner William Curtin was convicted of the Murder, and I immediately passed sentence of Death upon him agreeably to the Act in such case, made to be carried into execution on Monday next.

There is no favourable circumstance, from which I can recommend the case of the unfortunate prisoner to your Excellency's merciful interposition.

I have, &c.,

FRANCIS FORBES, C.J.

[Enclosure No. 2.]

EXECUTIVE COUNCIL MINUTE NO. 5.

Council Chamber, 21st January, 1826.

Present:—His Excellency the Governor; His Honor The Lieut't Governor; His Honor The Chief Justice; The Colonial Secretary.

THE Council having been specially convened for the purpose of deliberating on the case of William Curtin, a Prisoner of the Crown, sentenced to suffer Death, the Minute of the former Proceedings on the 19th inst. being read and confirmed.

Report on
trial of
W. Curtin and
T. Ryan.

Confirmation of
death sentence
on W. Curtin
by executive
council.

His Excellency The Governor submitted to the Council the Report of His Honor The Chief Justice in the case of

The King ag't William Curtin,

who, together with one Thomas Ryan, was proceeded against by Information for the wilful murder of Joseph Jackson at Bringlely on the 31st of October last.

Thomas Ryan was acquitted; But the Prisoner William Curtin was convicted of the Murder, and sentence of Death passed upon him to be carried into execution on Monday next the 23rd instant.

No favourable circumstance appearing in the case of Curtin, after due deliberation it was considered by the Council that the Law should take its course.

The proceedings here closed and the Meeting was dissolved.

RA. DARLING.

H. DUMARESQ, Clerk of the Council.

[Enclosure No. 3.]

EXECUTIVE COUNCIL MINUTE NO. 6.

Council Chamber, 17th February, 1826.

Present:—His Excellency the Governor; His Honor the Lieut't Governor; His Honor the Chief Justice; The Colonial Secretary.

THE Minute of the former proceedings having been read and confirmed, His Excellency the Governor submitted to the Council the case of William Curtin, who was brought out for Execution on the morning of the 23rd Ultimo, in conformity with the sentence passed upon him and the opinion of the Executive Council, as appears in Minute No. 5.

On the Criminal being suspended, the rope slipped and he fell from a considerable height, and received much injury from the fall. This event and the circumstance of his having protested his innocence to the last moment excited strong feelings of interest in his fate; and the Deputy Sheriff was induced to suspend the Execution, until he could receive further orders. The sentence was in consequence respited, until the case could be brought under the consideration of the Executive Council; and it was submitted that the Sentence of Death, passed on William Curtin, should be commuted to hard labour and imprisonment for his natural life at Norfolk Island, which proposition met with the full concurrence of the Council.

The proceedings here closed and the Meeting was dissolved.

RA. DARLING.

H. DUMARESQ, Clerk to the Council.

1826.
30 April.

Confirmation of
death sentence
on W. Curtin
by executive
council.

Commutation of
death sentence
on W. Curtin
by executive
council.

GOVERNOR DARLING TO EARL BATHURST.

1826.
30 April.

(Despatch No. 14, per ship Leander; acknowledged by Earl Bathurst, 1st October, 1826.)

My Lord, Government House, 30th April, 1826.

Application of
W. Carter for
travelling
expenses.

Mr. Carter, the Chairman of the Quarter Sessions, having applied to me for an allowance to meet the expenses, to which he is subjected in proceeding to the different districts where the Sessions are held, it appeared to me adviseable to appoint a Board, in order to ascertain what might be considered a fair and reasonable allowance in this case.

Allowance
granted.

I have the honor to transmit to your Lordship the accompanying copy of the opinion of the Board; and, concurring with them that an allowance of One Hundred Pounds sterling per annum would not be more than sufficient to remunerate the Chairman of the Quarter Sessions for the expenses, which he must unavoidably incur in the performance of the Duty required of him, I have authorized the issue of that sum, until I shall be honoured with your Lordship's commands on the subject.

I have, &c.,
RA. DARLING.

[Enclosure.]

REPORT OF BOARD ON ALLOWANCES TO MR. CARTER.

Board Room, 25th March, 1826.

Report by
board on claim
of W. Carter.

THE Board having considered the application of Mr. Carter, Chairman of the Quarter Sessions for travelling expences, referred to in the Governor's Minute No. 32, dated the 10th February, 1826, and a letter from Mr. Justice Stephen to Mr. Carter, dated the 7th January last, enclosing a statement by which it appears that his Travelling Expences, while he acted as Chairman of the Quarter Sessions, exceeded £156 per annum, they are of opinion that, although this sum be greater than appears absolutely necessary, yet considering that, on an average Mr. Carter in attending the several County Sessions will be absent from home about 40 days in each year, and considering also the great expence in the means of conveyance and of living at Inns, they beg leave to recommend that One Hundred pounds per annum be paid to Mr. Carter to defray his Travelling Expences as Chairman of the Quarter Sessions.

ALEX. MCLEAY.
H. DUMARESQ.
W. WEMYSS.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 15, per ship Leander; acknowledged by Earl Bathurst, 29th September, 1826.)

1826.
30 April.

My Lord, Government Office, 30th April, 1826.

I have the honor to transmit for your Lordship's consideration the enclosed list of prisoners, for whom it appears by the Public Notice, dated the 26th November last, which accompanied the list, to have been Sir Thomas Brisbane's intention to have granted pardons.

Pardons
to convicts
proposed by
Sir T. Brisbane.

Many of these people have applied to me for such certificates, as have hitherto been usually delivered to prisoners when recommended for remission of their sentence. But I have apprized them that they cannot be put in possession of any Certificate or Instrument of Pardon, until the Pardon recommended be confirmed by His Majesty, as pointed out in the 35th Clause of the Act, 4th of George 4th, Chap. 96, and that their cases, in consequence of the intention expressed by Sir Thomas Brisbane, would be immediately transmitted for His Majesty's consideration.

There are not however documents, which show the grounds on which these Pardons were intended to be granted, or anything with respect to the cases of the Individuals, further than the intention expressed in the enclosed Government Notice.

I have, &c.,
RA. DARLING.

[Enclosure.]

NOTICE.

Colonial Secretary's Office, 26th Novr., 1825.

HIS EXCELLENCY the Governor has been pleased to give directions that Free Pardons may be prepared and submitted for his signature to the Individuals, whose names are specified below. Viz.

Pardons to
be granted to
convicts.

[Here follow 186 names; of these, 14 were nominated for free pardons and 172 for conditional pardons.]

F. GOULBURN, Colonial Secretary.

GOVERNOR DARLING TO UNDER SECRETARY HAY.

(Despatch marked "Secret and Confidential," per ship Leander; acknowledged by Earl Bathurst, 29th September, 1826.)

Sir, Government House, 30th April, 1826.

In reference to my Despatch of this date, No. 15, respecting the Pardons promised by Sir Thomas Brisbane to sundry Individuals immediately previous to his embarkation for England, I beg to observe that, from the hurry of the moment, he could have had little time to ascertain the nature of the Applications, which were pressed upon his attention or the merits of

Criticism
of pardons
proposed by
Sir T. Brisbane.

1826.
30 April.

Proposed
withdrawal
of pardons
promised.

the Individuals, in whose favor they were made. Many of these people, I apprehend, have but little claim to indulgence, and their Emancipation could not be attended with any good effect.

It will therefore be for my Lord Bathurst to consider whether, from the informality of the measure and the insufficiency of the Documents to enable His Majesty's Government to come to a decision on the several cases, Sir Thomas Brisbane's intentions may not with propriety be set aside, presuming that, had he had time to consider the effect of granting these pardons, he would not have interested himself in favor of persons, who could have no claim to his patronage or to the favour of Government.

I have, &c.,
RA. DARLING.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 16, per ship Leander; acknowledged by Earl Bathurst, 27th September, 1826.)

1 May.

Restrictions on
civil rights of
men holding
tickets of leave.

My Lord,

Government House, 1st May, 1826.

I have the honor to transmit, for your Lordship's information, the copy of a "Government Notice," explanatory of the situation of men holding "Tickets of Leave," which I have deemed it expedient to publish in order to remove any misapprehension with respect to the light, in which these people are considered by the present Government.

The pretensions of the "Ticket of Leave men" having been encouraged by the indulgences they had been accustomed to receive, and their cause having been advocated by the Newspapers, it appeared to me advisable to declare the principle, on which it was my intention to act with respect to them, that no individual of that Class would in future be licensed as a Publican or have a Convict assigned to him as a servant.

I need not point out the evils of the former practice; the profligate and abandoned found little difficulty, notwithstanding the Regulations, in obtaining "Tickets of Leave"; and, having obtained them, they were allowed to open public Houses and receive servants from the Government, the same as the free Inhabitants. Thus men of the worst characters, in the lowest situations of Life and totally incapable of supporting themselves by honest means, were allowed to have servants equally idle and vicious as themselves, the effect of which it cannot be necessary to enlarge upon.

I have now great satisfaction in stating that the Regulations and restrictions, imposed by the New Act for licensing victuallers, appear to have had the best effect; and, though the Ticket of

Leave men were disposed to be clamorous on learning they were excluded from receiving Licenses and servants as heretofore, finding the Measure was followed up with firmness, they yielded without further remonstrance; and I am decidedly of opinion the result will prove eminently beneficial to the Colony and to the individuals themselves.

I have, &c.,

[Enclosure.]

RA. DARLING.

GOVERNMENT NOTICE.

Colonial Secretary's Office, 13th March, 1826.

HIS EXCELLENCY the Governor, having directed that Prisoners of the Crown, though holding "Tickets of Leave," should not be licensed as Publicans, or be allowed to have Convicts assigned to them as servants, has deemed fit to explain the grounds, which have induced this decision.

1826.
1 May.
Government notice re prohibition of publicans' licenses or assigned servants for convicts holding tickets of leave.

No one can be more desirous than His Excellency to encourage the Prisoners, who have evinced a disposition to reform or to afford them every reasonable indulgence; but he cannot persuade Himself that a Prisoner, though holding a Ticket of Leave, which grants only a conditional release from immediate restraint, can have any claim to the Indulgence, alluded to, which, in His Excellency's opinion, should be reserved exclusively for the free Inhabitants. It is hardly to be supposed that a man, who, before the Commission of the crime which occasioned his Transportation, had never been in a situation of life to have a servant (which is the case of the Ticket of Leave men in general), can have any claim to such Indulgence from the circumstances of his having conducted himself inoffensively for four years subsequent to his Transportation. While undergoing the punishment, which the Law has considered necessary to the expiation of offences, the Offender can have no just pretension to extraordinary indulgence. But the proposition appears altogether inconsistent with a due regard to the ends of Justice and incompatible with a wholesome policy. Its adoption would do away with the beneficial effects of example, and destroy that distinction, which is so essential to the well being of Society. Besides it should be recollected, if the Ticket of Leave men have merited Indulgence, that a Ticket of Leave, which confers temporary Freedom, is in itself to a man, who has been sentenced to labour as a Prisoner, a Boon of no ordinary value. It furnishes to the industrious individual (wages being high in consequence of the great demand for Labourers and Servants) an opportunity of gaining an honest livelihood, and of laying up a sufficiency to establish himself comfortably at the period of his final enlargement; and at the same time it affords to the free Settlers and Inhabitants the means of obtaining husbandmen and other servants for their farms and Establishments. The Ticket of Leave Man, who is employed in a well conducted Establishment, agricultural or other, has the best chance of acquiring habits of Industry, and eventually becoming a useful member of the Community; while he, who depends on the resources of his Ingenuity or Talents for a casual support, or sets up a public House, as has hitherto been allowed generally (it may be said almost invariably), falls into a course of vice and dissipation, as detrimental to the Public as it is ruinous to himself, the proofs of which are unfortunately too numerous.

1826.
1 May.

Government
notice *re*
prohibition
of publicans'
licenses or
assigned
servants for
convicts holding
tickets of leave.

The Governor, therefore, as well to promote the happiness and welfare of the Individuals themselves by inducing them to pursue an honest and industrious course of life, as from a due regard to the good order of the Town and the Colony at large, has felt himself called on to direct that no Prisoner, holding a Ticket of Leave, shall be permitted to keep a Public House or to have a Convict assigned to him as a servant.

His Excellency trusts it will not be supposed that he is, therefore, inimical to their success; the contrary is the fact. He is anxious, by every proper means, to improve their situation, and promote their comfort; and they may rely on his favour and protection, so long as they conduct themselves in an orderly and respectable manner.

By His Excellency's Command,

ALEXANDER MCLEAY.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 17, per ship Leander.)

My Lord, Government House, 1st May, 1826.

Charter of
incorporation
for trustees of
church and
school estates.

I have the honor to acquaint your Lordship that the Charter of Incorporation of the Trustees for the Church and School Estates has been completed and published agreeably to the "Additional Instructions"* under the King's Sign Manual, which I had the honor to receive from your Lordship, dated the 17th day of July, 1825.

Preparation
of by-laws.

I beg to add that a special Meeting of the Trustees took place on Thursday the 27th Ultimo, when, after the formal inauguration of the Corporation, a Committee was appointed for the purpose of considering the Bye Laws, necessary for the regulation of the Corporation, and other matters of importance to its conduct and proceedings.

The Report of the Committee will be submitted for the consideration of the Trustees at the next General Meeting which, according to the Charter, will take place on the first Tuesday in the month of June next.

I have, &c.,

RA. DARLING.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 18, per ship Leander; acknowledged by Earl Bathurst, 7th October, 1826.)

My Lord, Government House, 1st May, 1826.

Sale of
government
cattle by
public auction.

I have the honor to enclose, for your Lordship's information, a statement of Government Cattle, which have lately been disposed of by Public Auction. The unnecessary accumulation of cattle, the care of which is attended with much trouble and expence, and the advantage, which the Colony would derive from

* Note 70.

the smaller Settlers being assisted in stocking their Farms, induced the adoption of the Measure. Many of the Settlers, from the want of means, were unable to improve their Farms and obtain Stock. The accommodation, which has been afforded them in procuring the latter, is not less advantageous to the Individual than it has proved beneficial and convenient to the Government, the Cattle having been sold at a long credit, the prices are proportionably high, and our Establishments have at the same time been relieved from a troublesome and unnecessary charge.

1826.
1 May.

Sale of cattle
on credit.

According to the terms of the sale, the purchasers are allowed six months credit, to be extended, if required, two years from the expiration of that time, on paying an interest of eight per cent. per annum for the latter period. By this arrangement, Government will receive Eight Thousand, two hundred and twelve pounds, ten shillings Sterling; and what appears of infinitely more importance, the purchasers (many of whose farms without this seasonable assistance would have remained neglected) will now be enabled to proceed with their improvements; and it is calculated that the produce of the Cattle will furnish the means of paying for the Stock now purchased by the time their Bills become due. It is my intention to submit to Your Lordship, as soon as I can find time to make the necessary arrangements, the expediency of placing the Government Establishments on a reduced scale. The necessity of keeping them up to the same extent as formerly no longer exists, and I am satisfied that many advantages would result from a judicious reduction.

Proceeds
of sale.

Proposed
reduction of
government
establishments.

I have, &c.,

RA. DARLING.

[Enclosure.]

STATEMENT of Government Cattle, sold at Parramatta on the 30th March, 1826, pursuant to Public Advertisement.

Return of cattle
sold by auction.

282 Cows; 90 Heifers; 471 Bull Calves; 282 Cow Calves; 160 Bullocks;—1,285.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 19, per ship Leander; acknowledged by Earl Bathurst, 1st October, 1826.)

My Lord, Government House, 1st May, 1826.

It appearing to me that a just and equal distribution of the Prisoners of the Crown is a matter of great importance to the Colony, the success of the Settlers in general depending on the assistance they receive in this respect, I have consequently given the subject much consideration since my arrival; and I

Distribution
of assigned
servants.

1826.
1 May.

Distribution
of assigned
servants.

have now the honor to enclose, for Your Lordship's information, a copy of the Regulations, I have established for the guidance of a Board, which has been appointed (in pursuance of the arrangement communicated in my letter of the 2nd of February last to Mr. Hay). to examine and report on the applications for Servants and Labourers.

I trust your Lordship will approve of the principle laid down, the object of which is to apportion the means, at the disposal of Government, in a fair and impartial manner with reference to the immediate wants of the Inhabitants.

The Regulations have appeared in the Newspapers, and I understand afford general satisfaction.

I have, &c.,
RA. DARLING.

[Enclosure.]

GENERAL REGULATIONS

Regulations re
assignment of
convicts to
settlers.

for the guidance of the Board, appointed to report on the Applications for Convict Servants and Labourers.

1st. Upon the arrival of a ship with Convicts, the principal Superintendent shall, as soon as they have been mustered, prepare and lay before the Board a correct List, classing the Individuals according to their Trades, etc., as likewise a List of the Applications for Servants or Labourers to be made out in the order in which the applications have been received. He is also to prepare and submit similar Lists, whenever the number of disposable Prisoners shall amount to Ten.

2nd. In assigning Convicts, Preference will be given to the claims of New Settlers, as their being enabled to proceed in improving or stocking their Farms must depend on their receiving the necessary assistance in this respect.

3rd. Applications for a particular description of Servants will, as far as circumstances admit, be complied with. When Mechanics are required, the Board will make out a Separate List, noting the number which the Applicant has already received from Government.

4th. Labourers applicable to Husbandry will be assigned to Settlers in the Country, in preference to persons residing in the Towns.

5th. No Convict will be assigned to any non-resident Settler, who does not employ a free Steward or Bailiff of good character, who must reside on the Farm or Property.

6th. Other claims being equal, Preference will be given to persons of moral character, who pay due attention to the conduct of their servants.

7th. Masters, who frequently return their servants to Government, will not be supplied with others, until all applications, from less exceptionable persons, are complied with.

8th. No convict will be assigned to any person, who shall be known to treat his servants with inhumanity, or who does not supply them with proper Food and Clothing.

9th. No convict will be assigned to any person, who shall be known to have let his Servant out for Hire, or to have permitted

him to work out on his own account, or who may not be in a condition of Life to maintain a servant in a proper manner, or possess the means of giving him constant employment.

10th. No convict will be assigned as a servant to a Convict, though holding a Ticket of Leave.

11th. No convict will be assigned on arrival to his or her wife or husband, or to his or her relation, or to any person applying for a particular individual. The ends of Justice would be defeated by such assignment, and evil consequences could hardly fail to result from it.

This indulgence will be reserved as the reward of good conduct. When any Prisoner shall have proved himself deserving of it, his claim will be immediately attended to.

12th. The Board will communicate direct with the Principal Superintendent of Convicts on all matters of detail, connected with this subject, and he will afford the Board every necessary information.

13th. On such points as the Board may require Instructions, application is to be made to the Colonial Secretary, who will signify the Governor's pleasure on the subject.

14th. The Board will not make known the proposed distribution of the Convicts to be assigned, until their Report shall have been submitted for His Excellency's consideration, and the necessary directions have been given thereon.

Given under my hand at Government House, Sydney, this ninth day of March, 1826.

RALPH DARLING,

By his Excellency's command,

ALEXANDER MCLEAY.

GOVERNOR DARLING TO UNDER SECRETARY HAY.

(Despatch marked "Most Private and Confidential," per ship Leander.)

My dear Sir,

Sydney, 1st May, 1826.

I have hitherto abstained from troubling you with anything in the shape of private Correspondence, and I should have continued to do so, did I not think that letters, having the character of an official Communication, though designated Secret and Confidential, must be more liable to exposure than those intended, as this is, for your personal information. I have wished to avoid saying anything respecting the state of Parties here, hoping, from the course I have pursued since my arrival, that every feeling of discord would have been put to rest. I cannot, however, flatter myself that any such effect has been produced; and I shall, therefore, advert to the cause of the irritation which, unluckily for the comfort of society, still exists. Mr. McArthur called on me two days ago, and, after some general conversation, informed me of his intention to appeal to me Officially as a Member of this Government, in consequence of the manner in which he had been mentioned in the Sydney

1826.
1 May.

Regulations re
assignment of
convicts to
settlers.

Party feeling
in colony.

Complaint by
J. Macarthur
re references
in Sydney
Gazette.

1826.
1 May.

Refusal of
Darling to
support
J. Macarthur.

Relations of
J. Macarthur
with colonial
press.

Gazette. I observed that I did not immediately recollect any allusion to his Public Character as a Member of Council. and that I was not aware I could interfere with propriety in any private matter. He said, he conceived I was bound to defend the Members of the Government, on whatever ground they might be attacked, and that, in justice to himself, he should make his Appeal. I then replied, I was happy he was not the first person, who had applied under similar circumstances; as, whether right or wrong in the line I had adopted, he must be satisfied I was acting on principle, and that, in declining to espouse his cause, he must see it did not proceed from any disinclination personally to meet his wishes. He expressed himself with much warmth respecting Mr. Howe, the Editor of the Gazette, and said he would satisfy me, by selections from his Paper, that he had been libelling him for the last Six Months. I could not refrain from observing that I had supposed a better understanding had subsisted between them of late; Mr. McArthur, not more than a fortnight or three Weeks past, having informed me he was then writing in the Sydney Gazette against the "Australian," and appeared to take much credit for the severity of his strictures. I should observe that these Articles were not inserted as from an unknown Person, but, in Consequence of an understanding between him and the Editor. I cannot, therefore, very well comprehend the justice of his present complaint against Mr. Howe, as to anything that may have occurred previous to the reconciliation. At any rate, I observed, if Mr. Howe had libelled him, it could only have been in his private Character; that the Law was open to him, as it was to any other Individual; and I trusted he would see that I could not interfere without implicating the Government in the Conduct and Concerns of every person connected with it. In saying this, you will perceive I only followed up the principle laid down in my Secret and Confidential Letter of the 6th of March.

General
criticism of
J. Macarthur.

It is painful to observe that Mr. McArthur's information and talent are rendered nugatory and unavailable by his intemperance and violence. It is impossible for me to consult him, as I should otherwise wish, as, in so doing, I should embroil myself with the Community, to whom he has rendered himself extremely obnoxious; and I have reason to know that my having raised the Character of the Government to the situation, on which it now stands, is to be ascribed entirely to the Conviction of every Individual under it, that no Person, whatever his situation may be, is allowed to exercise any improper influence in the administration. Mr. McArthur declares publicly that he is determined

to "destroy" Mr. Howe; and very significantly informed me he had never Yet failed in ruining a Man, who had become obnoxious to him. I understand, when speaking to others, he does not except even *Governors*. He is a Man of strong passions, and observes no medium in anything. He is equally ardent in his exertions to serve as he is to injure. The support of Doctor Halloran is now his favourite object, as establishing the Australian Bank was lately; And the Meetings, on both these occasions, have been characterised by the most intemperate proceedings. Naturally factious and turbulent, he considers the accomplishment of his Plans as secondary to the subjugation of his opponents. His few adherents are consequently tame and subservient. At the close of our Conversation, I endeavoured to make an impression on him by observing how different his situation would have been here, had he pursued another line of conduct; that his talents and wealth would have placed him at the head of this Society; his influence would have been unbounded; and he would have been esteemed and respected by every one. But that he must be aware people would not submit to indiscriminate insult and abuse. He replied, he once thought as I did, but I would soon know the people I had to deal with. I must, however, observe that so far I have never met with a more quiet, orderly or apparently better disposed set of People, and that the only instances of disorder, which have come to my knowledge, have been at those meetings, at which Mr. McArthur has taken the lead. It is incumbent on me to say that the people, to a Man, appear loyal and *devoted to the Government*.

When speaking of Doctor Halloran, you will recollect the private Note you wrote me respecting him on my leaving England. I could not but express my regret that he had not been able to find a better cause to support, and that any Merit, he might possess as a Teacher, was greatly overbalanced by the course of his life, even during his residence in the Colony. He admitted he had not been moral, but said he was now married again. His Son has been employed in the School, but, in consequence of a charge of misconduct, has lately resigned. Whatever Mr. McArthur's motives may be, and his support of Doctor Halloran has been some Expense to himself and his friends, it is impossible he can entertain any respect for his character. I had almost said, You will observe how unpleasantly and critically I am situated. I do not mean with respect to Mr. McArthur personally, as we appear to be on the best terms, and I cannot but suppose he is well disposed to my Administration, as he lauds it on all occasions, and never fails to assure me that nothing

1826.
1 May.

General
criticism of
J. Macarthur.

Advice given to
J. Macarthur.

Support
given to
L. Halloran by
J. Macarthur.

1826.
1 May.

Party under
leadership of
J. Macarthur.

Cause of
unpopularity of
archdeacon.

J. Macarthur
the disturbing
element.

can be more popular. In mentioning how unpleasantly I am situated, I meant to allude to the Party feeling, or rather the disunion of certain Members of the Government; still, though they generally agree in their dislike of Mr. McArthur, there is no united opposition against him, and there is in fact but one Party, of which he is the Head, and to which the Archdeacon, the Attorney General and the Surveyor General belong. I understand the Archdeacon joined him immediately on his arrival, and even still occupies a House (rent free) of Mr. McArthur's in the Grounds with his own, which circumstance, considering the violent Politics of the one and the Professional Character of the other, have served to indispose the People, and he is extremely unpopular. He has no judgement, and never will be respected. The Attorney General, whom I have mentioned of this Party, is a Philanthropist almost in the extreme, often misled by an injudicious zeal, but indefatigable, conscientious and honorable in the highest degree. The Surveyor General, who is a clever Man and a useful Officer, is also of this Party. And these, with Mr. Bowman, the Surgeon, who is married to Mr. McArthur's daughter, Constitute the whole of this Party. It will be seen from this that the want of Harmony in this Society is to be ascribed solely to one individual; and this can be proved in a moment by reference to the News Papers. With the exception of the Angry discussions, I have alluded to, everything has gone on peaceably and pleasantly. And I am quite Convinced that the Inhabitants are desirous that all animosities should be forgotten, as I never fail to recommend, and a friendly understanding be established. But I see no chance of this as long as Mr. McArthur lives. I cannot perhaps give you a better proof of the total absence of all pretension or Party Spirit on the part of the Emancipists, than by stating the fact that there was *not one* Individual of that Class at the Entertainment, given here on the King's Birthday, though 200 People were present. Even the "Australian" does not complain of their exclusion, but speaks of the Company as respectable and select. Had it not been for the Complaints of Mr. McArthur and the Archdeacon, I should have claimed some Credit for the tone this Paper has assumed, and for the terms generally in which the Government is spoken of, as indicative of the happiness of the Inhabitants and the satisfaction they feel. It is deeply to be lamented that it is liable to be interrupted or disturbed. If one Man by his intemperance and another by his *wrongheadedness* render themselves obnoxious, and lay themselves open to the animadversions of the Press, the Government surely is not bound to make their quarrels its own,

and implicate itself by defending them. You will, I am satisfied, be appealed to. But I cannot have mistaken my ground, and am under no apprehension of its being considered indefensible. Let me hope you will Cast Your Eye over the Papers, which are sent by this opportunity. You will see we have not always agreed with respect to the "Publicans" and "Ticket of Leave Men" for example, But even the "Australian" has yielded in the end to the firmness and temper, with which the measures have been persevered in. There has been no Compromise; the Government has Confidently maintained its ground, and is, as I trust it will henceforth Continue to be, highly respected. I have only to entreat You will not allow yourself to be persuaded that matters are not going on perfectly well, whatever may be said to the Contrary. The Archdeacon, I know, is an *alarmist*, and would lead one to suppose, who had no opportunity of knowing the fact, that some great Convulsion was at hand; the Colony is, however, perfectly tranquil, and, as the Corporation for the Church and School Estates is now in activity, I trust he may find ample employment for his mind and his Pen. I cannot sufficiently apologise to you for having so long employed mine to your inconvenience. But, as it appears to me of great importance that you should be correctly informed of the Actual state of matters here, and as I am not without apprehension of some attempt to misrepresent me, You will, I am persuaded, excuse the intrusion.

1826.
1 May.

Attitude of
press towards
government.

Character of
archdeacon.

I remain, &c.,

RA. DARLING.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 20, per ship Leander.)

My Lord,

Government House, 2nd May, 1826.

2 May.

I have the honor to transmit, agreeably to the Orders contained in your Lordship's Despatch, dated the 22nd August last, No. 17, a List of the names of those Convicts, who are supposed to have escaped from this Colony during the year 1825; and I have further the honor to acquaint your Lordship that a regular Series of the *Sydney Gazette*, from the commencement of the present year, has been forwarded to the Secretary of State for the Home Department, and will be continued as opportunities offer.

Return of
escaped
convicts.

Transmission
of copies of
Sydney Gazette.

I have, &c.,

RA. DARLING.

[Enclosure.]

[This return was dated 12th April, 1826, and contained the names of sixteen convict escapees.]

1826.
2 May.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 21, per ship Leander; acknowledged by Earl Bathurst, 2nd October, 1826.)

My Lord,

Government House, 2nd May, 1826.

Allowance to
W. Stewart.

I have the honor to transmit the enclosed copy of an application from Colonel Stewart, the Lieutenant Governor, for an allowance in lieu of Forage for two horses in his Civil capacity, which I have authorized, considering the allowance fair and reasonable; and I trust your Lordship will be pleased to approve and confirm it.

Services of
W. Stewart.

It will be my duty, hereafter, to draw your Lordship's attention more particularly to the Services of Colonel Stewart. I shall therefore satisfy myself in the meantime with assuring your Lordship that he is a most zealous and, from his knowledge of Business, a most useful member of this Government under present circumstances.

I have, &c.,

RA. DARLING.

[Enclosure.]

LIEUTENANT-GOVERNOR STEWART TO COLONIAL SECRETARY McLEAY.

Sir,

Sydney, 24th March, 1826.

Application of
W. Stewart
re forage
allowance.

I have the honor to represent, for the information of His Excellency The Governor, that hitherto I have received a forage allowance for two horses only, the same as Majors in command of Regiments; whereas I have found it indispensably necessary to keep at least four horses to enable me promptly to execute the various duties, Civil and Military, which are incidental to my situation as Lieut. Governor and as the senior Military Officer next to His Excellency in this Country.

Upon enquiry, I find that my predecessor, Colonel Erskine of the 48th Regt., always kept four horses, although he was never employed in the performance of any other duty than merely the command of his own Regiment, there being no other Troops at that period in the Colony with the exception of two Veteran Companies. And, from what I hear, I am led to believe that he was allowed forage for two of his horses as Commanding Officer of his Regiment, and forage for two more in his civil Capacity as Lieut. Governor.

Under all the circumstances of the case, I am therefore induced to request you will be pleased to bring the subject under His Excellency's consideration at your earliest convenience, and which, in common justice to myself, I should have solicited at an earlier period, had I not been aware how much his valuable time has been occupied with the pressure of numerous and important arrangements.

I have, &c.,

WILLIAM STEWART.

GOVERNOR DARLING TO EARL BATHURST.

1826.
2 May.

(Despatch No. 22, per ship Leander; acknowledged by Earl Bathurst, 2nd October, 1826.)

My Lord,

Government House, 2nd May, 1826.

In consequence of a letter from Mr. Barnard, the Colonial Agent, dated the 7th of January, 1825, signifying, by your Lordship's desire, that Three hundred pounds had been issued to Dr. Douglass, while in England on account of his going Home and returning to this Colony, I was induced to enquire whether Dr. Douglass had received any money in advance on his embarking for England in the month of February, 1824. I have been informed that, on his appointment as Commissioner of the Court of Requests on the 10th February in that year, Dr. Douglass received an advance of two thousand Spanish Dollars, and that he embarked on the 23d of the same month without having done any duty.

Advances
made to
H. G. Douglass.

It appears he remained at Home until the 19th of February, 1825, when he embarked on his return to this Colony and received, by Sir Thomas Brisbane's Warrant, his full salary as Clerk of the Council from the above date.

Payment of
salary as
clerk of council.

The Two thousand dollars, advanced to Dr. Douglass previous to his Embarkation for England in February, 1824, and the Three Hundred pounds, issued to him by the Colonial Agent, are equivalent to Eight hundred pounds Sterling, the Salary of the Commissioner of the Court of Requests for one year. The Question therefore is First, whether Dr. Douglass, not having done any duty in the Court of Requests, is to retain the salary in consequence of the Mission, on which he was employed by the late Governor; and secondly, whether he is to receive full Salary as Clerk of the Council from the date of his Embarkation from England until his arrival here, or only half Salary agreeably to the existing Regulations.

Total sum
advanced to
H. G. Douglass.Salary to
be paid to
H. G. Douglass.

I request to be honored with your Lordship's Commands on these points, and beg leave to enclose an Extract of a letter from Dr. Douglass on the subject of the monies received by him.

I have, &c.,

RA. DARLING.

[Enclosure.]

EXTRACT of a letter, addressed by Dr. Douglass to the Colonial Secretary, dated Sydney, Feby. 23rd, 1826.

Explanation by
H. G. Douglass
of payments
made.

FOR full and, I trust, most satisfactory information why part of my salary, as Commissioner of the Court of Requests, was paid to me in advance, as well as why certain sums of money were

1826.
2 May.

Explanation by
H. G. Douglass
of payments
made.

paid to me in England by the Colonial Agent under the authority of Lord Bathurst, I beg to refer you to a Despatch, of which I was the Bearer from His Excellency Sir Thomas Brisbane to Earl Bathurst, dated 21st of Feby., 1824.

I did not officiate as Commissioner of the Court of Requests; for, in the interim between my appointment in Feby., 1824, and the arrival of the Charter, I was ordered to embark for England on duty, which I did on the 23rd of that month. I arrived in England on the 5th of August following, was nominated by Lord Bathurst Clerk of the Council in September, and embarked for this Colony, the 19th of February, 1825, from which day my salary as Clerk to the Council commenced.

I arrived in the Colony on the fourth of July, and entered on the duties of my Office on the first of September, and have received my salary up to the 19th day of this present month, being for one year.

I have, &c.,

HENRY G. DOUGLASS

GOVERNOR DARLING TO MR. E. BARNARD.

(Per ship Leander.)

Sir,

2nd May, 1826.

In reference to Your Letter of the 7th January, 1825, respecting the advance of *Three Hundred Pounds Sterling* to Doctor Douglass, I beg leave to refer You to my Despatch to the Earl Bathurst dated this day No. 22.

I have, &c.,

RA. DARLING.

GOVERNOR DARLING TO MR. E. BARNARD.

(Per ship Leander.)

Sir,

2nd May, 1826.

I have the honor to acknowledge the receipt of Your Letter of the 4th September last, intimating that a Pension to the amount of *Four Hundred Pounds Sterling* per annum had been granted to the Widow of the late Major General Macquarie, to commence from the 1st July, 1824, and to acquaint you that Instructions have been given to furnish you with the necessary Funds to meet this and other demands.

I have, &c.,

RA. DARLING.

Advance
made to
H. G. Douglass.

Pension for
widow of
L. Macquarie.

GOVERNOR DARLING TO EARL BATHURST.

1826.
3 May.

(Despatch No. 23, per ship Leander; acknowledged by Earl Bathurst, 2nd October, 1826.)

Sir, Government House, 3rd May, 1826.

I have the honor to acquaint your Lordship that, in consequence of Your Despatch dated the 20th of June last, No. 40, addressed to Sir Thomas Brisbane, respecting the employment of the Reverend Mr. Reddall as Director of the Public Schools, a letter was addressed to that Gentleman by my desire, to which he returned an answer of which the Enclosure No. 1 is a Copy.

Employment of
Rev. T. Reddall
as director of
public schools.

On the Return of the Archdeacon from Van Diemen's Land, an application was made to him for information with respect to Mr. Reddall's employment, since his arrival in the Colony; and I have the honor to transmit the accompanying Extract No. 2 of Mr. Scott's reply. Mr. Reddall, however, having stated to the Colonial Secretary that he considered himself as Director of the Public Schools, until he received the Communication made to him by my Directions, no orders having been given to the contrary; and knowing that he had drawn the salary even much beyond that period, I have acquiesced in his retaining it to the 6th of February last, until your Lordship's pleasure shall be known; and I beg to recommend it may be allowed to that time, as being now obliged to refund it would subject Mr. Reddall to serious inconvenience.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

THE REVEREND THOMAS REDDALL TO COLONIAL SECRETARY
MCLEAY.

Sir, Campbell Town, 6th February, 1826.

I have the honor to acknowledge the receipt of your favor of the 26th inst., and in reply I beg to make known to His Excellency the Governor that, when his predecessor Sir Thomas Brisbane judged it expedient to give me the appointment of Director General of the Government Schools here, he, His late Excellency, issued a General Warrant, which was deposited in the Colonial Treasurer's Office, for the payment of my salary quarterly at the rate of £300 Sterling per annum.

Salary of
Rev. T. Reddall
as director
of schools.

I have further to make known respectfully to His Excellency that, having received no communication until the receipt of your favor now before me, either officially or otherwise, that my appointment as Director of the Schools was intended by the Secretary of State to cease on the arrival of the Venerable the Archdeacon, I have attended to the duties of that appointment

Continued
attendance
to duties.

1826.
3 May.

up to the present moment, and have received my quarterly payments for such duties, regularly to the end of the quarter terminating the 18th November last.

Request for
quarter's
salary.

Under these circumstances, I have to hope that His Excellency will give me the privilege of the appointment to the end of the present quarter, having incurred some heavy expences during the time in travelling from Station to Station.

When again in Sydney, where I hope to be at the beginning of next week, I should feel gratified in being favored by an interview with the Governor, to whom I should be happy to give any further information, His Excellency might require.

I have, &c.,
THOMAS REDDALL, D.G.P.S.

[Enclosure No. 2.]

Relations
between
archdeacon and
Rev. T. Reddall.

EXTRACT of a Letter from Archdeacon Scott, addressed to the Colonial Secretary, dated Parramatta, 25 March, 1826.

IN reply to your letter of the 10th Ultimo, and received by me on the 24th Instant on my return from my Visitation to Van Diemen's Land, informing me that the Governor is desirous of being made acquainted with the nature of the Revd. T. Reddall's employment, as Director General of the Public Schools, since my arrival, I have to acquaint you, for His Excellency's information, that no directions have been given that Gentleman by me, nor have I received any official communication from him in that capacity.

I have, &c.,
T. H. SCOTT.

GOVERNOR DARLING TO UNDER SECRETARY HAY.

(Despatch per ship Leander; acknowledged by under secretary Hay, 5th October, 1826.)

Sir, New South Wales, Government House, 3rd May, 1826.

Temporary
provision
made for
John Raymond.

I have the honor to acknowledge the receipt of your letter of the 11th of September last recommending Mr. John Raymond, and I beg leave to enclose, for my Lord Bathurst's information, a Minute which I have drawn up with a view to making the necessary temporary provision for that gentleman and his family. The Salary and Fees of the Coroner at Parramatta amount to about Fifty Pounds a year, so that altogether Mr. Raymond will receive Two Hundred and thirty four pounds per annum, and, where House Rent is so high, it would be almost impossible for so large a family to live with any degree of comfort on a smaller sum.

Appointment
as coroner.

You will observe by the Minute that the arrangement is only temporary, it being my intention to place Mr. Raymond in such other situation as he may be fit for, when a vacancy occurs. I cannot, however, think, from what I have seen of him, that he is likely to prove a very useful servant of the Government.

I have, &c.,

RA. DARLING.

[Enclosure.]

MINUTE NO. 10 BY GOVERNOR DARLING.

3rd May, 1826.

LET Mr. John Raymond be informed that, in consequence of Instructions received from the Earl Bathurst (Letter from Mr. Hay, dated 14th Sept., 1825), I have appointed him Coroner at Parramatta with the following allowances, vizt. £50 Sterling a year in addition to his Salary; £1 a week in lieu of Rations for himself and Family; and £1 11s. 6d. a week on account of lodgings.

Appointment of
J. Raymond
as coroner.

His Lordship has signified that Mr. Raymond's being a case which has been decided on its own peculiar merits is not to be brought into precedent. Let it be signified to Mr. Raymond that this arrangement is to be considered as temporary, these allowances being granted only until he shall be enabled to make the necessary arrangements for his Family, and that, as soon as any means shall occur of making other provision for him, they will be discontinued.

RA. DARLING.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 24, per ship Leander.)

My Lord,

Government House, 4th May, 1826.

4 May.

In obedience to the Commands communicated in your Lordship's Dispatch, dated the 23rd February, 1825, No. 20, I have the honor to forward to your Lordship the accompanying Returns, shewing the state of "Crime and Punishment" according to the Form No. 1, transmitted with your Lordship's Dispatch, as far as has been found practicable. In future, these Returns will be prepared agreeably to the prescribed form and be forwarded as directed.

Return of
crime and
punishment.

The preparation of the Returns of the "Grants of Land which has been made" and "the state of the Grant attaching System," called for by the same Dispatch, is attended with much difficulty. They are not yet completed, but are in a state of forwardness, and I hope will be ready for transmission by the next opportunity.

Further
returns in
preparation.

I have, &c.,

RA. DARLING.

[Enclosures.]

[Copies of these returns are not available.]

1826.
4 May.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 25, per ship Leander; acknowledged by Earl Bathurst, 7th October, 1826.)

My Lord, Government House, 4th May, 1826.

Measures
adopted for
suppression of
bushranging.

In reference to my Despatch, dated the 6th of March, No. 11, on the subject of the Bushrangers, who had been convicted and subsequently suffered Death, I have now the honor to acquaint your Lordship that, with a view of preventing as far as possible any assemblage of Bushrangers and the commission of further depredations, I have detached rather a large portion of the Troops, retaining those only in Sydney which are necessary for the protection of the Town.

I beg to enclose, for your Lordship's information, copy of an Order, which I have issued on the occasion; and I am happy to add that the Measure has afforded general satisfaction and given confidence to the Settlers in the Country.

There are still some Bushrangers at large in the Bathurst District, where the mounted Police have been very usefully employed. They have been repeatedly engaged, and the Serjeant and Corporal have each killed a man in the late rencounters.

It is my intention to add a few men to the mounted Police, so as to complete them to at least Thirty five or forty men. I should have stated that part of the present numbers are employed at Hunter's River, where they have been very active and serviceable. In both quarters, the Corps is much dreaded by the Runaways and Bushrangers.

Allowance
granted to
commandants
at Bathurst and
Parramatta.

I have now only to express my hope that your Lordship will be pleased to sanction an allowance of ten shillings a day, which I have felt it necessary to grant to the Commandants of Bathurst and Parramatta. I do not intend that they should receive any extra allowance either for Horses or any other purpose; and I assure your Lordship that the sum now proposed is not more than adequate to the additional expenses, to which these Officers must be subjected in fulfilling in a proper manner the duties of their respective Stations.

I have, &c.,
RA. DARLING.

[Enclosure.]

GOVERNMENT ORDER.

Colonial Secretary's Office, 21st March, 1826.

General order
re troops
detached for
suppression of
bushrangers.

THE Governor has been pleased to direct that the following Copy of a General Order, which has been issued to the Troops, shall be published for the information of the Public at large.

His Excellency requests that the Magistrates and Gentlemen of the Country will use their endeavours to promote its circulation.

It is no less desirable that the Settlers should be informed of the means, that are adopted for their protection, than that the disturbers of the Public tranquility should be apprized that they will be pursued with unremitting perseverance.

1826.
4 May.

General order
re troops
detached for
suppression of
bushrangers.

Copy of General Order, No. 29, dated 21st March, 1826.

1st. the Lieut't General has been pleased to order the following distribution of the Troops, with a view of aiding the Civil Power and the more effectually putting down the Bushrangers, who, notwithstanding the recent examples, have it appears re-commenced their depredations.

2nd. The range of country within the Mountains will form the Parramatta district; that beyond on the line of communication to Wellington Valley will be designated the Bathurst District.

3rd. A Field Officer will be stationed at Parramatta, and another at Bathurst, those places being established as the Head Quarters of the respective Districts. In the first instance, the detachments under the former will be stationed at Windsor, Emu Plains, Liverpool, and Campbell Town; those under the latter will be posted at Wellington Valley, and Molong Plains to the north of Bathurst; and from thence to the Southward and Eastward, at Cox's River, Weatherboard Hut and Springwood; such other parties are to be detached by the Commandants as circumstances may render necessary.

4th. The Officers employed will immediately put themselves in communication with the Magistrates in the neighbourhood of their Posts, with whom the Lieut. General desires they will be pleased to co-operate to the utmost of their power. And he further recommends that they should attach some of the most intelligent of the Natives to their parties, as these people may be made extremely useful if properly employed in tracing the Bushrangers and discovering their haunts. It will be left to the discretion of the Officers to reward the Natives according to their exertions, for which purpose some slop clothing will be put at their disposal; and they will be at liberty from time to time to furnish them with such provisions, as they may require when employed.

5th. The Commandants will visit their detached Stations occasionally; the Officers in charge will be held responsible for the proper conduct of the men under their orders; and the Soldiers will recollect that the service, they are now called on to perform, is an important one. The tranquility and prosperity of the Colony will be promoted by their attention to their duty. Their employment will give confidence to the Settlers even in the remote Districts; and the Lieut't General trusts that their regularity and good order will confirm this feeling. Should they disregard this warning and misbehave, the Commandants will be furnished with the means, and they are hereby ordered to punish Offenders on the Spot.

6th. The Officers and Non-Commissioned Officers, in charge of the detached Stations, will report weekly or oftener, as may be necessary, to the Commandant, who will report in like manner to the Major of Brigade for the information of the Lieut. General.

7th. The Commandants will make a point of seeing the General Order (No. 5 herewith annexed) read to the Detachments as directed.

1826.

4 May.

General order
re troops
detached for
suppression of
bushrangers.

A Reward of £10 Sterling will be paid for the apprehension of any person, who shall be convicted of Robbery, or have been guilty of any Violence; and £20 sterling for all such persons, as shall have been convicted as Receivers of Stolen Property.

H. GILLMAN, Major of Brigade.

By His Excellency's Command,

ALEXANDER MCLEAY.

Copy of General Order, No. 5, dated 2nd January, 1826.

General order
re association
of troops with
convicts.

1st. The Lieutenant General calls the attention of Officers, in Command at the Penal Settlements and other Attached Stations, to the consequences which must result to the service from any Intimacy being permitted between the Soldiers and the Prisoners of the Crown; and they will be pleased to take the necessary steps for putting an immediate stop to it.

2nd. It is hoped that the Soldiers themselves are alive to the distinction, which exists and which it is of importance should be preserved between them and the convicts. They must not indulge in any familiarity with them. Such intercourse would be inconsistent with the proper discharge of their duty and highly injurious to the Public Service.

3rd. The Soldiers are not, however, to suppose that the ill-treatment of a Convict would be passed over with impunity; the Lieut. General assures them that any such act would be promptly and severely punished. It would be as unbecoming the character of a British Soldier, as an indiscriminate association with men under the sentence of the Law would be derogatory to it.

4th. The foregoing is to be considered a standing Order and to be read monthly to the Corps and Detachments with the Articles of War.

5. The Officers in command of Penal Settlements and detached Stations will consider it their especial duty to see it strictly enforced.

HENRY GILLMAN, Major of Brigade.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 26, per ship Leander; acknowledged by Earl Bathurst, 19th October, 1826.)

5 May.

Appointment
of land board.

My Lord,

Government House, 5th May, 1826.

I have the honor to acquaint you that, in consequence of the permission conveyed in your Lordship's Despatch of the 14th of July last, No. 6, I have formed a Land Board, the immediate appointment of that Establishment being essential to the despatch of the Public Business.

The Members of the Land Board are:—Colonel Stewart, the Lieut. Governor; Mr. Lithgow, Auditor of Colonial Accounts; J. T. Campbell, Esq., formerly Secretary to Governor Macquarie.

The services of this Board are very important at the present moment, when the arrangements under the General Instructions for the disposing and granting of Land are preparing. I was

induced to select the Lieut't Governor from his competency as a man of business, and I should not do my duty towards him, were I to omit assuring your Lordship that Colonel Stewart is indefatigable and a most useful Officer of the Government.

1826.
5 May.

Reasons for
appointment of
W. Stewart ;
of W. Lithgow ;

Mr. Lithgow is invaluable from his perfect knowledge of business and information on all points connected with official details. I have only to regret that his services in the Land Board cannot at present be dispensed with, as they are much required in the general arrangements of the Departments.

Mr. Campbell's information, acquired by his long residence in the Colony, and the manner, in which he has heretofore been employed, pointed him out as an eligible Member of this Board. Notwithstanding the insignificant amount of the Salary, he has cheerfully given up his time, and continued his services, and though the Duty, from the circumstances of the moment, has hitherto been laborious in the extreme.

and of
J. T. Campbell.

I should state to your Lordship that the total disorganisation of the Departments and indeed every branch of the Government, when I assumed the administration, induced me to form a Board of the most competent Officers for the purpose of assisting generally in the arrangements and details of the different Public Establishments. This Board has been denominated the "Board for General Purposes,"* from which Committees, usually consisting of three members or more according to the nature of the subject, are appointed to report on any particular points which may require investigation.

Appointment
of board for
general
purposes.

Without an arrangement of this nature, the Government would have been at a stand; and I regret, although so much has been accomplished through the assistance of these Gentlemen, who have laboured heartily and cheerfully without intermission, so much still remains to be done that I can see no prospect of being able to relieve them from the additional duty for a very considerable period.

The repair of the public buildings and other Works is impeded from the want of a competent Civil Engineer.

Captain Dumaresq of the Staff Corps is the only person here at all qualified for that appointment, and I at first placed him in it. But the Charge of the Roads and Bridges, which is of great importance in this country, requiring much personal activity and skill, appearing to me a more legitimate employment for that Officer and his company, I appointed him Inspector of Roads and Bridges. I am, however, apprehensive that I shall be under the

Employment of
W. Dumaresq.

* *Marginal note.*—The Lieut. Governor; Colonial Secretary; Chairman of the Quarter Sessions; Clerk of the Council; Auditor of Accts; Deputy Commiss'y Gen'l; J. T. Campbell, Esqr.

1826.
5 May.
Necessity for
competent
civil engineer.

necessity of reinstating him as Civil Engineer, as the person in that situation at present, though a man of science, does not possess the necessary activity or skill in arrangements with advantage to the Service. The want of an efficient Person at the head of the Civil Engineer's Department is a very serious embarrassment at this moment. The Buildings originally appear to have been so imperfectly erected that they are in constant need of repair, and the quantity of work to be performed, necessary to their preservation and other indispensable objects, is in fact beyond the means of the Government.

It has been my intention for some time past to transmit to your Lordship a detailed statement of the Public Buildings and of the Works carrying on; but I have not been able to procure the necessary information from the Civil Engineer. It shall however be forwarded as soon as I can obtain it.

I have, &c.,
RA. DARLING.

GOVERNOR DARLING TO EARL BATHURST.
(Despatch No. 27, per ship Leander.)

My Lord, Government House, 5th May, 1826

Return of
tickets of leave
granted.

I have the honor, agreeably to the Instructions conveyed in your Lordship's Despatch dated the 18th of March, 1825, No. 26, to transmit for your Lordship's information a nominal return of the Prisoners, to whom "Tickets of Leave" were granted during the last year.

I have, &c.,
RA. DARLING.

[Enclosure.]

[This list contained the names of five hundred and eighty-eight convicts, to whom tickets of leave were granted during the year 1825, and was dated from the Colonial Secretary's office, 3rd May, 1826.]

GOVERNOR DARLING TO EARL BATHURST.
(Despatch marked "Separate." per ship Leander; acknowledged by Earl Bathurst. 1st December. 1826.)

My Lord, Government House, 5th May, 1826.

Proposed
increase of
capital of
bank of N.S.W.

I have the honor to acquaint your Lordship that application has lately been made to me on the part of the New South Wales Bank to authorize the Bank (agreeably to the powers vested in the Governor by the Charter, granted by Sir Thomas Brisbane under date of the 11th of October, 1823) to open a subscription for the further sum of Twenty one Thousand pounds, by creating seven hundred new shares* and directing a deposit to be paid of Thirty pounds on each share.

* Note 71.

Being aware of the disinclination of His Majesty's Government to interfere in the concerns of Colonial Banks, I deemed it advisable to have recourse to the Despatches, addressed by your Lordship to my predecessors, in order to ascertain whether there were any Instructions on the subject; and, finding by Despatch No. 28, dated the 31st July, 1823, that it was not considered expedient that the Charter, then about to expire, should be renewed (which, however, had been renewed before that Despatch was received by Sir Thomas Brisbane), I consequently declined acceding to the application, conceiving that a compliance with it would have been inconsistent with the spirit of your Lordship's Instructions.

I have, &c.,

R.A. DARLING.

1826.
5 May.

Prohibition of
proposed issue
of new capital.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 28, per ship Leander; acknowledged by Earl Bathurst, 3rd October, 1826.)

My Lord,

Government House, 6th May, 1826.

6 May.

In reporting to your Lordship that two Stock keepers in the County of Argyle have recently been murdered by the Natives, I cannot better explain the circumstances, or put your Lordship in possession of the view I have taken of these cases generally, than by transmitting a copy of the Government Notice, which I have felt it necessary to issue on the occasion.

Murder of
stockmen
by natives.

The course, which under present circumstances it has appeared to me advisable to adopt, is to shew the Natives that they will not be allowed with impunity, in consequence of any supposed wrongs or injuries they may receive from Individuals, to collect and disturb the Country. A force has, therefore, been despatched, consisting of a Captain, a Subaltern and Thirty men, in order to enforce obedience and disperse them, should they persevere in maintaining an appearance of hostility. I have thought it right, on the other hand, to evince the disposition, which is felt to protect them from injury and insult, by avowing the determination of Government to punish such persons, as shall ill treat or be guilty of any outrage towards them; and further, as a means of inducing them to abstain from acts of violence or retaliation, I have assured them that their just complaints will always be attended to: Thus showing them at once a determination and the power to restrain them and a desire to conciliate and protect them.

Preventive
measures taken
against natives.

It is stated in the Report of Mr. Reed, a Magistrate, that upwards of a thousand of these people had assembled within four miles of his residence in the County of Argyle, and that the

Assembly of
natives in
county of
Argyle.

1826.
6 May.

Assembly of
natives in
county of
Argyle.

Settlers, conceiving they had met with a hostile intention, appeared to be very much alarmed. I have no doubt the number is exaggerated; at any rate the Want of Provisions would prevent them keeping together for any length of time. But no pains shall be spared to disperse them and prevent the mischievous effects to be apprehended from their assembling in such large Bodies.

I have, &c.,

RA. DARLING.

[Enclosure.]

GOVERNMENT NOTICE.

Colonial Secretary's Office, 5th May, 1826.

Government
notice *re*
intercourse
with natives.

INFORMATION having been received on Tuesday last from David Reed, Esqr., one of the Magistrates of the County of Argyle, that Thomas Taylor, Stockkeeper to Mr. Sherwin at Lake Bathurst, had been recently murdered by some Natives, and that these people were assembling in unusual numbers about Lake George, and in the neighbourhood of Mr. Reed's residence at Inverary Park, a Detachment of Troops was ordered to proceed into Argyle the following morning in two Divisions, Captain Bishop, the Officer in Command, being instructed to keep himself in communication with the Magistrates of the District and to act in conjunction with them, as circumstances might render necessary.

The Governor is concerned to think, from the Reports he has received, that the proceedings of the Natives are the effect of resentment at the outrages committed upon them by Stock keepers, who interfere with their women, and by such and other acts of aggression provoke them to retaliate.

His Excellency is the more confirmed in this opinion, having just received a report the result of an investigation directed to be made, some time since, in consequence of the murder of a Stock keeper of the name of Lynch; by which it appears that Lynch had attempted by force, being armed with a musket, to take away the wife of a Native, who in consequence struck him with his spear and put him instantly to Death.

A third Report has been received from the Magistrates of Bathurst that a party of Aborigines had been fired upon; and it appears, by the statement of a Native Constable, that three women and three children were wounded.

McTeague, who is in custody as being one of the party who fired, is in the employment of a person of the name of Fitzgerald; and Saturday, the Chief, has stated that he heard Mr. Fitzgerald tell his men to fire at the Natives, if they took any more of the Indian corn. It appears that two shots were fired, and that one of the persons present was on horseback and galloped off after firing. This matter is now in train of immediate investigation.

It is not, however, enough that the aggressors in such cases suffer a just punishment; it is necessary to look to the consequences in the event of the Natives, who have already appeared friendly and well disposed, being forced into measures of determined hostility; not that the Government apprehends any immediate or positive danger from their proceedings, but it must ever reluctantly punish acts, which are the result of unprovoked injuries. The tranquility and prosperity of the Country being the first objects of the Government, His Excellency declares that He will not hesitate to adopt

such measures (without reference to the Interest of any Individual) as may be most likely to ensure them. If the peace of the country be disturbed by the conduct of the Stockmen at the remote stations, permission to depasture the Lands beyond the boundaries of effective controul will be instantly withdrawn, and these men will be ordered into the Government Establishments. It, therefore, behoves the proprietors of cattle so circumstanced to take such steps as may appear necessary to a proper controul over their servants, for whose conduct they must consider themselves responsible. If they cannot restrain them, they must submit to the privation of their services, as the Government would not be justified in permitting them to remain under such circumstances.

His Excellency further declares that Stock keepers or other persons, who shall commit any violence on the Natives or otherwise ill treat them, shall be punished with the utmost severity, and be prohibited from receiving any Indulgence from the Government.

His Excellency is now pleased to request that the Magistrates and Settlers in general of the more remote Districts will endeavour to communicate with the Chiefs and Tribes in their neighbourhood, and that they will assure them of the desire of the Government to protect them from the outrages of all evil disposed persons. It is further desired that the Natives may be encouraged, by the promise of Rewards, to secure and deliver up any men, who shall ill treat them, in order that they may be punished for such offence; and it is of particular importance to impress on the Chiefs that the Government relies on their endeavours to restrain all acts of violence on the part of their Tribes, and thus confirm their claim to its friendship and confidence.

By His Excellency's Command.

ALEXANDER MCLEAY.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch marked "Separate." per ship Leander; acknowledged by Earl Bathurst, 9th October, 1826.)

My Lord,

Government House, 6th May, 1826.

I have the honor to transmit, for your Lordship's consideration, copy of a correspondence with Mr. Bannister on the subject of his resignation of his appointment as Attorney General. Without entering into the Question whether the salary is or is not sufficient for that appointment, I am bound to add, in justice to Mr. Bannister, that no man could show more zeal in the performance of his duty, and that the manner, in which he employs himself, must prevent his attending to private Business.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

ATTORNEY-GENERAL BANNISTER TO GOVERNOR DARLING.

Sir,

Sydney, 5th April, 1826.

I have to request that Your Excellency will be pleased to communicate to His Majesty's Government that, on the present remuneration of my Office, I can no longer hold it.

1826.
6 May.

Government
notice re
intercourse
with natives.

Correspondence
with
S. Bannister.

Resignation of
S. Bannister.

1826.
6 May.

Resignation of
S. Bannister.

Unless I receive adequate compensation for the Past and for the Future, I reluctantly resign my Commission.

I have no intention to leave the Colony or to abstain from Public Business, till the King's decision be known, and still less do I wish to avoid any enquiry into my conduct since I have been in His Majesty's Service.

I have, &c.,

S. BANNISTER.

[Enclosure No. 2.]

GOVERNOR DARLING TO ATTORNEY-GENERAL BANNISTER.

Sir,

Government House, 6th April, 1826.

I had the honor to receive Your Letter of yesterday's date tendering the resignation of your Commission as Attorney General, unless you received adequate compensation for your past and future services, signifying at the same time that you have no intention to abstain from Public Business till the King's decision be known.

As there is no immediate opportunity of writing Home, your Letter cannot be acted on at present. But I shall not fail to communicate your desire to the Secretary of State, as soon as I have the means, should you still wish to retire from the Service.

It is unnecessary to reply to the latter part of your Letter, as I am not in possession of any Instructions on the subject, and I willingly abstain from entering on it.

I have, &c.,

[Unsigned.]

[Enclosure No. 3.]

ATTORNEY-GENERAL BANNISTER TO GOVERNOR DARLING.

Sir,

Sydney, 1st May, 1826.

In your Excellency's reply to my Letter with my conditional resignation, the present opportunities of communication with England were mentioned, it being left to myself to persevere or not in the resignation.

There is however no alternative left to me. With the meanest economy, my expences exceed my income; and the duties of my Office cannot, in my opinion, be suitably performed, as I am circumstanced in my legal establishment.

On private grounds, I am degraded; and I am incurring a responsibility in carrying on the business of a Crown Officer, to which an ordinary practitioner would be wrong to expose himself in common law affairs.

My letter to Your Excellency is only a repetition of several others, which Sir Thomas Brisbane sent to England, after I wrote a detailed statement to Earl Bathurst in February last year; and I know that statement to have been received.

Personal
status of
S. Bannister.

I do not withdraw the Claim, I have made for compensations, which I believe are due to me on the severest principles; and I feel myself entitled to call this a compulsory resignation, for which no reflection can be made on me.

1826.
6 May.

I have, &c.,
S. BANNISTER.

GOVERNOR DARLING TO UNDER SECRETARY HORTON.

(Despatch per ship Leander.)

Dear Sir, Government House, 6th May, 1826.

I beg to acquaint you, in reference to your Letter of the 15th of June last, that Charles Nye, the person, respecting whom Mr. Holme Sumner had made application to Lord Bathurst, is employed in the Colonial Secretary's Office. He appears to have obtained a Conditional Pardon in the month of April, 1825, and Mr. McLeay informed me he is one of the most valuable Clerks in his Office. It is my intention, in consequence, to increase his salary, as soon as I shall be enabled to make a general arrangement respecting the Free and Convict Clerks, to which effect a Committee is now preparing the necessary information.

Report re
Charles Nye.

I have, &c.,
RA. DARLING.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 29. per ship Leander.)

My Lord, Government House, 7th May, 1826.

7 May.

I have the honor to transmit for your Lordship's information copy of a letter, addressed to me by Archdeacon Scott, requesting that the Attorney General may be called on to prepare a Report on the case of the King's Visitor and the Female Orphan School, lately decided in the Supreme Court. Having communicated the Report to the Archdeacon, I do myself the honor to forward a copy to your Lordship agreeably to his desire. I have only to add that, since the Publication of the Charter reported in my Despatch No. 17, dated the 1st of May, 1826, the Archdeacon has exercised all the rights of the King's Visitor over the Female Orphan School and all other Establishments of a similar nature in the Colony.

Report on suit,
Walker v.
Scott.

T. H. Scott as
King's visitor
to schools.

I have, &c.,
RA. DARLING.

[Enclosure No. 1.]

ARCHDEACON SCOTT TO GOVERNOR DARLING.

Sir, Parramatta, 31st March, 1826.

I do myself the honor of requesting Your Excellency to give such directions to the Attorney-General, as may enable him

1826.
 7 May.
 Request for
 transmission
 of report to
 England.

to prepare a report on the case, decided by the Supreme Court against the King's Visitor in favor of the Master of the Female Orphan School, to be transmitted by Your Excellency to the Secretary of State for the Colonies, by whom it will be laid before the law Officers of the Crown in England.

The decision involves the most important question, both as to the interests of the Schools in general in the Colony, as well as affecting the King's Rights; and is so directly at variance with the decision of the Court of King's Bench, that I should consider it a breach of my duty, did I not make this request to Your Excellency.

By the King's Instructions, No. 47,* and dated the 24th Decr., 1824, the Attorney General is to be directed by Your Excellency to "advise" on any questions of a legal nature, which the Archdeacon may desire to propose, in reference to his "official duties"; and, under these instructions, Sir Thomas Brisbane gave the Attorney General directions to advise me on this question.

I have, &c.,
 T. H. SCOTT.

[Enclosure No. 2.]

ATTORNEY-GENERAL BANNISTER TO GOVERNOR DARLING.

Sir, Sydney, 14 April, 1826.

Pursuant to your Excellency's Instructions, I have to report the proceedings in the case of the Master of the Female orphan School.

Report by
 attorney-
 general on
 proceedings in
 suit Walker v.
 Scott.

In November last, His Excellency the late Governor directed me to advise the Archdeacon in this case, as the King's Visitor. Accordingly I wrote and received the letter, affixed hereto, marked 1, 2, 3, and 4. The original direction to me I have mislaid.

By my advice, the Archdeacon convened the Master, by a document inserted in page 4 of document 5,† hereto annexed, apprizing him of the matters of complaint, and affording him an opportunity of defence.

The original cause of disapprobation, previously laid before Sir Thomas Brisbane, having been followed in the opinion of the Archdeacon by further improper Conduct, this Combination of circumstances was the subject of charge.

I do not apprehend that Sir Thomas ever had that accumulated charge before him, nor ever objected to Mr. Scott acting as King's Visitor; the directions to me, on this and on former occasions, implied distinctly that the Office was believed to be

* Note 72. † Note 73.

duly bestowed on the Archdeacon without limitation; and that belief was derived, as I apprehend, from the tenor of the official instructions from England. These instructions directed the Archdeacon to act forthwith, and the Governor always appeared to me anxious to comply with them.

I mention this particularly, inasmuch as one of the Judges in this case, the Chief Justice, appears to me to have fallen into the error of supposing that Sir Thomas Brisbane and Mr. Scott had a conflicting claim to this office.

I never heard of any such contest, till the suggestion appeared in the judgment of the Chief Justice, affixed hereto, marked 11.

On the day appointed, the 13th November, the Master was expected at my Office; he did not appear, nor give any Notice of his intention to resist the jurisdiction. Upon hearing by rumour that an application against the Archdeacon's right to act as Visitor was to be made the same day in the Supreme Court, my advice was that, after waiting a reasonable time, the process of the Court should be received; which was done.

Some irregularity occurred in the proceedings of the Master of the Court, but it did not appear fit to place any obstacles in the way of his claims being discussed on their merits.

They are set forth in the affidavits hereunto annexed marked 5 and 6.

The former appeared to me to exhibit Mr. Scott in the full exercise of the Office of King's Visitor, Many Months before, in a Solemn manner, when the Schoolmaster himself was a party to the proceedings, vizt. by setting forth the Articles of the School, signed by Sir Thomas Brisbane, as Governor, Mr. Scott, as Visitor, and the applicant, as Master, the applicant himself authenticating those Signatures. In this document, the Visitor is mentioned, I think, twelve times.

I was of opinion that, on this application so supported, it was unnecessary to bring an appointment of that Visitor before the Court. I thought that the case should be decided on the Affidavit of the applicant; and that it would be against law to permit him to deny that the person, with whom he exhibited himself thus solemnly acting in his post, was legally there.

It appeared to me to be a common case of presumption.

It was too late to insist on the production of a Commission, when the Party himself set forth evidence of the character, now acted upon, having long before been recognised by this party.

I, therefore, advised the answer to the rule for a prohibition to be rested on the applicant's own shewing, in these affidavits, that here was a King's Visitor in several terms, and that he was

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proceeding in the exercise of the office. I relied on the authority of the King v. the Bishop of Ely, 5th Term Report, 477.

The case was heard on the 21st day of December, when the Chief Justice said that he thought that, in the Bishop of Ely's case, the King's Bench knew that the Bishop has visitorial power, because other cases often came before the Court concerning his jurisdiction as the Visitor; Whereas the King's Visitor in this Colony had not before appeared in the Courts. Therefore, before he would admit this right of the Archdeacon, it must be shewn how it stood; and also that the case in question was within his jurisdiction as such Visitor.

His Honor thought it was too much to infer that he was Visitor, because the applicant had mentioned his being so in terms, which doubt his being so rightfully; the words being, "The Venerable Thos. Hobbes Scott, visitor, as he alleges, etc.," (on this I remarked that I did not mean, nor did say, that those words would raise the presumption, I had contended for; But that the affidavit had set forth a solemn instrument exhibiting the King's Visitor in Activity long before). The Chief Justice had not before understood me to mean that. However, he continued to think that they ought to know more of the Archdeacon's Appointment.

He did not find in these affidavits any body of facts to shew his Jurisdiction; and he thought the Court should know also how the Schoolmaster was subject to it in this case.

It should be left open to have more information produced by the Archdeacon. Mr. Justice Stephen agreed with the Chief Justice, and no order was made this day.

On reflection, I still thought that the case ought legally to be determined on the Documents, exhibited by the Schoolmaster; and, on looking at certain papers produced to me by the Archdeacon, I wrote the opinion marked 7 and affixed hereto.

I also wrote the letters on these documents, which are already in your Excellency's possession.

My opinion was not followed, but the affidavits, Marked 8 and 9, were filed.

Afterwards, on the 19th Jany., a decision was prayed for by me, when I merely moved that, if the opinion of the Judge were in favor of the Schoolmaster, the order should be for him to declare in prohibition.

This I apprehend was what a Court of Justice could not lawfully refuse.

The document affixed Marked 10 is the Gazette report, corrected in the Margin from my own notes.

The decision was reserved, and I was not present, when it was delivered.

The judgment itself was stated in the Newspapers to be printed from a paper, delivered by the Judge to the Editors. It is the document marked 11, affixed hereto.

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The day after I heard of this decision, I mentioned in Court that my motion for the Master to declare in prohibition was not, I understood, granted, and that I conceived it was a right, which the Court could not by Law refuse.

Mr. Justice Stephen was alone present, and permitted the drawing up of the order to be Stayed.

The Next day, I stated to both Judges that I relied on an Authority, which appeared to me irresistible. In 1st Burrows reports, 198, Lord Mansfield Says:

“When the Court is clearly of opinion that there is sufficient ground for the prohibition, the Defendant has a right to put the Plaintiff to declare that his jurisdiction may not be taken from him in a summary way where no bit of Error will lie.”

In defiance of this Authority, the force of which was admitted, My application was refused; and one ground stated by the Chief Justice was that he, in another character than that of Judge, knew that the proper Authority was not yet conferred on the Archdeacon, but that it would soon exist.

I afterwards moved to have a special appeal granted under the act of Parliament for this Colony. The words of the Act were decided to be such, as not to admit of this appeal.

I have thus reported this case to your Excellency, confining myself, as much as possible, to the points of Law and to the facts as involved in them.

In the letter, which has been sent to me, with the instructions of the Third Instant for preparing this report, the Archdeacon has suggested the importance of the case itself; but, independently of the subject matter of the Suit, I should fail in my duty to the King, if I did not state my impression that the Judges have assumed an Authority over the Law of the land, which is of dangerous example.

Whether my opinions be correct or not, either as to the merits of this case, or the Affidavits, or as to the right of one claiming to be a Visitor to have the order against him drawn up for the Applicant to declare in prohibition, or on both points, it cannot be right that judicial decisions should be grounded on extra judicial Matter.

I have, &c.,
S. BANNISTER.

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[Sub-enclosure No. 1.]

ARCHDEACON SCOTT TO ATTORNEY-GENERAL BANNISTER.

Sir, Parramatta, 12th Novr., 1825.

Attorney-
general to give
legal advice to
archdeacon.

I am somewhat surprized that the Governor should direct you to advise me in legal matters, as it appears he has done by your letter to me of yesterday, and that His Excellency should not himself have furnished you with a copy of that part of the King's Instructions, which you require from me.

The following is an Extract from the Copy of those Instructions, No. 47,* sent to me by order of the Earl Bathurst:—

“7. In the execution of his office, and especially of the Ecclesiastical Jurisdiction vested in him by his Patent, questions of a legal nature may arise, upon which it may be desirable that the Archdeacon should receive the opinion and advice of one or both of His Majesty's Law Officers in the Colony. You will, therefore, transmit officially to the Attorney General, or, in cases of special importance, both to the Attorney and Solicitor General for their opinion and advice, any questions of a legal nature, which the Archdeacon may desire you to propose to them, in reference to his official duties.”

The point, upon which I request your assistance and advice, is the contumacy, with which Mr. Walker, the Master of the Female Orphan School, has treated me in the exercise of my duties as the King's Visitor over that School, and for his neglect as well as that of the Mistress, his Wife, and also of the Teacher, by leaving it to the care of a menial Servant.

Of my letter to him and his answer, I enclose you a Copy.

I am, &c.,

T. H. SCOTT.

[Sub-enclosure No. 2.]

ARCHDEACON SCOTT TO MR. WILLIAM WALKER.

Sir, Parramatta, 5th Novr., 1825.

Charge
preferred by
T. H. Scott
against
W. Walker.

I yesterday visited the Female Orphan School under your charge about 3 in the afternoon, and I learnt on enquiry that Mrs. Walker, yourself, and the Teacher had been at Parramatta since one o'Clock, leaving the Children without any other control or superintendance than that of a menial Servant, and of course exposed to dangers and temptations you must be aware are great in this Country.

As this appears to me an omission without palliation that all should be absent at once. I have considered it my duty to lay the same before His Excellency to be transmitted to His Majesty's Government in England.

I am, &c.,

T. H. SCOTT, Visitor.

* Note 72.

[Sub-enclosure No. 3.]

MR. WILLIAM WALKER TO ARCHDEACON SCOTT.

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Sir, Parramatta, 5th Novr., 1825.

I have to acknowledge yours of this day's date. The "absence," of which you complain, is a fact; but the inuendoes connected with your terms "menial Servant," etc., are unjustifiable and uncharitable, and are such as a Clergyman ought to avoid, because the menial Servant, of whom you write, is one of the best and most unexceptionable character, and one, who is every way qualified to guard children from any "temptation" or "dangers," to which they may be of course exposed in this Country.

Reply of
W. Walker to
charge of mis-
management.

I feel exceedingly happy that you "consider it to be your duty to lay the same before His Excellency," etc., as I shall take the earliest opportunity of laying before His Excellency a statement of the whole case, "to be transmitted to His Majesty's Government in England," by which His Majesty's Ministers will be able to form a correct Judgement between you and me.

I am, &c.,
W. WALKER.

[Sub-enclosure No. 4.]

ATTORNEY-GENERAL BANNISTER TO ARCHDEACON SCOTT.

Reverend Sir, Sydney, 13th Novr., 1825.

In reply to your letter of yesterday, requiring my advice with reference to the enclosed copy of a letter from the Master of the Female Orphan School, and his neglect of duty, I have to state my opinion to be that they are matters cognizable by the King's Visitor, under an appointment in general terms, and that I apprehend the proper course of proceeding to be that formal Notice be given by Mr. Norton to Mr. Walker, of your disapprobation of his conduct, and of your requiring his presence at such convenient time and place, as you may direct. Whether this most improper letter is what the law books call "contumacious," I am not prepared to say. I have no doubt of its being a contempt of the King's Visitor, necessary to be punished, but in what manner will be most properly considered after an opportunity of an hearing has been given.

Procedure
advised by
attorney-
general.

I am, &c.,
S. BANNISTER.

[Sub-enclosure No. 5.]

AFFIDAVIT BY MR. WILLIAM WALKER.

In the Supreme Court of New South Wales.

First affidavit
by W. Walker.

NEW SOUTH WALES }
to wit. } WILLIAM WALKER of Parramatta, Wesleyan
Methodist Missionary, maketh oath and saith,
that, on or about the fifth day of this instant
November, he received a letter from the Venerable Thomas Hobbes
Scott, Archdeacon of the said Colony, and Visitor, as the said

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Archdeacon *alleges under* and by virtue of an appointment from His Majesty, of the Royal Schools of the said Colony in the words and figures following [*This was a copy of the letter from Archdeacon Scott to William Walker, dated 5th November, 1825; see page 278*] and this Deponent further saith that, on the said fifth day of November, he wrote and sent in reply to the said letter of the said Archdeacon, a letter, which this Deponent has no doubt the said Archdeacon duly received, in the words and figures following, that is to say [*A copy of this letter will be found on page 279*]. And this Deponent further saith that, on or about the eighth day of this instant Novr., he received a letter from Lieut't Stirling, Aid de Camp to His Excellency Sir Thomas Brisbane, Governor in Chief of the said Colony, in the words and figures following, that is to say, "Govt. House, Parramatta, Nov. 8th, 1825. Sir, I am directed by His Excellency the Governor to request you will explain the cause of your *absence*, together with Mrs. Walker, from the Orphan School on the 5th inst., and which appears to have excited, in the mind of Archdeacon Scott, an unfavorable impression of you, and has caused him to complain to the Governor, who is anxious to learn your statement before he can decide upon the Justice of the *Accusation*. I have, &c., R. Stirling, A.D.C., To the Revd. Wm. Walker, etc., etc., etc." And this Deponent further says that, in answer to the said last mentioned letter, he wrote and sent a letter, which he has no doubt the said Lieut't Stirling received, in the words and figures following: "Female Orphan House, Parramatta, 12th Novr., 1825. Sir, In answer to yours of the 8th inst., this moment received, I have only to state a very simple fact. On the 5th November, after the forenoon duties of the School were over, one of the Teachers desired Mrs. Walker to go into Parramatta to assist her in laying out the amount of her quarter's Wages in articles of Clothing. This was the cause of Mrs. Walker's absence, as she never allows any of the adult females to leave the institution, unless she is with them. From three o'Clock in the morning of the 5th instant to the time of Mrs. Walker's departure for Parramatta, I had been distracted with tooth Ache; and, as the Boat was going up at that moment, I resolved to proceed to Dr. Macleod to have two of my teeth extracted. Dr. M. was not at home, and the direct object of my then absence was not accomplished, and returned home immediately after I had transacted some Public business with Mr. Grose for a supply of Sugar, Rice, Tea, Soap, etc. But the Children, though thus left, were under the protection of a married Female of a most unexceptionable character, and who, on every Friday afternoon, has most of the Children under her charge, mending their old Clothes, and at the time the Archdeacon came to the Institution they were thus employed. This is the simple truth of the case, and, for the step His Excellency has taken in inquiring into it, I feel truly thankful. I am, &c., W. Walker." And this Deponent further says that he verily believes that the said Sir Thomas Brisbane is perfectly satisfied with the *Explanations*, contained in the said last mentioned letter of this Deponent to the said Lieutenant Stirling, and considers the said Explanations as affording sufficient reasons for the absence of this Deponent, and the other persons, complained of in the said letter of the said Archdeacon to this Deponent; and this Deponent further says that, on or about the seventeenth day of this instant Novr., he was served with a Citation or Monition from the said Archdeacon, as Visitor aforesaid, in the words and figures following, that is to say, "To

James Norton, Esquire, Notary Public, acting in His Majesty's Colony of New South Wales, summons William Walker, Master of the Female Orphan School, Parramatta, in the said Colony, that he be and appear before me, Thomas Hobbes Scott, Archdeacon of the Colony of New South Wales, appointed by His Majesty Visitor of the Royal Schools in the said Colony, at the Office of His Majesty's Attorney General in the Town of Sydney in the Colony aforesaid on Wednesday, the thirtieth day of November instant, at the hour of ten o'clock in the forenoon; And that he then and there Answer the matters hereinafter mentioned, which I object to him in his office of Master of the said School, that is to say, that he did, on Friday, the fourth day of November instant, leave the School without sufficient and proper Attendants on the Children under his Care, and that, when informed by me as such Visitor of my disapprobation thereof, and admonished of its evil consequences and tendency, he did, in contempt of my said office and authority, write and send me the following letter:—[*This was a copy of the letter, dated 5th November, 1825; see page 279.*] From which letter, I perceive that he doth not, upon such my intimation, determine to remove the said cause of Disapprobation, but moreover exhibits a spirit, inconsistent with the performance of his Duties; therefore you are to summon him, the said William Walker, to answer the said Matters before me accordingly. Given under my hand and Seal at Sydney aforesaid, this 16th day of November in the year of Our Lord, one thousand, eight hundred and twenty five. T. H. Scott (L.S.).” And this Deponent further says that the said School, of which this Deponent is Master, as in the said Citation or Monition of the said Archdeacon is mentioned, is subject, to the best of this Deponent's knowledge and belief, to the rules and regulations following, and to no other, that is to say,

“General rules for the Female Orphan House. Admission. I. That Children be admitted at any time, how young soever they may be, on there being a Vacancy but that Preference be given to Orphans. II. That none be admitted, who is upwards of twelve years of age. III. That Parents or Guardians shall certify in writing their willingness to leave the Children in the School, so long as may be considered fit by His Excellency the Governor and *the King's Visitor*. IV. That the day for the admission of Children be subject to the Urgency of the case and not be fixed to any particular day. V. That a weekly list of all newly entered Children be sent to His Excellency the Governor and *the King's Visitor*. VI. That no Child be admitted without a certificate from the Attendant Surgeon, testifying that the Child has no infectious Disorder. Visitation. I. Parents and Guardians are not to visit on any other day than the last Friday in every Month, without a written order from the King's Visitor. II. That, in all Visitations of Parents or Guardians, the Master or Mistress must be present. III. That all ladies and gentlemen, visiting the female Orphan House, be requested to enter their names in a register Book. IV. That a Register be forthwith procured for this purpose. V. That no child shall be permitted to visit their Parents or Guardians without obtaining a written permission from His Excellency the Governor or the *King's Visitor*, which permission shall be entered into the Journal of the Institution. VI. That the Attendant Surgeon shall keep a register of the state of the health of the Children. School I. That the plan of Education be conducted as nearly as possible on the Madras or National System. II. That a General Monitor be

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appointed to superintend the duties of the Children, (1) to awake the children by $\frac{1}{2}$ past 5 in the Summer, and by $\frac{1}{2}$ past 6 in the Winter; (2) to see that the Rooms and Children are all clean, and the Children ready for morning prayer by $\frac{1}{2}$ past seven; (3) That the Children preserve order in the School, and that the Teacher observe all the Rules for their conduct; (4) That the Children are in school by 9 o'Clock in the morning and by 2 in the afternoon; (5) That they keep a Register of all lessons and work performed in the House. III. That the Teachers observe, (1) to rise in the morning before their Children; (2) to superintend the cleanliness of their beds, sleeping rooms, and the Children of their respective classes; (3) on no account to punish a Child any further than being turned down in the Class, set in the middle of it or reported to the Master; (4) to stay at the head of their classes during meals, to preserve the utmost decency and propriety, and to report to the general monitor all Children that misbehave themselves; (5) that for all work, which the Children perform out of School Hours, they shall be remunerated according to the rate of charges made to Individuals by the Institution, except on the representation of the *King's Visitor* to His Excellency the Governor. VI. That no Child shall be allowed to go out of the School that cannot read the Bible, write tolerably well and correctly, and work the simple rules of Arithmetic, as well as be competent to make Gowns, Shirts, etc., and perform other domestic duties. VII. In order to prepare Children for service, as, by the preceding rules, those Children, who are able, shall take their regular turn in all the duties of the House. VIII. That a library shall be formed forthwith for the use of the senior Classes of such Books as the *King's Visitor* may approve. IX. That when a Child leaves the female Orphan House for other Service, she shall be presented with a Bible, prayer Book, dictionary, Grammar, and Arithmetic, and, if particularly deserving, with such other Books as the *King's Visitor* may approve. X. That Masters and Mistresses shall be required to treat the Children with kindness and under no pretence to direct their services to objects, that are not purely domestic, and to attend Divine Service on the Sunday. XI. That the Master of the House see those Rules punctually attended to, and enter into the Journal of the School, and report to His Excellency the Governor and the *King's Visitor* every infraction thereof. XII. That Corporal Punishment be very rarely resorted to, and, when positively expedient, the name of the Child, crime and measure of punishment, shall be fully entered in the General Monitor's Registry, and reported to the *King's Visitor* weekly. XIII. That no degree of corporal punishment be inflicted by any individuals, the Master of the House excepted. XIV. That the morning be appropriated to reading, writing, etc., under the superintendance of the Master of the House, and the afternoon be set apart for sewing, etc., under the Management of the Mistress. XV. That no Child shall be punished with the loss of food. XVI. That punishment shall generally consist of tasks to be performed after School Hours. W. Walker, submitted to the Governor for His Excellency's approval, T. H. Scott, Visitor. Approved, Thos. Brisbane." And this Deponent further says that the names of *William Walker, T. H. Scott* and *Thomas Brisbane*, set and subscribed to the said Rules and Regulations, are of the proper hand writing of this Deponent, the said Archdeacon Scott, and the said Sir Thomas Brisbane respectively; and this Deponent lastly says that there is not, to the

best of Deponent's knowledge and belief, any rule or regulation of the said School prohibiting the Master, the Matron and the Teachers of the said School, from being absent therefrom at one and the same time; and that, if this Deponent and the other Persons mentioned in the said Letter of the said Archdeacon to this Deponent *were guilty of any infraction of the Rules and Regulations* of the said School in the absence, complained of in the said Letter of the said Archdeacon, this Deponent and the said other Persons were ignorant that they were so offending.

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First affidavit
by W. Walker.

W. WALKER.

Sworn in open Court, this twenty Ninth day of Novr., in the Year of our Lord, one thousand, eight hundred and twenty five.

By the Court.

[Sub-enclosure No. 6.]

AFFIDAVIT BY MR. WILLIAM WALKER.

In the Supreme Court, New South Wales.

Second affidavit
by W. Walker.

CUMBERLAND } WILLIAM WALKER, of Parramatta in the said Colony,
to wit. } Wesleyan Methodist Missionary, maketh Oath and
Saith, that the female Orphan School, whereof this Deponent is Master, is an eleemoynary establishment, the Expences of which are for the most part defrayed out of the local Revenue of the said Colony; that the said local Revenue, as this Deponent heard and believes, proceeds from various imposts, rates, and Duties, which are levied and recoverable in the said Colony, under and by virtue of divers acts of Parliament, and other lawful authority; but that the appropriation of any part of the said Revenue to the support and maintenance of the said School depends, as this Deponent believes, wholly on the pleasure of the Governor of the said Colony for the time being; that there are certain freehold lands granted in perpetuity, as this Deponent believes, to certain persons in Trust for the said School; and that the said School also possesses a considerably live Stock, consisting of Cattle and Sheep, which are depastured on the said freehold Lands; but that the profits of the said Stock, together with the Rents and Issues (if any) of the said Lands, are applied towards the maintenance of a School for Male Orphans, which has been established, subsequently to the said female Orphan School; and this Deponent says that, on the thirtieth day of November now last past, he received a letter from His Excellency, Sir Thomas Brisbane, the Governor of the said Colony, in the words and figures following:—"Sydney, November 30th, 1825. Sir. The explanation, which you laid before me, of the reason of *your absence* from the Female Orphan School on the 4th inst. was perfectly satisfactory, and, as you have requested my Judgment of the matter of the Archdeacon's Complaint in your letter of the 16th inst., I can only repeat that your Explanation has afforded me every satisfaction; and, at the same time, I must say that I do not know any Rule, nor do I think a positive one should exist, to preclude the absence of yourself and Mrs. Walker at one and the same time. Of course you will feel yourselves bound to take every care in your power to provide for the safety of the Children during your occasional absence, which I hope does not, neither will frequently occur. I am, &c., Thomas Brisbane. In this place, also I may state that the tender of your Resignation, in consequence of the dispute

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between you and Archdeacon Scott, I cannot feel myself justified in accepting on account of the Testimonial, which I gave you in July, and having no reason to alter the opinion, which I then had, T.B." And this Deponent lastly says that the said letter has reference, among other things, to the absence of this Deponent, and of other Persons from the said Female Orphan School on the fourth Ulto., as objected to this Deponent in the said Citation or Monition of the said Thos. Hobbes Scott, set forth in the Affidavit of this Deponent, filed in this Honorable Court on the thirtieth Ulto.

W. WALKER.

Sworn before me, this fifth day of December, A.D. 1825,
GEORGE MILLS, Commissioner of the Supreme Court.

[Sub-enclosure No. 7.]

OPINION BY ATTORNEY-GENERAL BANNISTER.

Opinion given
by attorney-
general.

I APPEARED to-day in Court to shew cause why a prohibition should not issue to stay the proceedings of the Archdeacon as King's Visitor against the Master of the Female Orphan School at Parramatta.

The cause, I shewed, was that the affidavits of the Master contained matter, on which the application ought to be refused.

The Judges have required further proof, than those Affidavits exhibit, of the nature of the Jurisdiction of the King's Visitor, vested in the Archdeacon, and to be informed how the Master is shewn to be liable to it.

I am of opinion that, in point of law, this requisition is not a fit one; and that the case ought to be decided against the prohibition on the affidavits now before the Court.

I have examined the accompanying extract from the Governor's Instructions, dated 17th July, 1825, which does not alter my opinion.

I think the production of the original in Court unnecessary, and open to serious objections.

In point of discretion how far the wishes of the Judges are to be complied with, it is not for me to determine.

But if the Archdeacon shall desire to produce the King's sign Manual appointment, contained in this Extract, His Excellency The Governor should be applied to for permission that some one may see the instructions to prove the King's hand writing upon them.

S. BANNISTER.

21st Decr., 1825.

[Sub-enclosure No. 8.]

Affidavit by
H. Dumaresq.

AFFIDAVIT BY LIEUTENANT-COLONEL DUMARESQ.

In the Supreme Court of New South Wales.

In the Matter of the Master of the Female Orphan School.

HENRY DUMARESQ, Esquire, Private Secretary to His Excellency Ralph Darling, Esquire, Governor in Chief of the Colony of New South Wales, maketh Oath and saith, that a certain dispatch,

which purports to be written by the Right Honorable Earl Bathurst, His Majesty's Principal Secretary of State for the Colonies, addressed to Sir Thomas Brisbane, K.C.B., late Captain General and Governor in Chief of the Colony of New South Wales, under date the 21st of December, 1824, No. 47, is an original despatch; and that he hath examined the signature Bathurst, and compared it with other dispatches, bearing the same signature; and, from the similarity it bears thereto, he verily believes it to be the proper hand writing of the Right Honorable Earl Bathurst; and this Deponent further saith that the paper, marked A., hereunto annexed, is a true extract from the said original dispatch; and that he hath read the said dispatch, and finds that no other part thereof relates to the subject, mentioned in the said paper, marked A; and that the said paper, marked A, is a true copy of part of the said Dispatch.

And this Deponent further saith that he hath compared the paper, marked B. hereunto also annexed, with a certain Document in the possession of His Excellency The Governor, dated the day of July, 1825, and under the signature, which this Deponent believes to be the hand writing of His Majesty the King. And this Deponent hath read the said last mentioned Document, and finds that no other part thereof relates to the subject, mentioned in the said Paper, marked B, and that the said paper, marked B, is a true Copy of part of the said last mentioned document under the Royal Sign Manual.

H. DUMARESQ, Priv. Sec.

Sworn before me this twelfth day of January in the year of our Lord, 1826. FRANCIS FORBES, C.J.

A true copy:—G. G. MILLS, Registrar, 29th April, 1826.

[A] EXTRACT of a Dispatch from Earl Bathurst dated the 21st of December, 1824, No. 47.

[*This extract was a copy of the fourth paragraph of the despatch; see page 419, volume XI.*]

Instructions to governor re archdeacon's duties.

[B] EXTRACT from Governor's Instructions.

[*This extract was the penultimate paragraph in the instructions to Governor Darling; see page 124.*]

A true copy:—G. G. MILLS, Registrar, 29th April, 1826.

[Sub-enclosure No. 9.]

AFFIDAVIT BY COLONIAL SECRETARY GOULBURN.

In the Supreme Court, New South Wales.

In the Matter of the Master of the Female Orphan School.

FREDERICK GOULBURN, of Sydney in the Colony of New South Wales, Esquire, maketh Oath and saith, that the papers, hereunto annexed, marked C and D. are true Copies of two General Orders, issued from the Colonial Secretary's Office on the Eighth day of June last, and the twenty third day of November last, respectively, by the Authority of His Excellency Sir Thomas Brisbane, late Governor in Chief of the Colony of New South Wales aforesaid.

Affidavit by F. Goulburn.

F. GOULBURN.

Sworn before me this twelfth day of January, 1826.

GEORGE MILLS, Commissioner of the Supreme Court.

1826.
7 May.

General orders
re applications
for appoint-
ments as
teachers in
schools.

[C] GOVERNMENT AND GENERAL ORDER.

Colonial Secretary's Office, 8th June, 1825.

THE Archdeacon of New South Wales, in his quality as the King's Visitor of the public Schools, having signified his opinion to His Excellency The Governor that it is expedient to form a class of not less than twelve to be instructed on the Madrass System, and to be qualified as teachers of the primary Schools, which His Majesty has been graciously pleased to command should be established in every Parish throughout the Colony, and that a preference be given to those born in it, it is hereby notified that applications in writing, addressed to the Reverend the Archdeacon at Parramatta, will be received until the 24th Instant, and which applications must contain the name and place of abode, the age, and a reference to two or more respectable persons for Character, etc.

The persons applying must be of sober and steady habits, and of strictly moral character. The provision for them will be liberal, and in proportion to their ability, as well as the progressive state of the Scholars under their tuition, as soon as proper enquiries have been made, the parties will receive notice to attend.

By His Excellency's Command,

F. GOULBURN, Colonial Secretary.

[D] GOVERNMENT AND GENERAL ORDER.

Colonial Secretary's Office, 23rd Novr., 1825.

Appointment
of auditor of
school accounts.

HIS EXCELLENCY The Governor has been pleased, upon the representation of the King's Visitor, to appoint William Lithgow, Esquire, Auditor of the Male and Female, and other School Accounts, as well as those for the several Churches, until further Orders.

By His Excellency's Command,

F. GOULBURN, Colonial Secretary.

A true copy:—G. G. MILLS, Registrar, 29th April, 1826.

[Sub-enclosure No. 10.]

EXTRACT from the Sydney Gazette, 26th Jany., 1826.

Report in
Sydney Gazette
re suit,
W. Walker v.
T. H. Scott.

Supreme Civil Court, Thursday, January 19.

Reverend William Walker v. Archdeacon Scott.

THE argument in this case, which had been postponed to give the defendant an opportunity to bring the authority, under which he claimed to act as King's Visitor, before the Court, was resumed this morning. An affidavit of Frederick Goulburn, Esq., late Colonial Secretary, was put in deposing that the papers thereunto annexed were copies of two Government and General Orders, dated the 8th of June, and the 23d of November, wherein the Archdeacon is distinctly recognised as King's Visitor. An affidavit of Henry Dumaresq, Esq., Private Secretary to His Excellency the Governor in Chief, was also handed in, deposing that a certain despatch, addressed to Sir Thomas Brisbane, dated the 21st day of December, 1824, and from which an extract was appended, was an original despatch, and, as the deponent believed, was in the hand-writing of Earl Bathurst. This despatch purported to be instructions to the late Governor, and announced the appointment of the Rev. Thomas Hobbes Scott, as Archdeacon of the territory of New South Wales and its Dependencies; and stated that one of his earliest duties would be to exercise the power of Visitor over the various schools,* etc., in the Colony.

The Attorney General having handed† in the foregoing affidavit made no other observation, but merely prayed for the decision of the Court.‡

Mr. W. C. Wentworth, on the part of the applicant, contended that the only part of the documents laid before the Court, which had been authenticated in a proper

* *Marginal note by Bannister.*—Another Document, 17th July, 1825.

† *Marginal note by Bannister.*—The Atty. General did not hand the affidavit in. They had been filed by the Solr. before.

‡ *Marginal note by Bannister.*—And that if the opinion of the Court were for the application, then that the order shd. be for the applicant to declare a Prohibition.

manner, were the copies of the Government and General Order, sworn to by Major Goulburn as having issued from the Colonial Office; but these documents merely went to shew that the Governor imagined that the Archdeacon was Visitor, for they could not of themselves constitute or invest him with that office; in fact, the Orders were only evidence of the Governor's impression, and that he was imbued with that impression from the despatch, and from another document that had been handed in, and for which there was no name. With regard to the extract said to be from an original despatch, it was quite clear that, even if the Court could admit its authenticity, which he (Mr. Wentworth) contended it could not, as similarity of hand-writing was all that was sworn to, still, if the Archdeacon were King's Visitor, he could not derive it from that document, for Lord Bathurst could not constitute him in that office; and therefore the despatch could not be any guide for the Court in considering the question before it. The only document of any weight was the extract from the Governor's instructions; but if the Court could, on such a document, dispense with the production of the commission, or letters patent, from which the Archdeacon must derive all his powers, what other conclusion could it come to in the absence of his appointment, but that he was appointed Visitor over schools and institutions, to which such an office attached; and that the Government either supposed that such schools and institutions were in existence, or that they would be founded, and that then he would enter upon his office. These were the only observations he thought necessary to offer; he would still contend that no exclusive or exempt jurisdiction had been shewn to take away the authority of the Court over matters of that nature.

The Chief Justice, after a short consultation with His Honor Judge Stephen, stated that the Court would let the case lie over, for further consideration, and to look into the cases on the powers of Visitors. He certainly thought that a more regular form might have been adopted in appointing a King's Visitor, than that which was relied on before the Court. The only thing like a form was the Governor's instructions, and the question was, could a party claim an exclusive authority merely from a despatch of that kind, without shewing that he derived it in some way from the Crown? He would only then remark that, if it was an appointment, it might have been in a more regular form.

His Honor Judge Stephen was of opinion that there were various questions raised for the consideration of the Court, previous to its coming to a decision on the case before it. It might be one, whether the Governor had not given the Archdeacon a limited authority.* His late Excellency appeared to have been acquainted with the whole nature of the dispute between Mr. Walker and the Archdeacon, and that he would not accept of his resignation when it was tendered, not thinking that he had infringed any positive rule. It might, therefore, appear that he had given up the power over the schoolmaster to the Archdeacon. Taking a view of the whole case, from the affidavits which had been filed by Mr. Walker, for no affidavits had been filed by the Archdeacon, the only authority appeared to be through the Governor; and it, therefore, might be a very material point what powers he had given. The Court not only required the Archdeacon to shew that he was Visitor, but it also required him to shew that he did nothing contrary to his character as Visitor.† *It would appear that all, which had occurred, had arisen out of a personal dispute between the Archdeacon and Mr. Walker*; and, if such were found to be the case, it would of itself be a reason for the Court to grant a prohibition upon the mere principle of common law, as not allowing a man to be judge in his own cause. There were many similar cases where Courts had granted prohibitions, even where the power claimed was indisputable; and he (His Honor) would say, with great deference to the Archdeacon, that there was a great want of most material‡ facts, which would enable the Court to come to a conclusion as to whether it was a case in which it could interfere.

[Sub-enclosure No. 11.]

EXTRACT from the Sydney Gazette, 4th February.

Supreme Court:—Tuesday, January 31, 1826.

Before the Chief Justice and Judge Stephen.

Rev. Wm. Walker v. Archdeacon Scott.

A RULE had been obtained on a former day, calling upon the Archdeacon to shew cause why a writ of this Court should not issue, to prohibit him from proceeding in

* *Marginal note by Bannister.*—Stephen, J., said it was not clear that the Arch D. could remove the Master. Atty. Genl. explained that no such question was before the Court. Chief Justice agreed.

† *Marginal note by Bannister.*—Upon seeing this paper, I submitted it to the Sup. Court as a *contempt of Court*, as grossly misrepresenting the Judges words and ideas, as expressed in his words. The Court declined to interfere in a summary way.

‡ *Marginal note by Bannister.*—I did not hear these remarks.

1826.
7 May.

Report in
Sydney Gazette
re suit,
W. Walker v.
T. H. Scott.

Report in
Sydney Gazette
of judgment in
suit, Walker v.
Scott.

1826.
7 May.

Report in
Sydney Gazette
of judgment in
suit, Walker v.
Scott.

a certain matter of complaint before him, as visitor of the Public schools, against the Plaintiff, and, the case having been argued, the Court this day gave judgment as follows:—

By the Chief Justice.—A prohibition has been prayed by the plaintiff to be directed to the Archdeacon of New South Wales, to restrain him from proceeding upon a summons issued by him under the following circumstance:—

The Plaintiff is the Master of an eleemosynary foundation at Parramatta, commonly called the Female Orphan School. The defendant claims to be the Visitor, and, in virtue of his office as such, caused the defendant, as master of the school, to be cited before him to answer certain matters of complaint set forth in the plaintiff's affidavit. The summons is in the usual form of such instruments, and clearly purports to be the process of some court or tribunal, preparatory to its hearing and determining the matter brought under its cognizance. The plaintiff, considering the power, thus assumed, to be unauthorised, has thought proper to claim the intervention of this Court. It is unnecessary to say anything upon the right of the plaintiff to apply to the Court, nor of the power of the Court itself to inquire into the justness of the application. The Act of Parliament invests this Court with all the authorities of the King's superior Courts at Westminster; and, by analogy to the practice of those Courts, we are bound to grant a prohibition *ex debito justitiæ*, in every case where sufficient grounds are laid for granting it (Lind. v. Rod, Doug. Rep. 619). The plaintiff suggests that the Archdeacon is not Visitor of the Orphan School, that the case is not within its jurisdiction; and further that the Governor of the Colony *has already inquired into** and determined the matter of complaint. The question therefore for us to determine is whether the jurisdiction sought to be exercised is legal or not; and, in order to determine this, we must look into the nature of the school at Parramatta, and the legal foundation of the Archdeacon's claim to exercise the right of Visitor.

It is stated in the plaintiff's affidavits that this establishment was founded by the Government of the Colony, and that its expences are defrayed out of the local revenue—the appropriation of which, at least so far as concerns the maintenance of the school, is wholly dependant on the pleasure of the Governor for the time being. Assuming this to be the true state of the case, the Governor, as the Representative of the Crown, is the Visitor, unless a special authority be lodged in some other person. As an eleemosynary foundation, it was the creature of the founder, and became subject to his visitatorial power. He might either reserve such power or delegate it; and in delegating it, he might either make a general or special Visitor. No precise form of words is necessary, but, in the absence of a definite authority, the Court must look at the purview of the appointment to collect what power the founder meant to give to the Visitor. These few general principles are collected from a case which underwent much consideration in England (St. John's Col. v. Tod, 1 Burr 200), and they are quite sufficient to afford this court a safe-conduct, through all the disputed grounds of the present application. The simple question is, who is the King's Visitor? Is it the Governor of the Colony, or is it the Archdeacon?

It is contended that the Archdeacon is the Visitor, and his title to be so considered is deduced from the following circumstances: viz. the admissions of the complainant himself, the recognition of the Governor, and certain instructions and letters emanating from the Crown through the Secretary of State. With respect to the admissions of the plaintiff, it is certainly admitted by him that the Archdeacon's name appears subscribed as King's Visitor at the foot of certain rules for the guidance of the school, over which he, the plaintiff, is master, and that the Governor had approved and subscribed those rules;—but we can draw no inference beyond what the plaintiff has drawn; namely that the Archdeacon alleges himself to be the Visitor;—but supposing him to be not so, we do not see how this admission (if such it can be called, while the Plaintiff is before the Court expressly to dispute the fact) can enable us to consider the Archdeacon as Visitor, with power to exercise the functions of an office in its nature judicial. Will a defendant's single admission† create a judge? It has been ruled that the admission of a party cannot give jurisdiction, where originally there was none (2nd Mod. Rep. 275). The recognition of the Governor does not stand on better ground; it is impossible to say what power his Excellency may have to recognise—certainly not the power of taking cognizance of the subject matter, over which the Archdeacon

* *Marginal note by Bannister.*—I think that this does not appear from the affidavit; and I am not aware that the Applicant urged it.—S.B.

† *Marginal note by Bannister.*—Not “admissions,” but the setting forth that solemn instrument which raised in law, I urged, a presumption of a due appointment.—S.B.

was about to exercise jurisdiction; for it appears that the Governor had actually exerted that power himself—that he had enquired into the subject of the Archdeacon's charge, called upon the plaintiff to answer it, and declared himself entirely satisfied with the plaintiff's explanation—in short, that His Excellency had heard and determined the whole matter of complaint. The Governor is reported to have expressed himself in the following words:—

“The explanation, which you laid before me of the reason of your absence from the Female Orphan School, was perfectly satisfactory; and, as you have requested my judgment of the matter of the Archdeacon's complaint, I can only repeat* that your explanation has afforded me every satisfaction. In this place, also, I may state that the tender of your resignation, in consequence of a dispute between you and the Archdeacon, I cannot feel myself justified in accepting” &c.

The Governor then appears to have exercised his judgment on the case, and to have decided it. Whether His Excellency had the power to decide it is another question; but, as mere matter of fact, it is clear that his taking the case under his own cognizance as the Visitor is irreconcilable with the supposition that he meant to recognize that power in another person. But, whether His Excellency considered it so or otherwise, it would not alter the nature of the question, which still remains what it was—Is the Archdeacon the legal Visitor? In support of this title, there have been laid before the Court several affidavits, amounting in substance to this, that His Majesty has, by his instructions to the Governor, expressed his Royal pleasure “that the Archdeacon should act and be the visitor of all schools and religious foundations, maintained throughout the Colony by grants from the Crown,” and that a despatch from Earl Bathurst has conveyed the same intelligence to the Governor. But these two instruments, taken together, neither create a Visitor, nor do they define his authority. As a general proposition, it is no doubt true that, if there be no words of limitation in the nomination of a King's Visitor, all the powers incidental to the office would naturally follow. But it is to be observed by the despatch, which is now before the Court, it is required of the Visitor to transmit to the Governor, or through the Governor to the Secretary of State, a report of such circumstances connected with the schools, as he might think necessary to bring under the consideration of Government; and it is further to be observed that, in conformity with this instruction, the Archdeacon “did not feel it his duty† to lay this matter of complaint before his Excellency to be transmitted to His Majesty's Government in England.” Therefore, what the precise powers were, which were intended to be delegated, or what reserved, we cannot collect from the affidavits before us. We do not, however, rest any material part of our decision upon this uncertain ground. We hold upon broad first principles that the power to exercise any judicial office of any kind or character whatsoever, must emanate from the Crown—that the Crown only grants such offices by letters patent—that no such letters patent, nor any proofs of their existence, have been laid before us—that we cannot consistently with the principles of law or the rules of evidence, admit as proofs mere extrinsic facts to supply the place of those formal instruments, by which alone the Crown can delegate its prerogatives or alienate its rights—that these principles are peculiarly applicable to the creation of an office, in its nature judicial; and least of all would it be proper to break through them in determining a issue of official right, directly put in question between the local Government (by the acts§ of the late Governor) and the Archdeacon. Impressed as we are with the belief that it has been the intention of His Majesty's Government to place all the schools and religious foundations in this Colony under the visitation of the Archdeacon; we would respectfully suggest that the office of Visitor should be created by a regular and formal grant from the Crown—upon the state of facts before the Court, we have no alternative but to grant a prohibition.

Rule made absolute.||

* *Marginal note by Bannister.*—Sir Thomas Brisbane, in this letter, speaks of one thing only, viz., “the absence” originally submitted to him. The case, on which the Master was convened, never was laid before the Governor.

† *Marginal note by Bannister.*—This was done on the first matters of disapprobation, and I think in courtesy only to the Government, as thinking His Excellency had reserved any authority.—S.B.

‡ *Marginal note by Bannister.*—Letters patent—My point was that in this case, as it stood, the proper Commission should be presumed. But it seems to me to be very doubtful if Letters patent are necessary for the creation of a King's Visitor in the Colony.—S.B.

§ *Marginal note by Bannister.*—I do not think that the late Governor ever disputed the Archdeacon's right.—S.B.

|| *Marginal note by Bannister.*—The order might at all events to have been for the applicant to have declared in prohibition. See *Ld. Mansfield's Doctrine* 1 Burr 198.

1826.
7 May.

Report in
Sydney Gazette
of judgment in
suit, *Walker v.*
Scott.

1826.
8 May.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 30, per ship Leander; acknowledged by Earl Bathurst, 29th September, 1826.)

My Lord, Government House, 8th May, 1826.

Transmission of
instruments of
pardon
granted by
Sir T. Brisbane.

In reference to my Dispatch, No. 15, dated 30th of last Month, I have the honor to transmit Thirteen Instruments of Pardon, with an abstract thereof, signed by Sir Thomas Brisbane previous to his departure and since found in the Colonial Secretary's Office.

I have, &c.,

RA. DARLING.

[Enclosure.]

[This enclosure contained the names and particulars relating to thirteen convicts, three of whom were granted absolute, and ten conditional pardons.]

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 31, per ship Leander; acknowledged by Earl Bathurst, 15th November, 1826.)

My Lord, Government House, 8th May, 1826.

Pardons granted
by R. Darling.

I have the honor to transmit herewith, conformably to the 35th Clause of the Act of 4th Geo. 4th, chap. 96, two Instruments of Pardons, which I have granted, together with the necessary documents explanatory of the cases of the respective Individuals, begging humbly to recommend them for His Majesty's gracious consideration, vizt.

James Watsford, transported in the year 1812, Fully pardoned.

Henry Russell, transported in the year 1814, Conditionally pardoned.

I have, &c.,

RA. DARLING.

[Enclosures Nos. 1 and 2.]

[These two instruments of pardon were in the usual form, and dated 6th May, 1826.]

[Enclosure No. 3.]

THE HUMBLE PETITION OF JAMES WATSFORD.

The petition of
J. Watsford.

To His Excellency Lieut. General Darling, Governor in Chief,
&c., &c.

RESPECTFULLY sheweth that, in the year 1810, Your Petitioner received Sentence of Transportation for Life at Lewes Assizes, and came to the Colony by the ship Guilford in January, 1812. That he was assigned on his arrival to Captain Cohen of the

73rd Regt., with whom he remained as a Servant, until the Regiment quitted the colony in the year 1814; when, at the recommendation of that Officer, the indulgence of a Ticket of Leave was granted him. That your Petitioner then engaged with Hannibal Macarthur, Esqr., and, whilst in the service of that Gentleman, married a Native of the Colony. That, in the year 1817, your Petitioner entered the employment of John Macarthur, Esqr., with whom he has continued ever since. That your Petitioner has now a Family of five children, whom he assiduously endeavours by example as well as by precept to bring up in habits of industry, good order and morality.

Your Petitioner, therefore, respectfully solicits that Your Excellency will be pleased to recommend him to the merciful consideration of His Majesty, and humbly trusts that fourteen years of uninterrupted good conduct may be deemed a sufficient atonement to the Offended laws of his Country to warrant the extension to him of a Free Pardon, which great boon he thus ventures (chiefly on account of his Family) most earnestly to implore. And your humble Petitioner, as in duty bound, will ever pray,

JAMES WATSFORD.

Testimonial.

I do not know a more *honest, faithful, affectionate* Servant, a *better Husband*, or a kinder parent to his family. He has served me as a Coachman nearly nine years, and I feel myself bound in justice to offer my humble testimony in his favor, and respectfully to intreat the favorable consideration of your Excellency towards the Petitioner.

JOHN MACARTHUR.

1826.
8 May.
The petition of
J. Watsford.

Testimonial by
J. Macarthur.

[Enclosure No. 4.]

THE HUMBLE PETITION OF HENRY RUSSELL,

Respectfully sheweth,

That your Petitioner arrived in this Colony in the Ship Somersetshire, having been tried at Oxford in March, 1809, and sentenced to transportation for Life.

That your Petitioner's wife and family came out free in the *Northampton* in 1815; and, in the year 1818, was indulged by His Excellency Governor Macquarie with a Ticket of Leave, which he still holds, a circumstance he humbly trusts will carry with itself a recommendation to your Excellency.

That, for the last eight years, Petitioner has rented a farm from the Rev. Mr. Marsden in the District of the Field of Mars; from the profits of which he has realized, by economy and industry, 20 Head of horned Cattle, 3 Horses and a flock of Sheep;

The petition of
H. Russell.

1826.
8 May.
The petition of
H. Russell.

but, in consequence of his being unfortunately still under sentence of the Law, is deprived of many advantages approximating to persons possessing such property.

Petitioner is therefore emboldened humbly to submit his case to the humane and favorable Notice of Your Excellency, in the hope that Your Excellency will take his long residence in the Colony, with an unblemished Character, the length of time which has elapsed (now 16 years) since Sentence was passed upon him, together with his long tried conduct since his arrival, into your humane and benevolent consideration, and to be graciously pleased to grant unto your humble Petitioner the indulgence of a *Conditional Pardon*, whereby he will be once more restored to that Society, to which his character and wealth gives him a Claim; and for such mark of your Excellency's favor, Petitioner will ever, &c.,

HENRY RUSSELL.

Field of Mars, 7 May, 1825.

Testimonial
by Rev. S.
Marsden.

Testimonial.

This Petitioner was recommended to me by the Proctor of the University of Oxford. His crime was for passing a one pound forged Note. Mr. Pearson informed me that it was the opinion of the University that Russell did not know the Note was forged, and he was detained in Oxford Castle for six years, in the hope of procuring his pardon; but the Bank of England interfered, and prevented this being done. Russel has been an industrious man in the Colony.

SAM'L MARSDEN, Senior Chaplain.

[Enclosure No. 5.]

SECRETARY GOULBURN TO H. RUSSELL.

18th October, 1825.

[A copy of this letter is not available.]

GOVERNOR DARLING TO EARL BATHURST.

(Despatch marked "Separate," per ship Leander; acknowledged by Earl Bathurst, 4th October, 1826.)

My Lord,

Government House, 8th May, 1826.

Your Dispatch of the 9th of September last, No. 20, having led me to suppose that your Lordship may be under some anxiety as to the state of Melville Island, I lose no time in informing your Lordship that the ship *Phillip Dundas* was despatched hence by Sir Thomas Brisbane, the end of November last, with supplies of every description for the use of that Settlement.

Ship Phillip
Dundas sent
with supplies
to Melville
island.

The last accounts, received from thence, are of a private nature and dated in the month of August, at which time the Settlement appeared to have been doing well.

1826.
8 May.

The *Phillip Dundas* is expected daily from Melville Island; and I hope to have it in my power to send your Lordship a circumstantial account of the state and progress of the Settlement by the ship *Toward Castle*, which will sail in the course of the present month for England.

Expected return of ship *Phillip Dundas*.

Being led to believe that the Brig *Lady Nelson*,* belonging to this Government, which was attached to that command, has been lost or captured by the Malays, not having been heard of since she was sent to Java, the beginning of last year, I have prepared the Cutter *Mermaid*, which will be immediately despatched in order to being stationed at that Settlement.

Presumed loss of brig *Lady Nelson*.

Cutter *Mermaid* to be stationed at Melville island.

The Schooner *Isabella*, a vessel of one hundred and twenty tons, will also be ready to proceed on the arrival of the *Phillip Dundas*, by which vessel I hope to receive more detailed information than I have yet obtained. I shall then have an opportunity of forwarding whatever may be necessary to the more permanent establishment and advancement of the Settlement; and I propose taking that opportunity of relieving the Commandant, it being of importance that the Officer, filling that appointment, should be a man of information and experience. The *Isabella* will be directed to return without loss of time to this place.

Schooner *Isabella* to sail for Melville island.

I have, &c.,

RA. DARLING.

GOVERNOR DARLING TO MR. E. BARNARD.

(Per ship *Leander*.)

Sir,

8th May, 1826.

I have the honor to transmit to You herewith the first of a Bill of Exchange, drawn on the Lords Commissioners of His Majesty's Treasury by the Deputy Commissary General for the Sum of Four Thousand Pounds Sterling, to enable You to meet the Demands, made on you as Agent of this Colony; and I request You will furnish me, at Your earliest convenience, with a Copy of Your Account with this Government, that I may be enabled to regulate the remittances, which it may be necessary to make to You, as likewise a Statement of such Monies, whether Pensions or otherwise, as You are required to pay periodically.

Funds made available for agent.

I have, &c.,

RA. DARLING.

* Note 74.

GOVERNOR DARLING TO UNDER SECRETARY HAY.

1826.
9 May.(Despatch per ship *Leander*; acknowledged by under secretary Hay,
9th October, 1826.)

Dear Sir,

Sydney, 9th May, 1826.

Necessity for
appointment of
civil engineer.

I cannot close my Despatches without endeavouring to impress on you the importance of sending out, with as little delay as possible, a *Competent* Engineer. I have adverted to this in one of my Official letters, and I earnestly beg your attention to it. I should be extremely gratified if Major Buchanan of the Royal Engineers, who has lately gone home from the Mauritius, could be employed on this service, either in his own Department or rather as Civil Engineer. He has already been employed with me, and I know from experience that his qualifications render him peculiarly eligible to supply what is wanted in this Government. His health failed in the Mauritius, but I have no doubt this climate would agree with him; and I think he would be glad to be employed here. It has not yet been in my power to make a Report respecting the defenceless state of the Colony. I shall write on the subject by an early opportunity, as I am satisfied Government will not allow so valuable a possession to remain any longer unprotected. A single Frigate could in a very short time destroy the Town without the possibility at present of preventing it.

Recommendation of major Buchanan.

Defences of the colony.

Want of convicts and mechanics.

I shall write more officially by the next opportunity, respecting the want of Convicts and Mechanics. Permit me to state in the meantime that I shall be glad to receive as many as are disposable.

I have, &c.,

RA. DARLING.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 37. per H.M.S. *Success*; acknowledged by Governor Darling, 4th December, 1826.)

20 May.

Sir,

Downing Street, 20th May, 1826.

Resignation of S. Bannister.

In consequence of the wish expressed by Mr. Bannister to be removed from the Office which he holds of Attorney General at New South Wales, unless his Salary should be increased to double its present amount, His Majesty has had no other alternative than to accept that Gentleman's Resignation; and I now do myself the honor of acquainting you that Mr. Alexander M. Baxter, the person who was selected to succeed Mr. Bannister, will proceed to the Colony as soon as he shall have completed the necessary arrangements for his departure. Upon Mr. Baxter's arrival at Sydney, you will place him in the

Appointment of A. M. Baxter.

execution of the duties of Attorney General, issuing to him his Salary (which, though not deemed expedient to augment in the proportion required by Mr. Bannister as a condition of his holding the appointment, has been increased from £1,200 to £1,400 pr. annum) from the date at which he may enter upon his functions.

1826.
20 May.

Increase in
salary of
attorney-
general.

The same privilege, which was given to Mr. Bannister to practice as an Advocate, will of course be enjoyed by his Successor; and the prohibition to act in the capacity of a Solicitor will equally apply to Mr. Baxter, whose Salary of £1,400 a year is to be understood as being in lieu of all other Emoluments whatever, excepting those which he may derive from his professional Talents, in the way in which it is considered compatible with his Situation that he may employ them.

Private practice
allowed to
A. M. Baxter.

I have, &c.,
BATHURST.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch marked "Separate," per ship Speke; acknowledged by Governor Darling, 28th January, 1827.)

Sir,

Downing Street, 20th May, 1826.

Great inconvenience having been found to arise to His Majesty's Government, as well as to the Parties interested, by Individuals in New South Wales transmitting complaints to the Colonial Department at home without a previous communication with the local authorities, whereby much delay has been interposed in consequence of the reference, which it is necessary to make to your Government for explanation previous to any decision being had on the subject of such complaints, I have to desire that you will cause public notice to be given in one of the Colonial Journals that the Secretary of State cannot send any satisfactory or conclusive answers to any communications which may be addressed to him, without such communications are made known to the Governor, in the first instance, in order that he may be enabled to offer such explanations as the case may admit.

Communi-
cations to
secretary of
state to be
transmitted
through
governor.

In all cases where this Regulation has not been complied with, there will be no other alternative but to send such communications back to the Colony with a view to the Governor having an opportunity of reporting upon them, until he has done which, the answers must be postponed.

In promulgating this Regulation to the Inhabitants, you will however explain to them that it is, by no means, intended to debar any person from sending any complaints he may think

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Discretionary
rights of private
individuals.

proper direct to the Secretary of State, but to apprise the Inhabitants of the course which such complaints must take before an answer can be given; still less will there be any objection to their apprising the Secretary of State of any communications, which they may have presented to the Governor for the purpose of being transmitted home, or to their forwarding Duplicates of them to the Secretary of State, the object of this Instruction being that, in any complaints which may be preferred against the measures of your Government, His Majesty's Ministers may have before them, at the same time, any explanations, which the Governor may have to offer on the several points to which these complaints may refer.

I have, &c.,

BATHURST.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 32, per ship Toward Castle; acknowledged by Earl Bathurst, 1st December, 1826.)

My Lord,

Government House, 20th May, 1826.

Application
from bank of
N.S.W. for
financial
assistance by
government.

1st. The embarrassment of the "New South Wales Bank," which occasioned the application, reported in my Despatch of the 5th Inst., marked "Separate," had increased in a few days to such a degree, as to oblige the Directors to apply for immediate assistance from the Government.* A Deputation from that Body waited on me in consequence and represented their situation. Perceiving by the statement, which they laid before me, that there was no reason to doubt the solvency of the Bank, I desired that they would make their application by letter, giving them to understand, if any assistance should be afforded, that I should prefer giving the Bank a credit on the Government to a certain amount, rather than advance a specific sum by way of Loan, the whole of which might not be required. An application, of which the enclosed is a copy, was accordingly made; and I appointed a Committee of the "Board for General Purposes" to examine into the Affairs of the Bank generally, and to ascertain more particularly the several points, specified in the accompanying Minute.

Consideration
by executive
council.

2nd. On receiving the Report of the Committee, which your Lordship will perceive, by the enclosed copy, is drawn up in an able and satisfactory manner, I immediately assembled the Executive Council, and brought the subject under its consideration.

Business
relations
between banks
of Australia
and of N.S.W.

3rd. As apprehensions were entertained that the "Australian Bank,"† which is just being established, might take advantage of the embarrassment of the Bank of New South Wales, a communication was made to the Directors of the former to ascer-

* Note 71. † Note 75.

tain, if possible, their intentions in this respect; and I do myself the honor to transmit a copy of their reply. It had been previously suggested to me to leave the Old Bank to seek assistance from the New; but, considering this as the suggestion of persons not wholly disinterested, and coupling it with the determination of the New Bank, as expressed in the Enclosure No. 4, to receive the Notes or Cheques of the Bank of New South Wales only in payment of the "Instalments of Capital of the Bank of Australia," and not generally, it appeared to me, unless assisted by the Government, the immediate failure of the New South Wales Bank would be inevitable, and that the Inhabitants at large would be exposed to great distress and many Individuals be totally ruined.

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Business relations between banks of Australia and of N.S.W.

Probable failure of bank of N.S.W.

4th. It must be unnecessary to trouble your Lordship with a detailed account of the Proceedings of the Council. It will, I presume, be sufficient to state generally the result of its deliberations on this occasion. To this effect, I do myself the honor to transmit, for your Lordship's information, copy of a Memorandum containing propositions as to the conditions, on which it was proposed to grant the assistance required by the Bank, together with the copy of a letter from the President signifying the acquiescence of the Proprietors.

Assistance granted by advice of executive council.

The terms being thus agreed on, the Directors have been authorized to draw on Government, as may be necessary, to the amount of Twenty Thousand Pounds Sterling.

Amount to be advanced.

Your Lordship will perceive that ample security will be obtained for any money, which may be advanced, and that such restrictions have been imposed by the Appointment of Directors, nominated by the Council, and the other measures, pointed out in the Enclosure No. 5, as will effectually prevent a recurrence of the Proceedings, which have taken place, and insure the proper conduct of the Bank in future.

Precautionary methods adopted.

5th. I have now only to express my hope that your Lordship will be satisfied of the expediency of affording the Bank assistance under the circumstances stated, and will approve of the arrangements, which, with the advice of the Council, I have felt it necessary to adopt in this case. Had I refused to afford the assistance required, the want of confidence, which the Public had evinced, would have been confirmed, and confusion and distress would have ensued. Whereas even the *promise* of assistance on the part of Government (for no money has yet been called for) appears to have had the effect of re-establishing public confidence and restoring the credit of the Bank. The countenance, thus afforded, appeared to the Council and myself

Effect of government support.

1826.
20 May.

necessary to its support against the influence of the Australian Bank; and I am happy to think it has not only had this effect, but that the measures, which have been adopted, have led to a good understanding between the two Establishments, and, if faith be preserved, the result cannot fail to be beneficial to the Colony.

Cause of bank's
difficulties.

6th. It may be proper to state that the recent alarm has been caused by the Bank being left without Dollars, which appear to have been withdrawn from it to a large amount, partly for the purpose of remittance, as Bills could not be procured, and partly on account of the Establishment of the Australian Bank.

Insufficiency
of circulating
medium.

7th. It is supposed by those, who profess a knowledge of Finance, that the British Money here, Thirty Thousand pounds, is not sufficient to supply the necessary Circulating Medium and to furnish the means of procuring Bills for remittance. It is evident, to whatever extent the amount of this money may be increased, that it cannot be issued beyond the expenses of Government; and, remittances being urgently required, the greater portion of it is immediately returned to the Commissary in exchange for Bills, so that hitherto only a small sum has remained in circulation. According as Dollars may be withdrawn, this money will supply their place, and its circulation in the Colony will consequently be increased. This may render a larger sum necessary than appears to be required at present; and, as it is desirable at once to establish a sterling circulation (which your Lordship will perceive is one of the conditions of the Bank) and get rid of Dollars, I beg to recommend that a further Supply of British Coin be sent out, a portion of which should be in gold, as affording convenience to those, who are desirous of procuring Bills, and leaving the smaller Coins for the purposes of change and the convenience of the poorer classes.

Appointment of
W. Lithgow
as director
of bank.

8th. I should fail in justice to Mr. Lithgow, the Auditor of Accounts, were I to omit acquainting your Lordship that, in compliance with the wish of the Public, I have permitted of his appointment as Director of the New South Wales Bank, which I should not have consented to under other circumstances, and had indeed not long since refused, when applied to on the part of the Australian Bank, to permit of his being included in the direction of that Establishment.

It appeared to me expedient on this occasion to waive any further objection, being fully sensible of the importance of having a Person on the Direction, who possesses the confidence of the Public, and whose knowledge of Business and general character would be a guarantee for the proper management of that Establishment.

9th. I beg to add that Mr. McLeay's Services have been also important in these arrangements, and that he has on all occasions afforded me the most zealous assistance, and has proved himself a most useful and able servant of the Government.

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Services of
A. Macleay.

I have, &c.,
RA. DARLING.

[Enclosure No. 1.]

THE DIRECTORS OF THE BANK OF N.S.W. TO GOVERNOR DARLING.

Sir, Bank Buildings, 11 May, 1826.

In consequence of the large exportation of Dollars, which has lately taken place, and the alarm, which it has created in the Public mind,

Request from
bank of N.S.W.
for financial
assistance from
government.

We have the honor to request that your Excellency will be pleased to give us a Credit on the Deputy Commissary General of the Colony to the Amount of Twenty Thousand Pounds in British Silver Currency, and take, as a Security for the repayment of this money, any portion of the Bank assets, which your Excellency may select.

In the event of Your Excellency acceding to this request, We beg to state that we will pay Interest, as we may be compelled to draw. We do not anticipate that we shall require this sum; but we have thought it advisable to name more than we think we shall require, rather than less.

We are ready to certify the statements of the Bank Stock, which we had the honor to submit to your Excellency this morning, before any Committee of Gentlemen Your Excellency may approve for that purpose.

We have, &c.,

JOHN PIPER, President. THOMAS RAINE.
W. C. WENTWORTH. R. C. PRITCHETT.

[Enclosure No. 2.]

MINUTE BY GOVERNOR DARLING, No. 102.

Government House, 11th May, 1826.

CIRCUMSTANCES rendering it advisable that an investigation should be made into the state of the Bank, I have deemed it expedient to appoint the Officers, hereafter named, to form a Board for the above purpose. Vizt.

Appointment of
board of inquiry
on financial
position of
bank of N.S.W.

The Honble. Alexander McLeay, Esqre., Colonial Secretary;
William Lithgow, Esq., Auditor; and Stewart Ryrie,
Esqr., Deputy Assistant Commissary General.

The Board will be pleased, with as little delay as possible, to proceed and verify the state of the Bank, as submitted by the

1826.
20 May.

Appointment of
board of inquiry
on financial
position of
bank of N.S.W.

Directors, by inspection of and comparison with the books of that Establishment, and further to ascertain the nature and extent of the Assets and Debts.

The Board will also be pleased to ascertain the average weekly Deposits and Discounts, and to report on these and all other matters, which may appear of importance to the object, which has been explained personally to the Members.

A general State of the Bank to the 31st of December, 1825, with two Statements of the aggregate Balances on the 10th Instant, accompanying this Minute.

[Enclosure No. 3.]

REPORT BY BOARD OF INQUIRY ON THE BANK OF N.S.W.

Sir,

Sydney, 12 May, 1826.

Report by
board of inquiry
on financial
position of
bank of N.S.W.

In pursuance of the directions contained in your Excellency's Minute No. 102, dated the 11 Instant, We lost no time in proceeding to investigate and verify the abstract statements of the Directors, purporting to exhibit the actual position of the Affairs of the Bank of New South Wales on the 10th of this month, which had been submitted to your Excellency; and we beg leave to report that, on inspection of the Books, Treasure, and Negotiable Securities, which were readily submitted to us by the Directors, we satisfied ourselves that Specie, to the following amount, was actually in the Bank yesterday afternoon, vizt.

In British Gold Coin	£521	2	0	
Do. Silver Coin	1,560	5	6	
In Sicca Rupees @ 2s. 1d.	1,812	7	0	
In Spanish Dollars				\$4,739.11
Store Receipts convertible on demand				1,168.06

Total Specie or its equivalent

£3,893 14 6

\$5,907.17

And that there was further in the possession of the Bank the following Securities and effects:—

Bills receivable and falling due in May, June, July, and August, amounting to

440,344.09

Mortgage Deeds for

24,655.88

Office furniture valued by the Directors at

1,505.50

£3,893 14 6

\$472,412.64

We also satisfied ourselves that the Debts of the Bank are as follows:—

Balances of Deposit accounts

2,098 4 6

282,793.84

Bank Notes in circulation

34 0 0

124,868.57

£2,132 4 6

\$407,662.41

The Balance of Assets in favor of the Bank appears therefore to be

1,761 10 0

64,730.23

£3,893 14 6

\$472,412.64

That the amount of Specie above stated was in the Bank, We ascertained by actual examination; and we afterwards compared all the Bills and Promissory Notes separately with the enclosed Lists, and found the amount of the same, as above stated, to be correct.

Of these securities, we have reason to believe, and indeed it is admitted by the Directors themselves, that a considerable proportion consists of Accommodation Bills, not founded on bona fide Trading transactions, Sales, or Exchanges of property. From this circumstance, it is obvious that, if the accommodation, which has been afforded to the Public by the Bank, were suddenly withdrawn, the consequence would be fatal to the credit of many of the Parties, whose names are on the Bills, whether their property should ultimately be found sufficient to cover them or not.

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Report by board of inquiry on financial position of bank of N.S.W.
Nature of advances made by bank.

It is of course totally impossible for us to distinguish all the Accommodation Bills from those, which are founded on "bona fide" transactions; but the circumstance of several of the Bills being of the same date and amount, and drawn, accepted or endorsed by the same parties, leaves no doubt that they are actually Bills of Accommodation.

In verifying the negotiable securities, our attention was strongly attracted to the frequent recurrence of the same names; and we considered it important to ascertain the extent of the liability of some of the Parties, whose names occurred most frequently, and to obtain information as to the amount of credit allowed them by the Directors.

Accommodation granted to individuals.

To satisfy us in this respect, a Book was produced containing, for the guidance of the Directors, the credit understood to have been accorded to each individual, whose Bills were discounted; but, although from this Book, the acceptances of several Individuals appear to have been discounted to an amount, beyond what we should have considered prudent, yet we readily perceived that the liability to the Bank of such Parties was by no means limited to the amount of their acceptances. We felt anxious, therefore, to ascertain the full extent of the liabilities of some of the Parties, not only as Acceptances, but also as Drawers and Endorsers, whenever their names appeared in the List of Bills.

Liabilities of individual customers to bank.

Following up this Enquiry, we found

that the Acceptances of Mr. Robert Cooper amounted to	29,289.46
and that he had signed other Bills as Drawer or Indorser to the amount of	26,751.36
Consequently the extent of his liability direct or indirect was	\$56,040.82
That the Acceptances of Messrs. Raine and Ramsay amounted to	24,274.66
And that they are endorsers to the amount of	12,089.28
And drawers to the amount of	70,880.41
Making the full extent of their liability	\$107,243.35
We find that Mr. Robt. Campbell, Junior, is accepted to am't of	39,470.04
Drawer to the amount of	45,620.98
and Endorser to the amount of	2,066.01
Making the full Extent of his liability	\$87,157.03

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20 May.

Report by
board of inquiry
on financial
position of
bank of N.S.W.

Liabilities of
Campbell,
Raine, Ramsay,
and Cooper.

We thus find that the three Parties, above mentioned, are directly or indirectly liable to the Bank for no less an amount than Two hundred and forty nine thousand and forty six Spanish Dollars, or more than one half of the Assets of the Concern.

It is proper to remark that, on the greater number of Bills for which those Individuals are responsible, other names are joined with them. Bills, however, to the amount of Twenty four Thousand, two hundred and thirty six Spanish Dollars and sixty seven cents have no other signatures excepting those of Robert Campbell Junior and Raine and Ramsay; and other Bills to the amount of Twenty three thousand and five Spanish Dollars and eighty three Cents are signed only by those Parties and Robert Cooper. In short, for so large a proportion of the Assets as Forty seven thousand, two hundred and forty two Spanish Dollars and fifty cents, the Bank holds *no* security whatever beyond that of the signatures of the Parties mentioned. We have thought it important, to the object of conveying an idea as to the validity of the Assets of the Bank, particularly to state the extent, to which it appears to have discounted on the Credit of the Parties named, who are debtors to the Bank in a much larger amount than any other Individuals. Had the urgency of making an early report admitted, we should have considered it advisable to ascertain and specify each Individual Debt to the Bank; but, as this would occasion delay, we shall confine ourselves to further stating that Mr. John Paul, Auctioneer, who is the next most considerable Debtor, appears to be liable to the Bank,

As Acceptor to the amount of	\$40,972.92
Drawer to that of	8,762.04
And as Indorser of	1,598.40
	<hr/>
In all	\$50,443.36
Against which, however, can be set off the balance of his Credit on account of Deposits	14,076.61
	<hr/>
Leaving a net balance for which he is liable	\$36,366.75

Balances due
by bank.

We had not time minutely to examine the Balances, stated to be due by the Bank, as to have summed up and balanced these accounts in the Ledger would have required several days to accomplish. We, however, struck the Balances of the Accounts of three Individuals in the general Ledger, and found them to correspond with those in the Daily Balance Book; from which we are led to infer that the aggregate of such Balances, as shown by the annexed List signed by two of the Directors, is correct or nearly so.

Liability of
John Paul.

We felt it our duty particularly to examine the Deposit Account of the Colonial Treasurer, the state of which we ascertained to be as follows,

On the morning of the 10th Instant, the balance in his favour was only	\$2,722
And on that day he paid in a cheque of the Naval Officer for	20,000
<hr/>	
Making the balance in his favor at the time the Statement of the Directors was made up	22,722
On the 11th, he appears to have paid in the following cheques:—	
Icely & Co.	\$487.80
Do.	5,963.00
Raine and Ramsay	403.10
Do.	3,811.16
Capain Piper	20,000
Cooper and Levey	4,000
Jones and Walker	10,000
J. Payne	92
Clarkson	1,000
Wilson	700
Clarkson	20.95
Ivory	1,000
Bank Notes	29,265
	<hr/>
	76,743.01
Making the total balance at his Credit on that day	\$99,465.01

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20 May.
Report by board of inquiry on financial position of bank of N.S.W.
Deposit account of colonial treasurer.

From this statement, it appears that the Cashier, in accepting Mr. Balcombe's cheques on the Bank for one hundred thousand, one hundred and seventy four Spanish Dollars and eighty four cents on the 11th, which was submitted to the Board appointed to ascertain the Balance of Public Money in the hands of the Colonial Treasurer at that date, exceeded the total Amount at the Credit of the latter in the Books of the Bank at any time of that day.

Sum withdrawn by colonial treasurer.

We likewise examined the state of the Account of the Naval Officer, and found a Balance of Three thousand and four Spanish Dollars and eighty five Cents in his favor; but, as a cheque of his, in favor of Mr. Balcombe, was paid in yesterday, the balance to-day must be sixteen thousand, nine hundred and ninety five Spanish Dollars and fifteen Cents to his Debit.

Account of naval officer.

In remarking on the Assets of the Bank, we omitted to state that we examined the Mortgage Deeds and found the amount thereof as stated by the Directors. Under this head, however, ought also to have been included the Item, entered in their statement, under the Title of "President's Receipts," this in fact being the Balances of a Mortgage in the Estate of the late Mr. Bayley, for which the President is personally responsible, and which is now likely to be paid from the proceeds of Mr. Bayley's Estate. This increases the amount of the Bank Assets in Mortgages by five thousand, seven hundred and seventy six Spanish Dollars and twenty one Cents, making it Twenty four Thousand, six hundred and fifty five Spanish Dollars and eighty eight cents, as already stated by us, instead of Eighteen thousand,

Mortgages held by bank.

1826.
20 May.

Report by
board of inquiry
on financial
position of
bank of N.S.W.

Comparative
statements
of position
of bank.

eight hundred and seventy nine Spanish Dollars and sixty seven cents, as entered in the abstract of the Directors.

On expressing a wish for information as to the amount of Discounts, Deposits and Specie, now in the Bank, compared with the amount of the same at former periods, to enable us to form an opinion how far there might be ground for imputing the existing difficulties of the Bank to a change in the mode of conducting its affairs, the Directors in this, as in every other instance, evinced every disposition to afford us all information in their power, and submitted to us a Book containing a weekly summary of the State of the Bank from the Commencement of the year 1824.

From this Book, we have been enabled to prepare a statement, shewing weekly the amount of Discounts, Deposits, Notes in circulation, Specie in the Bank, and other particulars, for the last twelve months, and which we herewith enclose; and we consider it will go far to account for the causes, which have led to the situation in which the Bank is now placed.

Spanish dollars
held by bank.

From this Statement, it will be seen that, previously to the 10th Instant, the smallest amount of hard Dollars in the Bank was Thirty seven thousand, seven hundred and eighty Spanish Dollars and eighty eight Cents at the date of the 15 August, 1825. The largest one hundred and sixty five thousand, nine hundred and fifty nine Spanish Dollars and thirty six cents on the 30th of January last. That on the 27th February, the amount was Ninety Three thousand, three hundred and forty three Spanish Dollars and twenty two cents. That on the 3rd April the amount had risen to one hundred and twenty two thousand, nine hundred and thirty three Spanish Dollars and thirty Cents; from which date it appears to have gradually decreased till the 1st May, when it was Eighty nine thousand and eight hundred and seventeen Spanish Dollars and sixty five Cents; but, in the following week, the amount was reduced to Eight thousand eight hundred and twelve Spanish Dollars and eleven cents; and on the 10th Inst. it was only four thousand, seven hundred and thirty nine Spanish Dollars and eleven cents.

It is satisfactory to know that, notwithstanding the late alarm, there has been this day received Two thousand, eight hundred and sixty two Spanish Dollars and forty three cents; and, as only two hundred and six Spanish Dollars and forty three cents were issued, the amount this afternoon has risen to Seven thousand, three hundred and ninety five Spanish Dollars and thirty cents.

Notes in
circulation.

The amount of Notes in circulation on the 9th of May, 1825, appears to have been ninety two thousand, five hundred and seventy five Spanish Dollars. On the 11th July, one hundred

and fourteen thousand, nine hundred and forty Spanish Dollars. On 22nd August, it appears to have been reduced to Ninety two thousand, two hundred and eighty Spanish Dollars, but to have been again augmented to its maximum, on the 27th February, of One hundred and thirty three thousand, two hundred and forty five Spanish Dollars. And on the 10th of this Month, the amount was, as already stated, One hundred and twenty four thousand, eight hundred and sixty eight Spanish Dollars and fifty seven Cents.

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20 May.

Report by
board of inquiry
on financial
position of
bank of N.S.W.
Notes in
circulation.

The amount of Deposits in the Bank, on the 9th May, 1825, appears to have been One hundred and eighty eight thousand, seven hundred and sixty three Spanish Dollars and fifty nine cents. On the 13th March, Three hundred and ninety eight thousand, seven hundred and twenty six Spanish Dollars and fifty nine cents. Since which last date, it appears to have been gradually diminished to their aggregate on the 10th Instant of Two hundred and eighty two thousand, seven hundred and ninety three Spanish Dollars and eighty four cents.

Deposits
in bank.

We would beg more particularly however to point out the extraordinary augmentation in the amount of *Discounts* within the annual period alluded to, as indicated by the amount of Bills receivable.

Increase in
amount of
discounts.

This amount, on the 9th May, 1825, appears to have been only One hundred and ninety six thousand, three hundred and ninety seven Spanish Dollars and three cents, and to have been almost gradually augmented till the present time, when it is no less than Four hundred and forty thousand, three hundred and forty four Dollars and nine cents, having been more than doubled in the short period of twelve months. The total amount of the Capital Stock, paid up by the Proprietors of the Bank, previous to the 1st instant, was only Forty three thousand two hundred Spanish Dollars; since which date, it has been augmented, in consequence of a Call on the Proprietors, to Fifty three thousand, six hundred and thirty one Spanish Dollars and forty eight cents.

It thus appears that, on a real money capital of less than Fifty thousand Dollars, the present Directors of the Bank have thought proper to extend their *Discounts* and the issue of *Notes* to upwards of Five hundred and sixty five thousand Dollars, or more than ten times the amount of the money capital actually advanced by them.

Relation of
capital to
liabilities.

We think it would be superfluous to offer any comments on the facts, which we have submitted in the foregoing report, as the inferences, therein deducible, appear to us self evident; but we consider that we cannot too strongly express our opinion that,

1826.
20 May.
Report by
board of inquiry
on financial
position of
bank of N.S.W.

if your Excellency should decide on affording assistance to the Bank of New South Wales, it should be made an indispensable condition that the management of the Bank should be conducted with more circumspection than appears to have been lately observed.

We have, &c.,

ALEXANDER McLEAY.
WILLIAM LITHGOW.
STEWART RYRIE.

[Enclosure No. 4.]

THE DIRECTORS OF THE BANK OF AUSTRALIA* TO COLONIAL
SECRETARY McLEAY.

Sir,

Sydney, 16th May, 1826.

Concessions
offered by bank
of Australia to
bank of N.S.W.

Mr. Macvitie, our Managing Director, having laid before us your Letter of yesterday's date, in which you state His Excellency is persuaded that the Directors of the Australian Bank will agree with him in opinion as to the high importance of assisting the other Bank out of its present difficulties, and that they will do all in their power for this purpose, consistently with their duty to their own Establishment; and requiring to be informed if the Directors will agree to receive the Notes of the Old Bank, not only for the instalments of Capital, but also in the ordinary course of transactions, and not demand Cash for them, but receive, for the balance that may be due, such Bills of Exchange and Promissory Notes, as may be approved of, We beg to assure His Excellency that we entirely participate in his feelings of the high importance of preserving public credit at this Crisis, and with that view have determined to receive, for the instalments of Capital of the Bank of Australia, such Bank Notes or Checks of the New South Wales Bank, as may be tendered by our Subscribers; and that we will not, on the part of the Establishment, demand cash for the same, but consent to receive for the amount such Bills of Exchange or promissory Notes now in the Old Bank as we may approve.

We are of opinion that this measure will have the immediate effect of relieving that Establishment from engagements to the extent of from Six thousand to Eight thousand pounds; while it will be further assisted by receiving a proportion of the benefit resulting from the discount of such new Bills and Notes as our capital may enable us to afford to the Public.

We think it will be apparent, if the Proprietors of the New Bank were to be pledged to receive in deposit or payment the Notes of the Bank of New South Wales beyond the amount before stated, that, within a very short period, the greater proportion of the floating Securities of that Institution would find

* Note 75.

its way into our own Establishment, thereby pledging the credit of our Body to meet, on demand, their Issues.

We trust we shall stand excused in a situation so peculiarly critical as the Present, if we consider that it will answer no beneficial purpose to the Old Establishment to enter into other or more permanent Engagements with it; but we feel convinced that the aid, purposed to be thus afforded, will, in conjunction with such further assistance as the Government may think proper to give, tend materially to uphold the general credit of the Community, which we cannot but feel is now at stake; and, if to such assistance the adoption of prudent measures by the Directors of the Old Establishment be enforced, and their issues limited by such control as the Government may think proper to impose, We confidently trust their present embarrassment will be relieved without any very material public inconvenience.

We have, &c.,

RICHARD JONES.	A. B. SPARK.
EDWARD WOLLSTONECRAFT.	GEORGE BUNN.
J. OXLEY.	H. McARTHUR.
W. JEMMETT BROWNE.	JAMES NORTON.
THOMAS ICELY.	THOMAS MACVITIE.

[Enclosure No. 5.]

MEMORANDUM OF EXECUTIVE COUNCIL.

Council Chamber, 16th May, 1826.

THAT a Credit to the extent of the sum required, vizt. £20,000 Sterling, will be given on the terms, proposed by the Bank, under the following restrictions.

Conditions of credit given to bank of N.S.W. by government.

1st. The approval, on the part of Government, of three new Directors.

2nd. The reduction of Discounts to the amount of 25 per Cent. per week, until the 1st of January, 1827, previous to which period the whole of the Capital is to be paid up.

3rd. That there be no Dividend of profits, until the claims of Government be fully satisfied.

4th. That the earliest and most effective means be adopted by the Bank to keep its accounts, and make its payments in Sterling.

But, as the Colonial Treasurer has a balance in deposit at the Bank of nearly one hundred thousand Dollars, and as the sum proposed to be advanced by Government would merely be sufficient to meet that debt, it is to be clearly understood that, previous to the advance being made, the Directors of the Bank must conclude some arrangement with Mr. Balcombe that he is not to

1826.
20 May.

draw upon them beyond his immediate wants for the public service, and further that he make his payments in Bank paper whenever practicable.

[Enclosure No. 6.]

MR. JOHN PIPER TO GOVERNOR DARLING.

Sir,

Bank Board, 18th May, 1826.

Acceptance of
conditions by
president of
bank.

I have the honor to inform your Excellency that the conditions, on which your Excellency, with the advice of the Council, offered to assist this Establishment with the loan of Twenty thousand pounds in British Silver Currency, have been complied with by the body of proprietors assembled yesterday. I have also the honor to enclose a Copy of the required undertaking from the Colonial Treasurer. I have, &c.,

JOHN PIPER, President.

[Sub-enclosure.]

COLONIAL TREASURER BALCOMBE TO THE PRESIDENT AND
DIRECTORS OF THE BANK OF NEW SOUTH WALES.

Gentlemen,

Sydney, 18th May, 1826.

Undertaking
given by
colonial
treasurer.

In so far as may be practicable with me, as Colonial Treasurer, I agree to comply fully with His Excellency and Council's Memorandum of Yesterday's date to your direction.

I have, &c.,

W. BALCOMBE.

A true copy:—JOHN PIPER, J.P., President.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 33, per ship Toward Castle; acknowledged by Earl Bathurst, 11th December, 1826.)

22 May.

My Lord,

Government House, 22nd May, 1826.

Transmission of
report on church
and school
establishments.

1st. I have the honor to forward the Report of the Venerable the Archdeacon on the Church and School Establishments of this Government, and respectfully beg leave to recommend it to Your Lordship's consideration.

My time has been so much occupied with a variety of other important matters that it has not been in my power to enter into the subjects of the Archdeacon's Report in the manner, which they deserve. This, however, is of the less consequence, as he appears to have given them the fullest consideration, and has discussed their merits in a way, which proves that no pains have been spared in obtaining the information necessary to these important objects.

Necessity for
additional
chaplains.

2nd. I cannot, however, permit myself to pass over, without more particular notice, the necessity of sending out additional chaplains; and I beg to add my earnest recommendation to that

of the Archdeacon that every possible attention be paid to their Selection. This is of consequence in every situation; here it is of paramount importance.

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3rd. With respect to those points of the Report, which more immediately relate to the Corporation of the Church and School Establishments, they shall receive early attention. But the arrangements necessary to the transfer of the Land must I apprehend prevent that measure being immediately effected.

Delay in transfer of land to church and school estates.

I am, however, fully aware how desirable it is that no time should be lost in fulfilling His Majesty's benevolent intentions, and I beg to assure your Lordship that my best exertions shall be employed to this end.

I have, &c.,

RA. DARLING.

[Enclosure.]

REPORT ON THE CHURCH AND SCHOOL ESTABLISHMENTS BY
ARCHDEACON SCOTT.

Report on church and school establishments.

Sir,

Parramatta, 1st May, 1826.

1. I have the honor to lay before your Excellency, for the information of His Majesty's Principal Secretary of State for the Colonies, my report on the present state of the Church and School Establishments of this Colony.

2. In a report, which I had the honor to make to Earl Bathurst in England, and dated the 1st of March, 1824, by His Lordship's directions, I then recommended an increase of Chaplains for this Colony, independently of Van Diemen's Land, to the number of *five*; but I beg to observe that, up to this period, only *four* have arrived; and Your Excellency is aware not only how much a Chaplain is wanted at the Penal Settlement of Port Macquarie, but in other parts of the Colony. I drew up that report from the materials in my possession and the documents belonging to the King's Commission of Enquiry, deposited at the Colonial Office in England. Since the date of that Commission, so considerable an Emigration has taken place, the dispersion of Settlers throughout the Colony and an increased number of Children are combined causes, which now require an additional augmentation of Chaplains to the Establishment.

Necessity for additional chaplains.

3. On comparing the census taken in 1820 with that of 1825, Your Excellency will perceive an increase of the whole population of 12,427 Souls, at present extending over a surface of 300 miles from South to North, and 100 miles from East to West; whereas, in the former year, almost the whole population of the Colony was confined to that part, called Cumberland, and within a space of about 40 miles square; and even in that small space, so scattered was the population, and so difficult of access for the want of roads, that eight Chaplains were unable to fulfill all the

Increase of population and area of colony.

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establishments.
Duties of
chaplains.

duties required of them, even when some gave three full services on the Sunday, and others were obliged to ride a distance from 15 to 20 miles, and in some cases upwards of 30 to enable only a portion of the Inhabitants to have the ordinances of Religion administered to them. These duties, Sir, were independent of the weekly calls, which, in the populous towns of Sydney, Parramatta and Windsor, are extremely heavy, arising from the frequency of those calls and from the distance to ride and difficulties of access.

Baptismal
and funeral
services
neglected.

4. Such too is the difficulty of administering to all the rites of Religion, that, on my last visitation, I found down the River Hawkesbury a number of children unbaptized on account of the great distance to the nearest Chaplain (40 miles); and I also found that, from the impossibility of keeping a corpse longer than 24 hours in this Climate, the practice was common of burying in their gardens without any funeral service. The same remark will apply to other parts of the Colony, more recently settled. To remedy this, as far as I had it in my power, I directed the Chaplain nearest those Districts to make periodical visits of once in 2 or 3 months, and to attend a burial, as soon after he received notice as possible; but Your Excellency will understand that in some instances the distance is 50 and 80 miles, which rather than undertake, the relatives will forego the funeral rites.

Chaplain
required at
Port Macquarie.

5. By the annexed Return of the last Census, marked A, Your Excellency will observe that, according to the present division of the Colony, there are twenty two Districts, of which four may be considered Penal Settlements. There can be no question that, from the large population at Port Macquarie (one of these Settlements), a Chaplain of a peculiar turn and habits ought to be placed; but I am unable to take one from the Establishment unless the additional Chaplain, of those I recommended, should shortly arrive. How far His Majesty's Government will feel disposed to send Chaplains to the other three, where there are but 162 Individuals, and no children and no females, I do not presume to decide. I should however strongly recommend that some serious and well disposed persons be selected, if they can be found, to do the duty at those Stations, under the denomination of *Catechists*, subject to the discipline and controul of the Church.

Reasons for
increase of
clergy.

6. There is another strong reason for urging an additional number of Chaplains; the increased and increasing number of Sectaries in the Colony, who endeavour to gain over to their own party a considerable number of the Members of the Established Church, and whose children, because they have not the

means of Education, are neglected rather than that they should attend the Schools of the Establishment, and in calling your Excellency's attention to the number under 14 years of age, being upwards of 4,000, that fact alone I feel persuaded would induce the Government to acquiesce in this augmentation. I have in this document, now referred to (A), caused a column to be added, shewing the distance, over which each Clergyman will have to attend; and another pointing out the additional number required, which will be *twelve* beyond the same number now in the Colony.

7. The duties of a Clergyman in this Colony are more laborious and generally of a different nature to those in England. At least *two thirds* of the whole population are actual convicts, or released from their state of bondage, either through the mercy of the Crown or the expiration of their sentence. Of these last, my own experience, during my former and present residence in the Colony, will not allow me to say anything favorable. With the bad example of the *free* people before them, their habitual vices of thieving and drunkenness, the indulgence shewn them, of which they have proved themselves unworthy, and their total insensibility to all moral or religious feeling, place them in no better light than those, who are still expiating the crimes they have committed. In my visitation throughout the Colony, I have remarked how few in proportion ever attend to the duties of the Sabbath, and how little regard they have to morality, even in the exterior; and the Resident Chaplains depict a still more unfavourable state of what they daily and hourly witness.

8. It is amongst this Class the Clergy have chiefly to visit in their respective Parishes; and I trust Your Excellency will strongly impress on His Majesty's Government the necessity of selecting Clergymen, who are zealous and active in their duties and are capable of enduring great fatigue. As His Majesty has been pleased to command that they are to inspect the Schools in their respective Parishes, it will be also requisite that they be acquainted with the National System of Education.

9. Having recommended this augmentation to the Church Establishment, it is incumbent on me to point out to Your Excellency the places, at which with your concurrence I propose to place them; and, to enable them to reside at these Stations, I submit that the Trustees of the Church and School Lands be directed to advertise for tenders to build a plain, neat Cottage and a School house, which will serve for the present as places for Divine Worship. I propose that a Chaplain should reside at each of the following places in Cumberland, namely, Sydney, Parramatta, Female Orphan School, Liverpool, South

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Reasons for
increase of
clergy.

Labours of
clergy.

Character
of colonists.

Selection
of clergy.

Proposed
distribution
of clergy.

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Proposed
distribution
of clergy.

Creek, Portland Head, Richmond and Mooroota. In Argyle-shire, at Lorne; in Northumberland, at Morpeth and Wittingham, and one at Port Macquarie; and residences would be required at all the above places, except Liverpool and the Female Orphan School. As, however, these come more particularly under the directions of the Board of Trustees for the Church Revenues, I shall address a separate letter to Your Excellency on this subject, requesting it may be laid before the Corporation.

Returns of
school children.

Irregularity in
attendance at
school.

10. Shortly after my arrival in May, 1825, and in obedience to my Instructions, I visited the different Schools, then established and supported by the Crown; and, from the returns then made to me by each Schoolmaster and certified by the Chaplain, there were 802 Boys and Girls attending, but I regret to say with great irregularity, arising from their residences being scattered at a great distance from the School House and the actual indifference of the parents. This is a matter, which requires some explanation. Whenever I have visited the people personally, I have invariably found a great desire in the parents that the children should attend; but, when the Schoolmaster complains of irregularity, every excuse is made and very frequently a threat to withdraw the Child altogether. With a view, therefore, to give them some education, I have directed both Clergy and Schoolmasters to reason with the parents on the impropriety of such conduct and the injury, they do their children. I cannot find that, after the lapse of a year, much amendment has taken place; nor have I any hope there will be any until another generation rises up, so inveterate are the vicious habits of the parents, and so pernicious are the horrid examples constantly before the eyes of the Child. Added to which, the effects of a licentious and profligate Press have been apparent, since it has become free, as they term it, and the inflammatory and demoralizing language and habits, with which these loathsome papers have been weekly filled, will be the cause of irreparable injury to the rising generation.

Failure of
male and
female orphan
schools.

11. I cannot say that I have found the improvement I expected after the lapse of five years; but, if not the reverse, at least, it has been stationary. At the period alluded to, the two important Establishments, called the Male and Female Orphan Schools, were placed on a very excellent footing, and were bidding fair to send forth to the Colony a number of young persons, whose habits of industry and morality would have proved the utility of those foundations, and their example would have operated strongly on others. It is, with regret, I acquaint Your Excellency, and His Majesty's Government will learn with surprize how shamefully these Institutions have been perverted. The

children, that ought now to be well versed in those habits of industry and morality, are, at the age of 16 and 17 years, idle, profligate and immoral in the greatest degree, insomuch that the Rev. Mr. Cartwright, who has charge of the male orphan school, has within a few days informed me that to retain the Boys of that age and standing in that school will endanger the fate of the others of more tender years, and who have been recently admitted. For the horrors committed in that school, as well as the diseased and filthy state, in which I found the children, I beg to refer to the report, I made on the 7th of November last to Sir Thomas Brisbane, a copy of which I transmitted to Earl Bathurst. I can only hope that, under the watchful superintendence and zealous attention and care of the Revd. Mr. Cartwright, the children now in the School will turn out differently modelled.

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Failure of
male and
female orphan
schools.

12. The children in the Female Orphan School are in a still more deplorable state. I found them, in June last, covered with the Itch and Scald heads, which had been shamefully neglected; and upwards of 120 children were so affected with it, that the course of tuition, both in the school and domestic economy, was for a long time obliged to be abandoned. Scarcely had this been subdued (for it has not been thoroughly eradicated), when, in a hot wind in November last, a large proportion was attacked with slight Ophthalmia,* and which has continued through the extreme filth and negligence of the Master and Mistress (Mr. and Mrs. Walker) to this day; and, from its infectious tendency, the medical attendant, in spite of all the precautions now adopted, has his fears it will run through the whole of them.

Censure of
master and
mistress of
female orphan
school.

13. Your Excellency is already acquainted with the steps I took to remove Mr. and Mrs. Walker from the Institution, prior to your arrival, and the protection they found from the Supreme Court, which suspended my functions as Visitor,† and, during which time, the children were suffered to remain subject to this shameful negligence and disease, with scarcely any clothing to cover them. These proceedings have been transmitted to His Majesty's Government, and I considered it my duty to write to Lord Bathurst, on the 16th January last, in detail, so that His Lordship may be in possession of all the circumstances of the case up to that period.

14. I beg to trouble Your Excellency with a few remarks on the state of Education at this moment in the Colony. Its progress may be traced by the following statement. In 1810, there were 8,293 souls, including 2,304 children, of whom 440 were under education at 4 Crown and 1 Private School. In 1813, there were 10,542 souls, including about 3,000 children, and there were 600

General report
on state of
education.

* Note 76. † Note 77.

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of them at 2 Crown and fifteen Private Schools. In 1820, the census of that year gives a population of 23,929 souls, including 5,688 children of all ages; but, as I witnessed the taking of that census, I do not place much reliance on its correctness; the Number of children that year at 19 Crown and 11 Private Schools amounted to 844. For the year 1824, I am indebted to the Returns, made in December of that year by the Clergy in that District at the suggestion of Mr. Bannister, His Majesty's Attorney General for the Colony, to the Governor. In these, it appears that there were 5,042 children under 14 years of age, of whom 826 were in 15 Crown, and 991 at 5 Private Schools, forming a total of 1,817. In 1825, the children of the Colony amounted to 4,724, and the returns made to me by the Clergy were 802 at 18 Crown Schools, and about the same number, as the year before, at 5 Private Schools, forming a total of 1,792 under Education. The last quarter's return, ending in April, furnishes a list of 20 Crown Schools, having 1,035 children, and I believe the same number as formerly at the Private Schools, forming a total of 2,026; so that, if the census of 1825 be correct, there are 2,698 yet in a state of receiving no education; and, from all the information I can obtain, of these about 1,000 are Catholics. By a plan I have drawn out and sent round to the Clergy, I hope on a future occasion to make a more accurate and detailed report on this very interesting subject.

15. Not having visited any Private Schools, I am not competent to judge of their progress; but, from the qualifications of the Individuals who keep some of them, I should imagine it is considerable. The scholars at the Crown Schools are only taught the elementary parts of Education; but, from their irregular attendance and the incapacity of the Masters, they do not, on a comparison with the Primary Schools in England, make so rapid a Progress. I found on my arrival only two of the Schools on the Madras System, and only a young Colonial Youth qualified to teach it. I, therefore, had nearly all the Schoolmasters together, formed a class and put them under his instructions for about three months, and then sent them to their respective schools. I must confess to your Excellency that I do not hold out any very sanguine hopes; but, situated as we are, these are the best materials we have to work with.

16. Your Excellency will be surprized to learn that the charge of attending the education of these 1,035 children at the Crown Parochial Schools, amounts to £1,457 2s. 4d. per annum in Salaries alone. If the reserves are sufficient and the end is answered, I for one shall not regret such an expenditure; but it is out of all proportion to the charge in England, where 5s. per

Expenditure
on education.

head per ann. is the average charge, whilst in this Colony it amounts to £1 8s. 2d. each. This arises from the scattered population and consequently the increased number of Schoolmasters, the very high rate of labour, the scarcity of persons fit for such an occupation, and the facility with which persons of this Class can obtain a living in a new country, especially in such a climate, where shelter and clothing are very subordinate considerations, and where in a short time the increased production of animal Stock gives to the small Settler such facilities of support with scarcely any labor. The persons, who offer themselves for Schoolmasters, cannot pursue any other object, and they are consequently compelled to pay the price demanded, at which provisions are retailed out; and, in many district villages or settlements, these are not to be procured at all, and they are dependent on the casual supply from some Settler, whose consumption enables him to have a quantity always ready. The fact being, as it regards Meat and flour, that, whilst the Settler is selling the former at 2½ per lb. and the latter at 2d., the consumer, who has not the means of cultivating or producing, pays for the meat 7d. per lb. and bread 4d. Of this class are all the clergy, schoolmasters and many of the subordinate Officers in Government employ; added to which, the charge for clothing is full 100 per cent. on the price in England.

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school
establishments.
Expenditure
on education.

Cost of living.

17. The Establishment of an Infant School in Sydney owes its origin to the indefatigable exertions of Mr. Bannister, His Majesty's Attorney General for this Colony. The number in daily attendance is from 60 to 70, and increases every month. From the beneficial results in England of such Institutions, I did not hesitate to recommend to Sir Thomas Brisbane to place it upon the Establishment, and I have no reason to regret that I did so; and should the funds permit it, another might be added to the list in a different part of the Town. But this, with the School houses throughout the Colony, I intend bringing before Your Excellency for the consideration of the Trustees at their next meeting.

Infant school
established by
S. Bannister.

18. I cannot conclude this report without adverting to a School of Industry,* formed by private subscriptions, for bringing up young Colonial Girls at the instance and suggestions of Mrs. Darling; and which, being near her residence at Sydney, and under her constant inspection, bids fair to rear a class of persons, hitherto much wanted in the Colony. Although not within my immediate province, yet, as Mrs. Darling did me the honor to place my name amongst the Visitors, it may afford to His Majesty's Government great satisfaction to hear of such an Institution, and that it will consist of twenty Children under 14 years of age.

Foundation
of school
of industry.

* Note 78.

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establishments.
Necessity
for higher
education.

19. In the Report, I had the honor to submit to Earl Bathurst, before alluded to, dated the 7th March, 1824, I stated it to be necessary to provide for a higher degree of Education than at present exists in the Colony; and, in a public Despatch* (a copy of which he did me the honor to send me) to Sir Thomas Brisbane, some time previous to that Report, his Lordship contemplated at a future period the foundation of a University. I take the liberty of submitting to Your Excellency the outline of a Public School, embracing the various stages of education, as a previous step to one of a greater magnitude; and I leave it to the better judgment of your Excellency whether it should or not be transmitted to the Trustees for Church and School Lands to report upon its practicability.

Estimated
revenue and
expenditure of
church and
school
establishments.

20. With regard to the Expenditure and means of defraying the proposed Church and School Establishment, I beg to observe that the sum, required for Churches, Schoolhouses and Parsonages, will be about £20,000.

The Interest at 8 per cent.	£1,600
Archdeacon	2,000
24 Chaplains at £300 each	7,200
Schoolmasters' Salaries	1,500
Male and Female Orphan Schools	4,400
Sinking Fund to pay off £20,000 at 8 per cent. ..	1,600
	£18,300
Take $\frac{1}{2}$ of 21 Counties, or about 3,000,000 of acres, and sell $\frac{1}{2}$ at 2s. per acre	£100,000
The Interest of £80,000 at 5%	4,000
Rental of two millions of Acres at 1s. 2d. per acre per annum ..	12,500
$\frac{1}{2}$ Imposts	5,000
	£21,500
Annual Expenditure	18,300
The Debt being paid off the expence will be reduced	3,200
	£15,100
Annual Expence ..	21,500
Receipts	
Excess of Receipts ..	£6,400

Proposed
transfer
of lands to
corporation for
clergy and
school estates.

I also beg leave to refer Your Excellency to the Surveyor General's Letter† on this subject, as it regards the *immediate* means; wherein it will appear that, supposing Your Excellency on the part of the Crown could relinquish the whole of the unlocated lands in the county of Cumberland, amounting to 69,088 acres, and in Camden to 40,800, in Roxburghshire, Northumberland and Durham to 60,000, the rental, which Mr. Oxley estimates, will not cover the Interest of the sums wanted; whereas, if the quantity I have calculated on were now ceded to the Corporation (and on these Lands many thousand Sheep and Cattle are grazing without paying any rent at all), the whole of the Church and School Establishment might be provided for without applying to Parliament for any annual Grant.

I have, &c.,

T. H. SCOTT.

[Sub-enclosure A.]
CENSUS, 1825.

No.	Places.	Children.		Adults.		Total.	Distance.		Residence for a Clergyman.
		Male.	Female.	Male.	Female.		length.	breadth.	
1	Appin and Hlawarra	43	49	372	98	562	32	10	Served from Campbell Town.
2	Argyle	26	25	506	54	601	50	12	1 at Lorne.
3	Bathurst	55	52	798	64	969	80	20	1 at or near Bathurst; 4 Stations.
4	Do in Govern't employ	68	51	140	105	140	..	..	1 on the South Creek; 3 Stations.
5	Do in Govern't employ	87	94	120	..	120	..	..	1 at Campbell Town; 3 Stations.
6	Do in Govern't employ	88	86	679	187	1,040	10	8	1 at Castlereagh; 2 Stations.
7	Do in Govern't employ	8	13	375	32	428	50	10	1 at Cawdor or Narellan; 2 do.
8	Do in Govern't employ .....	..	..	139	..	139	..	..	Served from Castlereagh.
9	Do in Govern't employ	187	72	163	7	170	..	..	2 at Liverpool for 4 Stations; 5 services and male orphan school.
10	Do in Govern't employ	23	28	734	139	1,132	16	10	Served from Bringelly.
11	Do in Govern't employ .....	..	..	210	..	210	..	..	Served from Campbell Town.
12	Do in Govern't employ	27	34	326	69	446	..	..
	Do in Govern't employ .....	..	..	99	..	99	..	..
	Do in Govern't employ	61	..	61	
	Do in Govern't employ	425	114	600	
	Do in Govern't employ	119	..	119	

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Census for
year 1825.

1826.
22 May.
Census for
year 1825.

[Sub-enclosure A]—*continued.*
CENSUS, 1825—*continued.*

No.	Places.	Children.		Adults.		Total.	Distance.		Residence for a Clergyman.
		Male.	Female.	Male.	Female.		length.	breadth.	
13	Moreton Bay .....	....	....	43	2	45	..	..
14	Newcastle	44	61	1,195	171	1,471	150	30	3 at Newcastle, Morpeth and Wittingham; each 6 services.
15	Do in Government employ .....	....	....	202	....	202	..	..
16	Norfolk Island .....	....	....	56	....	56	..	..
16	Parramatta	212	249	1,842	1,114	3,417	35	10	4. 8 services on the Sunday and 7 Stations besides Gaol, Hospital, and Orphan School.
17	Do in Government employ .....	....	....	288	....	288	..	..	1 at Port Macquarie; 2 Stations.
17	Port Macquarie do	17	20	1,357	63	1,463	..	..	1 at Richmond; 2 do
18	Richmond	135	139	738	204	1,216	12	10	
19	Do in Government employ .....	....	....	33	....	33	..	..
19	Wellington Valley .....	....	....	84	....	84	100 miles from Bathurst.	..	
20	Wilberforce	170	169	983	259	1,581	50	12	2 at Wilberforce; 5 Stations.
21	Windsor	144	140	1,182	343	1,809	12	10	2 at Windsor and Pitt; 4 Services.
22	Do in Government employ .....	....	....	12	....	12	..	..
22	Sydney	862	855	5,989	2,056	9,762	6	6	3. 6 full services, besides 2 Hospitals.
	Do in Government employ .....	....	....	1,012	....	1,012	..	..
	Unaccounted for in M. Books	212	180	3,809	1,002	1,002	..	..
		2,408	2,317	24,360	7,261	36,866	24 Clergymen and Parsonages, of which six are built, and 12 of the former are actually in the Colony.

[Sub-enclosure B.]

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PLAN for a General Boarding School for *free* Admission and *other* Boarders.

Plan for general
boarding school.

1. To be divided into *Six Parts*.
2. Each part to be subdivided into *Senior* and *Junior*.
3. The Child, to be admitted, must not be under 7 years old, and not to remain after 16, except under special causes.
4. The National System is to be adopted throughout the progress.
5. The divisions to be *Junior, Part 1*, Elementary; *Senior, Part 1*, Reading, Writing, Arithmetic in the higher branches, and elementary Grammatical Exercises. This will occupy two years.
6. *Junior, Part 2*, Lectures on the Elements of Mechanics; *Senior, Part 2*, Experimental Lectures on the Chemical Elements and higher parts of Grammatical Exercises in English and Latin. This will occupy two years.
7. *Junior, Part 3*, Gardening, Domestic Economy, Manufactures; *Senior, Part 3*, Husbandry in all its branches. This will occupy two years more.
8. At this period, an increased charge should take place for the higher branches of knowledge; but it is to be understood that, during the *first division* of this progress, the rudiments of History, Geography, Chronology and Biography are to be given.
9. *Junior, Part 4*, Rudiments of Natural History, Mineral, Vegetable and Animal; *Senior, Part 4*, The generic names of the Minerals, Vegetables and Animals, with Specimens, as far as they can be obtained, their habits and localities, Economy of Health to avoid the causes of diseases, both for the human body and useful animals. One year.
10. *Junior, Part 5*, Bookkeeping, Arithmetic in its higher branches, Algebra, Elements of Mathematics (Euclid for example), Geometry, Surveying; *Senior, Part 5*, Astronomy, higher branches of Mathematics, Navigation, and Graphic Art.
11. *Junior, Part 6*, Note taking from Lectures, Recapitulation of the foregoing exercises; *Senior, Part 6*, Classes of the higher order, as the rudiments of Classical learning will be comprised in all the stages of the second division down to Junior, Part 6 inclusive.
12. The First Division will take a boy down to the 13th year, at which age, for the ordinary purposes of life, he will have acquired a sufficient Education.
13. The Second Division will bring him down to his 17th year for the higher branches; and, if he is destined for a learned

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 boarding school.

profession, he may be left in the third Division, or Senior, Part 6, at the pleasure of the parent.

14. Boys from their entrance to *Senior, Part 3*, inclusive, should pay £25 per annum; to *Junior Part 6 inclusive* £30 per annum; and in *Senior Part 6*, £50 the first year, £75 the second, and £100 the third.

15. Day Scholars may be admitted by paying for the first Division, £5 per annum; for the second Division, £10 per ann.; for the third Division, £15 for the first year, £20 for the second, and £30 the 3d year.

16. The discipline of the School, the course and practice of Study, and the exercises to be on the National Plan, without any deviation.

17. The cloathing to be uniform, either a round close Jacket and loose Trowsers, blue or mixt, blue worsted socks, black stock, shoes, round foraging leather cap with front to fall down, two of each year, Stock, 9 shirts, 6 pairs of socks, 3 Hkfs.

18. Vacation to be at Christmas, 14 days, i.e., 7 days before and 7 after Christmas day, to return on the day without fail; no excuse to be received but illness, to be certified by a medical man.

19. Half a year's notice to be given previous to removal.

20. Subscribers to the original endowment of £50 shall send two children without entrance; those, who have not subscribed, shall pay entrance for the first Division £14; for the second Division £30; and for the third Division £50; or for the three Divisions at once £60; at the discretion of the Visitor or Trustees, this may be omitted.

21. If it be found that the School should increase, or that persons from distant countries should send their children in sufficient numbers to remain in the third Division, so as to justify a seperate Establishment, the principles before laid down may be applied; in which case a larger salary must be given to the Head Master, and others must be procured.

	£	s.	d.
22. The cost of 50 boys per annum at £18 each	900	0	0
Cloaths	100	0	0
Master	250	0	0
	£1,250 0 0		
20 Boys at £20	400	0	0
20 „ „ £30	600	0	0
10 „ „ £50	500	0	0
	£1,500	0	0
The remaining £250 would be for contingencies.			

[Sub-enclosure C.]

1826.
22 May.

SURVEYOR-GENERAL OXLEY TO ARCHDEACON SCOTT.

Reverend Sir, Surveyor General's Office, 22nd April, 1826.

His Excellency The Governor having directed me to report to you on the subject of your letter to His Excellency of the 16th Inst., relative to the value of the portions of Lands His Majesty has set aside for the use of the clergy and schools in the places already settled, I beg leave to refer you to my report to you, dated the 29th August last, as respects the estimated Value of certain Lands in the counties of Cumberland and Camden. The Lands, which have been set apart in the counties of Durham and Northumberland, in those Parishes where there are any inhabitants, amount to about 60,000 acres, the whole of which would in my judgment sell for 5s. per acre, provided they were sold on the terms, which governed the sale of Crown Lands under former Regulations; if those lands were let upon Lease, I think £1,000 per annum could readily be obtained for them, as they are for the most part well situated in parishes respectably settled.

Estimated
value of lands
reserved for
clergy and
school estates.

In the County of Roxburgh and adjacent County, 40,000 acres are at present reserved, which I think would sell as well as those in Northumberland and Durham; but the respectable resident population not being so generally spread over the settled country, I do not think that more than one half of the Reserves could at present be let, and that not at a rent exceeding 5 per cent. on the estimated value, or about £300 per annum.

These calculations have reference only to the Lands in the settled parts of the several counties named, the residue of the $\frac{1}{4}$ th not being set out. I have, &c.,

J. OXLEY, Surveyor General.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch marked "Separate," per ship Toward Castle; acknowledged by Earl Bathurst, 29th September, 1826.)

My Lord, Government House, 22nd May, 1826.

1st. As the proceedings of Mr. Balcombe, the Treasurer, are involved in the subject of the Report on the New South Wales Bank, contained in my Despatch No. 32, it appears necessary that your Lordship should be put in possession of the particulars of the case, which I shall state as briefly as possible.

Transactions
of colonial
treasurer with
bank of N.S.W.

2nd. On receiving the application of the Directors of the Bank on the 10th Inst., it occurred to me that, previous to coming to any decision on the subject, it would be desirable to ascertain

1826.
22 May.

Inquiry into
state of
colonial
treasury.

Debits and
credits at
bank of N.S.W.

whether the Treasurer had any money in the Bank. I accordingly, without giving any previous notice, appointed the Deputy Commissary General and the Auditor of Accounts to count the Money in the Treasury early in the morning of the 11th; and I enclose herewith a copy of the Report of their Proceedings.

3rd. It appears, by this Report, that Mr. Balcombe was in possession of the Cashier's Acceptance, dated *that* day, for the sum of one hundred thousand, one hundred and seventy four Dollars. It will be seen by the Report on the Bank, which accompanies my Despatch 32, that, on the 10th Instant, the day immediately *preceding*, Mr. Balcombe had only Two thousand, seven hundred and twenty two Dollars in the Bank, and that he paid in, on that day, a cheque for Twenty thousand Dollars; and, on the 11th the following day, cheques of different Merchants and other persons to the amount of seventy six thousand, seven hundred and forty three Dollars.

Transactions of
W. Balcombe.

4th. It is impossible to account for his having placed this money in an Establishment apparently on the very verge of Bankruptcy, otherwise than by supposing, as it was not forthcoming when the Inspection of the Treasury took place, that his intention was to conceal the fact of his having been in the habit of discounting the Bills of Private Individuals, hoping, as may be presumed, that the money appearing to be in the Bank at the time of the examination of that Establishment, that his previous transactions would not be enquired into or discovered.

Private bills
discounted.

Possible
explanations.

5th. Mr. Balcombe may contend that, his Office being kept at his private residence, he considered it very insecure and unfit place for the public money; but, so far from having expressed any intention of removing it, he appears to have obtained a sentry, a little previous to my arrival, for the purpose of protecting his office, and has for some time past regularly furnished me with Weekly statements of the money in the Treasury; a copy of the last of which statements I beg to enclose for your Lordship's information.

Undertaking to
be given by
W. Balcombe.

6th. In order to avoid any interference on the part of Government with Mr. Balcombe's security, it was suggested, at the recommendation of the Council, that the Directors of the Bank should come to an understanding with Mr. Balcombe that he should not draw the money, which appeared in his name, in larger sums than the demands of the public service might render necessary. Without such an understanding, the credit of £20,000 would have been ineffectual, as the whole sum would not have been sufficient to satisfy Mr. Balcombe's demand.

7th. Your Lordship will, I trust, concur with the Council in the view they have taken of this matter, that the support of the Bank was indispensable to the security of this money. Had the Bank failed, Mr. Balcombe no doubt would have been liable; but he possesses no property, and the recovery of the money would, I have no doubt, been found totally impracticable.

1826.
22 May.

8th. It is my intention, though not authorized by my Instructions, to order the inspection of the Treasury at uncertain times. and to forbid Mr. Balcombe lodging the public money in the Bank or making use of it, as he appears most improperly to have done for his private purposes.

Proposed
inspection
of treasury.

I have, &c.,
RA. DARLING.

[Enclosure No. 1.]

PROCEEDINGS of a Committee directed to take an Account of all the Money in the Colonial Treasury, composed of W. Wemyss, Esqr., Dep'y Commiss'y General, W. Lithgow, Esqr., Auditor of Col'l Accounts.

Report of
committee on
state of colonial
treasury.

THE Committee, having met, proceeded to take an Account of the Coins and Monies in the Treasury, submitted to their inspection by W. Balcombe, Esqr., Colonial Treasurer, which they found to be as follows:—

18	Gold Sovereigns	£18	0	0
2½	Guineas	2	12	6
891	Silver Half-Crowns	111	7	6
421	Spanish Dollars at 4s. 4d.	91	4	4
2	„ Doubloons at 72s.	7	4	0

£230 8 4

Notes of the Bank of N.S.W.—

7	of 100 Sp. Dollars	\$700
10	„ 50 „ „	500
1	„ 20 „ „	20
2	„ 10 „ „	20

\$1,240

Cheques on the Bank—

Raine and Ramsay's	403.10
Icely and Hindson's	487.80
W. Balcombe, Col'l Treasurer, accepted by the Cashier of <i>this</i> date	100,174.84

102,305.74

at 4s. 4d. each 22,166 4 10½

Total .. £22,396 13 2½

Amounting, in the whole, to Twenty two thousand, three hundred and ninety six pounds, thirteen shillings and two pence half penny Sterling.

W. WEMYSS, D.C.G.

WM. LITHGOW, Aud'r of Col'l Accts.

Sydney, 11th of May, 1826.

[Enclosure No. 2.]

WEEKLY STATE of the Colonial Treasury from the 15th to the 20th May, 1826, inclusively.

1826.
22 May.
Weekly
statement of
colonial
treasury.

Particulars.	Amount in Sterling.		
	£	s.	d.
Balance on the 13th Instant as per last Returns..	26.004	7	9 $\frac{3}{4}$
Received since	8	12	9
Total ..	26.013	0	6 $\frac{3}{4}$
Paid in the Period above mentioned	112	0	9 $\frac{1}{2}$
Balance in hand on Saturday, the 20th May, .. £	25,900	19	9 $\frac{1}{4}$

Colonial Treasury, W. BALCOMBE, Colonial Treasurer.
Saturday, the 20th Day of May, 1826.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 34, per ship Toward Castle; acknowledged by Earl Bathurst, 29th September, 1826.)

My Lord, Government House, 23rd May, 1826.

1st. I have much satisfaction in stating to your Lordship, in reference to my Despatch No. 28, that the Natives, who had assembled in the County of Argyle, have dispersed without committing any depredation or act of violence. It is supposed that the prompt and unexpected appearance of the Troops in that distant part of the Country had some effect in producing this desirable end. If so, it may be hoped that it will be attended with still further beneficial consequences by checking any disposition they might feel to re-assemble.

2nd. The steps, that have been taken, will I trust ensure the natives from further aggression, as there can be no doubt of their friendly disposition, when unmolested; and, though it may be politic to prove our superiority, it would be painful to punish an Act of retaliation with the severity necessary to prevent a recurrence of such proceedings on their part.

I have, &c.,

RA. DARLING.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 35, per ship Toward Castle; acknowledged by Earl Bathurst, 6th October, 1826.)

My Lord, Government House, 24th May, 1826.

I have the honor to transmit to your Lordship copy of a letter from Archdeacon Scott, as Chairman of the Committee of the Corporation for the Church and School Estates, on the

23 May.
Removal of
menace from
natives.

24 May.

subject of an advance of money to enable the Trustees to proceed in erecting the Buildings, required for School Houses and the performance of Divine Worship on Sundays, and for Residences for the Clergy. And I beg to acquaint Your Lordship, I have informed the Committee that, in the event of the Corporation not having it in their power to raise money on Debentures, as proposed in the Archdeacon's letter, I shall not object to the issue from the Colonial Treasury of such money, as may be required from time to time, for the purposes pointed out, until I shall be honored with your Lordship's Instructions on the subject. I now request that I may receive Instructions for my guidance in this respect.

1826.
24 May.

Request for
advance of
money to
corporation for
church and
school estates.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

ARCHDEACON SCOTT TO GOVERNOR DARLING.

Sir,

Council Chamber, 4th May, 1826.

I am directed, by the Committee of the Clergy and School Trustees, to communicate, for your Excellency's consideration, their views of the first point which was under discussion at the interview, with which you honored us this morning.

Request for
advance of
£30,000.

From a statement made by me in my capacity as Archdeacon to the Corporation, it appears that there will be wanted for this Colony as many School houses, and to be used on Sundays for Divine Worship, and Residences for the Clergy, as will amount to the sum of about £30,000, Thirty thousand pounds. But your Excellency will be pleased to understand that this sum will not be wanted immediately, for, upon a moderate calculation, the Committee are of opinion that two years or three will be the time it will be required in quarterly imprests to the Treasurer on account of the Corporation.

The Plans, which the Committee beg leave to suggest to your Excellency to consider, are:—

Proposed
security on
clergy and
school estates.

First, That an application through your Excellency be made to His Majesty's Government for a sum to be advanced to the above amount on Drafts, specially authorized by Your Excellency to be drawn on the Treasury, as may, from time to time, be required upon the credit of the Lands, which His Majesty had been graciously pleased to command to be set apart for the support of the Church and Schools of the Colony, and which sums shall bear interest payable half yearly.

It is also contemplated by the Committee that, in the above sum, the stipends of the twelve additional Chaplains, I have represented to Your Excellency as necessary for this Colony, may be included.

1826.
24 May.
Proposed
issue of
debentures.

The second point, which has occurred to the Committee, is that, in the event of His Majesty's Government declining to advance the sum required, that the Corporation should issue under their Seal Debentures of £50 and £100 each, bearing interest payable half yearly, and that sums be raised, as occasion shall require, by an authorized Agent in England or by themselves in the Colony. It has been proposed and agreed to in the Committee to make the experiment in the Colony by advertizing for sealed Tenders, to be received according to the enclosed advertisement.

I have, &c.,
T. H. SCOTT.

[Enclosure No. 2.]

COPY OF PROPOSED ADVERTISEMENT.

Council Chamber, 4th May, 1826.

Proposed
advertisement
calling
applications by
tender for
debentures.

THE Committee of the Trustees of the Clergy and School Lands intending, at the recommendation of the Archdeacon, to erect forthwith Sundry Buildings in this Colony for the purpose of performing Divine Worship in and for Schools, will have immediate occasion for the loan of a Sum of Money not exceeding £30,000 Sterling. Notice is hereby given that sealed Tenders will be received from such persons, as may be willing to advance any part of that amount, specifying the lowest rate of interest to be paid half yearly that they will be willing to receive for the same.

It is proposed that the above sum shall be secured by transferable Debentures of £50 and £100 each under the Seal of the Corporation, payable in eighteen months from the date thereof, and that no individual Tender will be received for more than £500.

The Tender to be addressed to me at the Council Chamber on or before 12 o'clock of Tuesday, the 30th Instant.

By Order,
CHARLES COWPER, Clerk of Corporation.

GOVERNOR DARLING TO UNDER SECRETARY HAY.

(Despatch marked "Private and Confidential," per ship Toward Castle.)

My dear Sir,

Sydney, 24th May, 1826.

Transmission
of copy of
Australian
newspaper.

I send you the "Australian" of the 13th inst.* for two reasons—first, as corroborating so strongly, as it does, what I stated to you in my Letter of the 1st of this month* respecting Mr. MacArthur. Secondly, as, apprehending from this circumstance, it might possibly be supposed that there is some communication or understanding between me and the Editor. When

* Note 81.

I assure you, in the most solemn manner, that neither has ever existed, either directly or indirectly, and that Dr. Wardell has dined here only once since my arrival, a period of Five Months, and then in Common with other Gentlemen of his Class in the Colony, You will perhaps think that the Coincidence affords some proof that neither the Editor or myself have been writing at random, but have given a faithful account of the Man, whose character we have endeavoured to pourtray. When speaking in the same Letter of Mr. MacArthur's Complaint against Mr. Howe, the Editor of the Sydney Gazette, I could not avoid noting the inconsistency of it, being aware that he had been a very short time before in close Communication with him, when writing in the Gazette against the Australian. The following short Extract from the Gazette of the 13th inst. affords some proof of the truth of my observation, and of the intimacy which subsisted, only a few weeks back, between Mr. McArthur and Mr. Howe. "From Mr. McA., we expected the treatment of a Courtier at least, particularly after the very polite Notes we received from that Gentleman only about 5 Weeks ago, which are now before us." etc. But I have thought it better to forward the Paper, and you will see the Article in the fifth Column of the 2nd Page.* My object in troubling You with this Letter is only to establish what I had stated, and the *Gazette* and the *Australian* are pretty Conclusive as to the facts, to which they respectively relate. As to Mr. MacArthur, he is now about to return to England. I cannot regret it, as I am satisfied his absence will tend to the Peace and happiness of the Colony. He is full of schemes and Plans; there is something almost whimsical in their variety and magnitude, though the enthusiasm, which would render the whole World tributary to the "Australian Company," will not I suspect find supporters among the cooler headed and less ardent Subscribers. As I have enclosed the *Government* and the *Opposition* Papers (though you will perceive the "Australian" has no right, at present, to the latter designation), I have been induced to add the "Monitor,"† which is just established. It professes to be independent, and I am sure is so, tho' it speaks of the Govern't in very favorable terms. As the Papers are increasing in number. I shall look into the Instructions‡ I brought out respecting the Press. These I conceive to have been given in order to repress any licentiousness; but, as the Government has experienced no attacks, having on the Contrary been most honorably spoken of on all occasions since my arrival (I mean even by the *Australian*), I am satisfied you will agree with me that it would be injudicious to provoke attack by the levy of an insignificant Tax, which the Editors would probably feel

1826.
24 May.

Intercourse
between
governor and
editor.

Intimacy
between
J. Macarthur
and R. Howe.

Proposed
visit of
J. Macarthur
to England.

Establishment
of *Monitor*
newspaper.

Instructions
re press.

* Note S1. † Note S2. ‡ Note S3.

1826.
24 May.
Objections to
imposition of
tax on press.

and resent as an unjust return for the support they have afforded, and which has been the more important from the popularity of the Paper. The state of the Press in the Sister Colony affords an example, which I am not unwilling to profit by; and, though I should be the last to yield any important right or to suffer the character of the Gov't to be Compromised, I should reluctantly risk the favourable Report of a well edited Journal, and think its loss but ill compensated by the paltry amount of an obnoxious Tax. In stating this opinion, I persuade myself it is in accordance with the Sentiments, which led to the Instructions alluded to, which evidently had the tranquillity of the Gov't more immediately in view than any pecuniary benefit. If I am wrong in this interpretation, I shall hope you will inform me; though it will be a much greater satisfaction to me to find that I have not mistaken the liberal intention of those, whom I am always disposed to bow to with the utmost deference and respect.

I remain, &c.,

RA. DARLING.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 36, per ship Toward Castle; acknowledged by Earl Bathurst, 4th October, 1826.)

25 May.
Returns of
sentences for
year 1825.

My Lord,

Government House, 25th May, 1826.

1st. I regret it has not yet been in my power to collect the whole of the Returns of Sentences for the year 1825, which the 19th clause of the New South Wales Act directs shall be transmitted to England; but I have thought it better not to delay any longer forwarding those, which have been received; and your Lordship may be assured that I shall not relax in my endeavours to procure such as are deficient.

Irregular
sentences
passed by
magistrates.

2nd. The Attorney General, who has paid much attention to the Examination of these Returns, having informed me that the proceedings of the Magistrates appeared in many cases irregular, and in some illegal, I considered it advisable that a Circular letter, pointing out the objectionable cases should be addressed to the several Benches of Magistrates with a view of preventing a recurrence of any similar proceeding, and I do myself the honor to transmit a copy of that letter for your Lordship's Information.

3rd. I beg to add that I have given such directions as will, I trust, ensure the regular transmission of the "Returns of Sentences" from the commencement of the present year.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

LIST of Returns herewith transmitted.

1826.
25 May.List of returns
transmitted.

	From	To
Sydney	1 Jany., 1825	31st Decr.
Parramatta	24 July, 1824	31 May, 1825
Liverpool	1 Jany., 1825	31 Decr.
Windsor	Institution of Court	31 Decr.
Campbell Town ..	1 Jany., 1825	31 March
" ..	1 June, 1825	30 Sept.
Penrith	7 Sep., 1824	17 May, 1825
"	1 Jany., 1825	31 March
"	1 Ap'l, 1825	30 June
"	1 July, 1825	30 Sept.
Bringelly	9 Feb., 1825	10 May

[Enclosure No. 2.]

CIRCULAR LETTER FROM COLONIAL SECRETARY MCLEAY TO THE
MAGISTRATES.

Gentlemen, Colonial Secretary's Office, 10th April, 1826.

I am directed by His Excellency the Governor to call your attention to the summary Jurisdiction, exercised by you over Convicts by the Act of the 4th of Geo. IV, c. 69, s. 19, and 6th of Geo. IV, c. 59, s. 3, A Colonial Act, No. 5, which gave to one Magistrate certain powers, which may be considered to be merged in the more extensive law of the 6th of Geo. IV, c. 69. Returns of Sentences in this summary Jurisdiction seem to show that the law has not been duly executed in the following points.

Circular letter
to magistrates
re irregular
and illegal
sentences.

1st. In the infliction of two punishments for one offence; Whereas Parliament has obviously intended that various punishments should be severally applied according to the various degrees of guilt. This mistake, however, has been much corrected in recent adjudications.

2ndly. Punishments are often inflicted which, according to the words of the Legislature, the offence does not warrant. This departure from the law does not appear to have been occasioned by a deliberate disapproval of the law, as it stands, in respect of severity. Sometimes the punishments are more lenient, some less lenient, than those, which the laws have awarded; sometimes it would be difficult to compare them. The crime of Theft exemplifies this. By the law, the 4th Geo. IV, c. 96, s. 19, theft is punished by new transportation to Penal Settlements and hard labor there, or by the extension of the original time of transportation to the Colony. Instead of pursuing this course, it is very common to flog the Offenders.

3rd. Some cases occur of men being sentenced "on suspicion" This is wrong, although it may often be right to examine parties, where suspicion only exists; judgement should never be given until that suspicion be ripened into judicial certainty.

1826.
25 May.

Circular letter
to magistrates
re irregular
and illegal
sentences.

4th. Trespasses are sometimes treated as offences; at present we have no law in this Colony justifying punishment, even if the trespass be wilful.

5thly. There are other cases, which appear to be of offences not contemplated by the Legislature; perhaps a more precise adherence to the words of the Act of Parliament will prevent this.

6th. It sometimes happens that, where the accused confesses guilt, the name of the accuser is improperly omitted.

7th. The suspension or remission of punishment, which sometimes occur, shows a mistaken assumption of authority. Any circumstances of mitigation, appearing at the time of trial, should be weighed in apportioning the punishment; such as become known after the time of trial should be specially reported.

These points have arisen on some Returns already made. In preparing those of your Bench, you will be pleased to notice such as apply to you.

If, in your opinion, the law itself requires amendment, you will be pleased to state your reasons for the opinion, that they may be transmitted to His Majesty's Government, or that, should the emergency appear to render an immediate amendment of the Law necessary, a Colonial Act may be deliberated upon.

If, on reflecting upon any of your own Sentences, after considering the foregoing points, they appear to be erroneous, you will perceive the propriety of conforming to the Law in future cases.

I have, &c.,

ALEXR. MCLEAY.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch marked "Separate," per ship Toward Castle; acknowledged by Earl Bathurst, 4th October, 1826.)

My Lord, Government House, 25th May, 1826.

I have the honor to transmit, for your Lordship's information, agreeably to the request of Mr. Cogill, late Master of the Convict Ship "Mangles," a letter dated the 9th inst., which he has addressed to the Colonial Secretary in explanation of the circumstances, referred to in your Lordship's Despatch of the 22nd of July last, No. 46, to Sir Thos. Brisbane.

I have, &c.,

RA. DARLING.

[Enclosure.]

MR. JOHN COGILL TO COLONIAL SECRETARY MCLEAY.

Sir,

Sydney, 9th May, 1826.

Having heard, with mingled astonishment and regret, that Sir Thomas Brisbane left behind him a representation, in which

Transmission
of letter by
J. Cogill.

I am charged with being a Smuggler, I trust I shall stand excused for the liberty I have taken in requesting that you will be pleased to submit the accompanying documents to His Excellency Governor Darling, with the expression of my respectful hope that they may be transmitted to His Majesty's Government in England, where I have reason to believe a charge against me has been sent similar to the undeserved one, left in this Colony.

No human being can be more earnestly solicitous to avoid giving trouble than myself; but I owe it to my character, to my friends, and to my family, not to submit in silence to the unmerited attack, of which I complain; and I cannot persuade myself, when His Excellency Governor Darling shall have read my statement of facts and the accompanying clear evidence in support and corroboration of that statement, but that he will consider it due to Justice and the maintenance of the candour and unsullied honor of his own character to direct that I may be furnished with a copy, of what may have been written to the injury of mine, thereby inflicting the greatest injury, which a man of integrity can sustain.

I have, &c.,

JOHN COGILL.

[Sub-enclosure No. 1.]

DEPOSITION OF MR. JOHN COGILL.

Deposition of
John Cogill.

JOHN COGILL, late commander of the *Mangles*, but now a Settler in this Territory, maketh Oath and saith: That, on the tenth day of November, one thousand, eight hundred and twenty four, this Deponent was summoned before the Bench of Magistrates at Sydney to answer "to a complaint of having illegally suffered two casks of Spirits to be removed from the ship without a Permit": That the Bench of Magistrates convicted this Deponent on the evidence of Robert Kelly, Francis Morrison and Chas. Gray, and adjudged the two casks of Spirits, that had been seized, to be forfeited for the use of the Crown, and deponent to be fined in the sum of Fifty pounds Sterling for suffering such Spirits to be removed from the Ship without a Permit; And they further adjudged that the Boat, in which the Spirits were brought from the Ship, should be forfeited. That the Magistrates refused to examine any witnesses on the part of this Deponent, although the Chief Mate, the Steward and two Seamen attended for the purpose of making Oath that they heard the person (Serj't Wilson), from whom the spirits were taken, acknowledge that he had deceived this Deponent by informing him he had left a Permit for landing the Spirits with the Wharfinger. That a day or two afterwards this Deponent met the Naval Officer, John Piper, Esquire, who asked what the Deponent intended to do: to which he replied, he should pay the fine as to dispute the adjudication of the Magistrates would probably afford no relief; and, even though this Deponent should prove successful, the expenses would fall more heavy upon him than the payment of the fine, to which this Deponent had been, without the Commission of any intentional offence, sentenced. That, about a week after this conversation with the Naval Officer, Deponent by accident met William

1826.
25 May.

Reply of
J. Cogill to
charge of
smuggling.

1826.
25 May.
Deposition of
John Cogill.

Wentworth, Junr., Esquire, a practising Barrister in the Colonial Courts, who entered into conversation respecting the Fine, and said he hoped Deponent did not intend to pay it, as it was unjust and illegal; and, on this Deponent making a similar declaration to the one he had uttered to the Naval Officer, Mr. Wentworth said, "Give me Twenty five pounds and I will indemnify you." or words to that effect, "and take upon myself the future consequences." That this Deponent accepted the Offer then made to him, being desirous to avoid future trouble, and placing the affair fully under the management of a professional Man. The case was afterwards brought into the Supreme Court, when the adjudication of the Magistrates was set aside, and the Fine remitted. Thus was this Deponent, without any act of wrong committed by him, put to a considerable expence, and, what is of infinitely deeper importance, his character has been traduced, as he believes, not only to His Excellency Governor Darling but at the Colonial Office at Home.

JOHN COGILL.

Sworn before me at Sydney, 9th May, 1826:—ALEX. BERRY, J.P.

[Sub-enclosure No. 2.]

Deposition of
W. Carr and
J. Ferrill.

DEPOSITION OF MR. WILLIAM CARR AND JOHN FERRILL.

WILLIAM CARR, late Chief Officer and now Master of the Ship "Mangles," and John Ferrill, Steward of the said ship, severally make oath and say that, in the month of November, one thousand, eight hundred and twenty four, Serjeant Wilson of the 40th Regiment came on board the *Mangles*, then lying in Sydney Cove opposite the Dockyard, for some Rum belonging to him. The Captain not being on board, deponent, William Carr, asked Wilson if he had the permit to land his Rum. He said he had got the Permit from Captain Piper, and had left it with the Wharfinger. Deponent, William Carr, informed him that he must go and bring the Permit, for that he had positive orders from the Captain not to allow any Spirits to leave the ship without. At this time, the Captain came on board. The Serjeant then repeated to him what he had said before, meaning that he had left the Permit with the Wharfinger. The Captain then said, "Serjeant, I hope you have obtained the Permit, for I would not have my name brought in question for all the Spirits on the Ship," and that there was no reason for him to attempt to land the Spirits without a permit, as it was always allowed to the Military to have anything of that kind, that might belong to them, and therefore hoped he was not deceiving him in saying that he had a permit, if it was not so. The Serjeant then again observed to the Captain that the permit was with the Wharfinger, and that, if he did anything wrong, he would lose his situation in the regiment, which to him was of greater importance than if the Captain should lose his Ship, and knew better than to do anything wrong. The Captain then said, "Serjeant, I think you would not say you had a permit, if it were not so; therefore, I will take your word for it, and you shall have the Spirits." The Captain then turned round to Deponent, William Carr, said, "I think we may allow him to have the Spirits. He is much respected by the Officers of his Regiment, and would not, for so trifling a thing, tell an untruth; therefore, give him the Rum and see that he goes to the Wharf with it." That these deponents afterwards attended at the Police Office, but the Magistrates did not think proper to

examine them or any Person on behalf of the Captain; and the Deponents heard the Serjeant acknowledge that he deceived the Captain, but thought it no harm, as he had been promised a permit, but wanted the Rum that day and took that way to get it.

1826.
25 May.

WM. CARR,

his
JOHN X FERRILL,
mark

Sworn at my house in Sydney, this sixth day of May, in the year of Our Lord, 1826.

EDWARD WOLLSTONECRAFT, J.P.

[Sub-enclosure No. 3.]

POLICE PAPERS IN THE CASE OF MR. JOHN COGILL.

Papers in police
proceedings
against
J. Cogill.

[No. 1] *Warrant.*

To the Chief Constable at Sydney.

SYDNEY TO WIT. { YOU are hereby commanded to summon Captain
{ Cogill of the Ship Mangles to appear in his proper
person before the Bench of Magistrates at the Police Office to-
morrow, at the hour of ten in the forenoon, and there to answer
to a Complaint, instituted against him for suffering two cases of
Spirits to be sent from his ship yesterday without a permit con-
trary to the Port Regulations on that head.

Given under my Hand, this 10th day of November, 1824.

D. WENTWORTH, Super't of Police.

Ent'd :—M. ROBINSON, P.C.

[No. 2] *Depositions before Bench of Magistrates.*

SYDNEY TO WIT. { FRANCIS MORRISON, Constable at the Dockyard,
{ being sworn, deposes that, yesterday afternoon
between three and four, whilst on duty, he observed two casks
lowered down from the Ship Mangles into a boat alongside, and,
suspecting that some smuggling was going on, he went off in a
Boat and met the Boat with the two casks in it coming towards
the King's Wharf; that there was a Serjeant on the Boat, of whom
deponent enquired what he had got there, and he said he had
Spirits. The Deponent then asked him for a Permit, and the
Serjeant said it was with the Wharfinger at the Wharf. Saith
that, no permit being produced, he went into the Boat and put
the Broad Arrow on the two casks and also on the Boat. Saith
that the Serjeant on guard at the Dock yards said the Spirits in
the Boat was right, as he had seen the other Serjeant give the
permit to the Wharfinger. Saith that, when Deponent was about
to take the two casks of Spirits to the Dockyard, the Serjeant
on guard would not allow him so to do; and Deponent left them
in charge of the Serjeant of the Guard, until he could make
further enquiry about it. Saith that he then went to the Naval
Officer's Office, and found that no permit of that kind had been
issued yesterday.

his
FRANCIS X MORRISON,
mark

Sworn the 10th of November, 1824, before

D. WENTWORTH.
CAMPBELL.
EDWD. RILEY.

1826.
25 May.
Papers in police
proceedings
against
J. Cogill.

SYDNEY TO WIT. { ROBERT KELLY, Watchman at the Dockyard, being sworn, deposeth that, between the hours of two and three on Sunday Afternoon last, he saw a Waterman's boat go off from the King's Wharf to the ship *Mangles*, and saw two Casks, apparently empty, hoisted up into the ship, and in about an hour afterwards saw the same two casks hoisted back again into the Boat, which appeared to be heavy, and in the meantime before the casks were hoisted back into the Boat, it returned into the King's Wharf, and then took in a Serjeant, who went into the Boat to the Vessel. Saith that there were two Privates in the Boat, when it first went off with the two empty casks, which Privates returned in the Boat with the Serjeant towards the King's Wharf. Saith that Morrison, the Dockyard Constable, went in a Boat alongside that in which the Spirits were, and Deponent observed him holding some conversation together, during which time the Waterman's Boat with the Spirits in it was conveyed forward to the King's Wharf.

ROBT. KELLY.

Sworn the 11th day of November, 1824, before

D. WENTWORTH, Sup't of Police.

CAMPBELL, J.P., and ED'D RILEY, J.P.

FRANCIS MORRISON. Constable at the Dockyard, being again sworn, deposeth that the Serjeant John Wilson of H.M. 40th Regt., now present, is the Serjeant that was in the Boat with the two Casks of Spirits, as mentioned in his Deposition of Yesterday; and saith that the other Serjeant Jones of the 48th Regiment, who is now present, is the Serjeant that would not allow the Deponent to take the two casks of Spirits, which Deponent had seized, to the Dockyard.

his
FRANCIS X MORRISON.
mark

Sworn the 11th day of November, 1824, before

D. WENTWORTH, Sup't Police, J. T. CAMPBELL, J.P.

MR. CHARLES GRAY. Clerk to the Naval Officer, being sworn, deposeth that, on Tuesday last, Serjeant Wilson of H.M. 40th Regt. applied to him for a Permit to land a few gallons of Spirits from the Ship *Mangles*; but, as it was then near 3 o'clock, Deponent observed to him that it was then too late to land Spirits on that day. Saith that no permit was given Serjeant Wilson that day to land any quantity of Spirits.

CHARLES GRAY.

Sworn before:—D. WENTWORTH, Sup. Police.

J. T. CAMPBELL, J.P., EDWARD RILEY, J.P.

Judgment of the Bench.

The Bench adjudge that the two Casks of Spirits be forfeited for the benefit of the Crown, and Capt'n John Cogill, the Master of the Ship *Mangles*, be fined £50 for illegally allowing the Spirit to be landed without a Permit, also the Boat, which contained them, to be forfeited to the Crown under the 19th and 23rd Articles of Port Regulations.

Verdict against Captain Cogill.

Police Office, 11th Novr., 1824.

Capt. John Cogill of the Ship *Mangles* having been summoned to appear to answer to a complaint of having illegally suffered two Casks of Spirits to be removed from the Ship without a Permit,

obtained for that purpose, The Bench adjudge that the two Casks of Spirits be forfeited for the use of the Crown, and Captain John Cogill to be fined in the sum of £50 Sterling for illegally suffering the said Spirits to be removed from his Ship without a permit under the 193rd Article of the Port Regulations, and they further adjudge that the Boat, in which the Spirits were brought from the Ship, be also forfeited for the use of the Crown under the 23rd Article of the Port Regulations.

1826.
25 May.

Papers in police
proceedings
against
J. Cogill.

D. WENTWORTH, Super't of Police.
J. T. CAMPBELL, J.P., EDWD. RILEY, J.P.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch marked "Separate." per ship Toward Castle; acknowledged by Earl Bathurst, 5th October, 1826.)

My Lord, Government House, 26th May, 1826.

26 May.

1st. I have the honor to acknowledge the receipt of your Lordship's Dispatch of the 31st October last No. 26, returning a Requisition for Ordnance and Stores, which had been forwarded by my Predecessor to the Lords Commissioners of the Treasury, and desiring to be furnished with explanations thereon.

Requisition
for ordnance
and stores.

2nd. I find that many of the Stores, included in the Requisition, which I have now the honor to return, were intended for the Service of a Small Field Train; but, as I am not aware that these Guns could be advantageously employed as such, there being no Artillery men in the Command, or any one capable of instructing the Infantry in the use of Ordnance, it does not appear to me necessary that the Articles, alluded to, should be supplied.

3rd. I have, therefore, thought it right to prepare a Requisition for such Ammunition and Stores, as appear indispensable for the Ordnance in Dawes Battery; and I have included a small quantity for the Light guns above mentioned, in the event of its being hereafter found expedient to place them in position as to make use of them for the ordinary Salutes, instead of the heavier Guns, which are now employed for that purpose.

4th. I beg to point out that, in the original Requisition (enclosed herewith), the articles are marked thus ✓, which are omitted in the revised Requisition, to which I have added a few articles indispensable to the efficiency of the Police.

5th. It being desired in your Lordship's Dispatch, to which I have now the honor to reply, that I should state out of what fund it is contemplated that the Expense of the Requisition will be defrayed, I must presume, as the Expense of Ordnance and Stores is not provided for by Parliament, that it will be borne as a charge against the Colonial Government.

I have, &c.,
RA. DARLING.

1826.
26 May.

[Enclosures.]

[Copies of these lengthy requisitions, dated 25th May, 1826, 25th May, 1826, and 1st January, 1825, will be found in a volume in series VII.]

UNDER SECRETARY HAY TO GOVERNOR DARLING.*

27 May.
Letter of
introduction.

My dear Sir,

Downing Street, 27th May, 1826.

The Bearer of this letter is known to Lord Bathurst, having managed an extensive farm in Gloucestershire, and who therefore takes a little more than common interest in this person. I am confident I need not mention more to ensure to him your good offices in any way in which he may require them.

I remain, &c.,

R. W. HAY.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch marked "Separate," per ship "Toward Castle; acknowledged by Earl Bathurst, 29th September, 1826.)

My Lord,

Government House, 27th May, 1826.

Correspondence
with
W. Balcombe.

I have the honor to transmit to your Lordship, in reference to my Dispatch of the 22nd instant, marked "Separate," the Copy of a letter, addressed by my desire to Mr. Balcombe, the Treasurer, calling for explanations of the Proceedings, adverted to in my Dispatch, together with a copy of his reply.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

COLONIAL SECRETARY MCLEAY TO COLONIAL TREASURER BALCOMBE.

Sir,

Colonial Secretary's Office, 25th May, 1826.

Explanations
required from
W. Balcombe re
administration of
treasury.

I am directed by the Governor to acquaint you that the late examinations into the State of the Treasury and the New South Wales Bank have rendered it necessary for His Excellency to call on you for an explanation of the following circumstances, vizt.

1st. Your keeping the Public Money in the Bank, there being One hundred thousand, one hundred and seventy four Dollars and eighty four cents in that Establishment, as appeared by the Acceptance of the Cashier, when the Treasury was examined on the morning of the 11th Inst't, the sum, at that time actually in the Treasury, being only two hundred and thirty Pounds, eight shillings and four pence.

* Note 64.

2ndly. The circumstance of your having paid into the Bank, on the 18th Inst., a cheque for Twenty thousand Dollars, and, on the 11th, cheques to the further amount of seventy six thousand, seven hundred and forty three Dollars and one cent, when it was publicly known that the Bank was in such a state of embarrassment, as to be obliged to apply to the Government for assistance to prevent its stopping payment, thus obviously exposing the Public Money to imminent risk.

3rdly. The circumstance of your discounting the Bills of Merchants and other private Individuals by the means of the Public Money, as appeared by the cheques of the several persons, paid by you into the Bank as above mentioned.

His Excellency particularly requests your reply to this letter may be transmitted to me as early as possible.

I have, &c.,
ALEXR. MCLEAY.

[Enclosure No. 2.]

COLONIAL TREASURER BALCOMBE TO COLONIAL SECRETARY MCLEAY.

Sir, Colonial Treasury, 26th May, 1826.

In reply to your Letter of yesterday's date, I beg to state, for the information of His Excellency the Governor, that I have never received any specific Instructions as to the mode, in which I should keep the Public Money; but, as it has been the custom with my predecessor in Office to keep it in the Bank, and as there is a standing Order of the late Governor Macquarie that the Notes of the Bank of New South Wales should be received in payment of duties, I conceived I was justified in following the example of the former Treasurer, more especially as I never had any reason to doubt the stability of that Establishment, many of the Proprietors of which are people of the most extensive property in the Colony. I had besides given such ample security to Government, before I entered on the duties of my situation, that I conceived I was in a great measure at liberty to exercise my own discretion as to the security of the Public Funds, in the absence of any specific instruction on that subject, believing that all that was necessary on my part was the production at a moment's notice of the money, when required for the public service.

I beg leave further to state that the amount of public money, in the possession of the Bank at the time its Accounts were examined, was owing to my being in the habit of receiving the cheques of the Naval Officer and other individuals, and paying

1826.
27 May.

Explanations
required from
W. Balcombe re
administration
of treasury.

Reply by
W. Balcombe.

His reasons
for keeping
public funds in
bank of N.S.W.

Method of
making deposits
in bank.

1826.
27 May.

them into the Bank according to the state of my account with that Establishment, a practice which, if erroneous, was entirely unintentional on my part.

Funds deposited
with leading
merchants.

The circumstance of my having deposited some money for security in the Hands of one or two of the principal Merchants arose from the Alarm occasioned by the breaking open of the Commissariat Stores lately, and the robbery of a large sum of money therefrom, although under the especial charge of a strong Guard at the time; and, as the money in question could at any time be drawn at the shortest notice, I considered it safer under their custody, than it would have been at my House, where there was no money vault whatever to secure it in, and where I had only one sentry over the Office and at a considerable distance from the Guard, by which he was furnished.

In order, however, to obviate the possibility of incurring a similar risk in future, I beg leave to express my perfect readiness to enter into any arrangement for the security of the Public Money, which His Excellency the Governor may consider the best calculated to insure its perfect safety.

I have, &c.,
W. BALCOMBE

GOVERNOR DARLING TO THE COMMISSIONERS OF THE NAVY.

(Per ship Toward Castle.)

Gentlemen,

27th May, 1826.

G. Webb sent
to England *per*
ship Mangles.

I have the honor to acquaint You that George Webb, a Seaman belonging to His Majesty's Ship "Larne," has been embarked in the Ship "Mangles," bound to London, and that no advance has been made here on account of his Passage. Webb was left in the Colonial Hospital on the Departure of the Larne for India, and Captain Kingcombe requested he might be forwarded to England, as an Invalid Seaman, by an early opportunity.

I have, &c.,
RA. DARLING.

GOVERNOR DARLING TO SECRETARY HARRISON.

(Per ship Toward Castle.)

Sir,

27th May, 1826.

Alleged forgery
on the English
treasury.

I have the honor to transmit to you the Extract of an Affidavit of J. Jackson, the Chief Constable at Port Macquarie, that a Forgery to a Considerable Amount had been committed on the Lords of the Treasury, so far back as the beginning of 1824. Oldfield and Stewart having been permitted to accompany a Man of the name of Griffiths in January last to Van

Dieman's Land, as Evidences on a Trial, which was to take place in that Colony, it is supposed that Jackson, taking for granted they have made their escape, has now come forward with this Spurious information in the hope of obtaining some indulgence from the Government. I have lost no time in communicating with Lieutenant Governor Arthur on the subject; and I shall use every possible means to discover whether there is any ground for the Statement. But I have thought it necessary, in the mean time, to apprise You of the facts, stated by Jackson, that, in the event of any Forgery having been committed, You may be on your guard should the Bills be presented.

1826.
27 May.
Alleged forgery
on the English
treasury.

I have, &c.,

RA. DARLING.

[Enclosure.]

[A copy of this affidavit is not available.]

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 38, per H.M.S. Success; acknowledged by Governor Darling, 12th February, 1827.)

Sir,

Downing Street, 30th May, 1826.

30 May.

I do myself the honor to acquaint you that the Lords Commissioners of the Admiralty have appointed His Majesty's Ship Success to carry into effect the arrangements communicated to you in my Dispatch of the 7th of April last, connected with the formation of the Settlement, which is contemplated on Croker's Island, or any other spot to the Eastward of Melville Island to which the preference may be given.

H.M.S. Success
detailed to
form new
settlement in
north Australia.

The "Success" will call at Port Jackson on her way to execute this Service; and I am to desire that a Subaltern's party consisting of Twenty five men (exclusive of officers) may be embarked for the purpose of forming the new Settlement; and you will also take care that such Stores, Provisions and medicines may accompany the expedition, as you shall have reason to believe from the Reports, which may have reached you from that quarter that the two Settlements will stand most in need of.

Men and
stores to be
embarked at
Port Jackson.

I have further to desire that you will take proper steps for securing the services of a small Colonial Schooner of about 80 or 100 Tons Burthen, in order to keep up a communication between the two Settlements, as well as to proceed, if necessary, to Timor for the purpose of obtaining supplies of provisions. If such a vessel cannot readily be procured, a large decked boat should be provided for this Service, until it shall be found practicable to station a more convenient Vessel in that quarter with a view to the objects I have mentioned.

Schooner to be
detailed for
settlements.

I have, &c.,

BATHURST.

1826.
31 May.

UNDER SECRETARY HORTON TO GOVERNOR DARLING.

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

Dear Sir,

Downing Street, 31st May, 1826.

Instructions
re treatment
of educated
convicts.

With reference to the various conversations which I had with you on the subject of Convicts, and more especially to the admitted fact of the danger and inconvenience arising from the presence of educated Convicts as Settlers in New South Wales and Van Diemen's Land, I enclose you copies of a correspondence and various communications which have been made to this Department on this subject. The course, which Lord Bathurst is disposed to take (after having duly balanced the Arguments on one side and the other), is to the following effect.

1st. It is understood that no educated Convicts will be sent to New South Wales for a less term than for 14 years or for life.

2nd. It must never be permitted, under any conceivable circumstances, that an educated Convict, that is to say, a Convict who has not been subjected to hard labour during his punishment, should be allowed to settle either in New South Wales or Van Diemen's Land as a Free Settler.

3rdly. In the case of a 14 years Convict, it must be provided that, when his term is expired, he shall be obliged to quit the Colony, and not to return.

Proposed
establishment
of penitentiary.

4thly. As Lord Bathurst is decidedly of opinion that a Penitentiary System would be impracticable, either in England or in any other Colony than New South Wales or Van Diemen's Land, and as great doubts exist as to its practicability even there, I am directed to invite your particular attention to the subject with reference to the principles laid down in the enclosed papers. But even setting aside the question of a Penitentiary system, Lord Bathurst is anxious to receive from you a detail of any arrangements which may be made for the location of educated Convicts apart from any thickly peopled districts in the Colony, where all the objects of a Penitentiary system may be accomplished without the confinement or expense; and the punishment of absenting themselves from such a situation might be a removal to Norfolk Island.

Executive
council to be
consulted.

You will naturally confer with the Chief Justice, Mr. Archdeacon Scott and your Council on this subject; and you may commence to act on the system previously to your receiving official Instructions as a system initiated by yourself. Due Instructions will be sent to you when your Report shall have been received.

A similar letter has been sent to Lieut. Governor Arthur with respect to the location of Convicts in Van Diemen's Land.

I remain, &c.,

R. W. HORTON.

[Enclosures.]

1826.
31 May.

SCHEDULE of Papers on the Establishment of a Penitentiary in New South Wales or Van Diemen's Land, transmitted to Lieut. Genl. Darling in Mr. Hay's Private Letter of the 31st May, 1826. Schedule of papers transmitted.

A. Private Letter from Mr. Horton to Mr. Hoare of 3rd July, 1826.

B. Minute of Mr. Hoare, founded on the foregoing.

C. Letter from Mr. Hoare, dated 5 Augt., 1825, transmitting plan of Penitentiary and description of the Design.

D. Queries proposed to Major Morisset and his answers thereto.

E. Memorandum by Mr. Barnard.

F. Memorandum by Mr. McArthur.

G. Private Letter from Mr. Horton to Mr. Peel, dated 6 Jany., 1826.

H. Private Letter from Mr. Peel to Mr. Horton in answer to the foregoing.

[Copies of these lengthy enclosures will be found in a volume of series II.]

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 39, per ship Speke: acknowledged by Governor Darling, 13th February, 1827.)

Sir,

Downing Street, 4th June, 1826.

4 June.

I have received Sir Thomas Brisbane's dispatch No. 95 of the 8th November last, recommending the equipment of forty mounted Horsemen for the purpose of checking the system of Bushranging in New South Wales, which in that Colony, as well as in Van Diemen's Land, appears to have attained a height from which, if not effectually put a stop to, alarming consequences may ensue. Equipment of mounted horsemen for suppression of bushranging.

I have much pleasure in acquainting you that I have already anticipated Sir Thomas Brisbane's wishes in this particular, having authorized the Agent to provide Sixty Sets of Cavalry Equipments for the use of those men of the Veteran Companies, whom it may be deemed most expedient to employ as a Mounted Police, and forty sets for the service of such portion of them as may be stationed in Van Diemen's Land, to which Colony I am of opinion that one Company at the least should be immediately sent.

The few days, which you will have passed at Van Diemen's Land on your passage out, will have made you acquainted with the real state of that Colony up to a later period than the date at which the last accounts were received by His Majesty's

1826.
4 June.

Request for
additional
troops in
Tasmania.

Government from thence; yet I cannot avoid calling your attention to the earnest representations, contained in the enclosed extract of a dispatch from Lieut. Governor Arthur, in order that, should you not have already felt the necessity of detaching to Van Diemen's Land a portion of the increased force which has been placed at your disposal for the protection of both Colonies, you may be made fully aware that no further reinforcement of Troops can be sent out from this Country for service in that Quarter, and that it will therefore be expected that you should pay every attention to the applications which may be addressed to you on that subject by Colonel Arthur, so far as the tranquillity of the Colony, over which you immediately preside, will admit of your granting to him that additional assistance for which he may apply.

I have, &c.,

BATHURST.

[Enclosure.]

EXTRACT of a letter from Lieutenant Governor Arthur to Earl Bathurst, K.G., etc., etc., etc.

Condition of
convicts in
Tasmania.

IN my Dispatch, No. 10 of the 3rd of July, I have had the honor to bring under Your Lordship's consideration the undisciplined condition of the Convicts in this Colony, and the causes, to which it may be positively referred, the total want of all means of enforcing any system of penal restraint.

Prevalence of
crime and its
causes.

It was the opinion of Lieutenant Governor Sorell, communicated to the Chief Justice and myself, that, from a combination of causes, crime would very much increase in this Colony, and would not early be put down by the operation of the Criminal Court. The reasons, principally assigned by Colonel Sorell for drawing this conclusion, was the natural consequence resulting from the increase of Prisoners, the great number of bad characters, who had obtained their freedom by the expiration of their sentences, the deficiency of accommodation for the Prisoners, and the want of greater Military force in the Colony. I lament to report to Your Lordship that this prediction has been fully verified. I do not think there is more crime than may be expected under such circumstances; but the extent of it is truly distressing; and I am sorry to say has excited very great alarm among the Settlers in the Interior; the system of Bushranging, Sheep stealing, and most daring acts of Burglary upon the defenceless Settlers, has been encreasing, notwithstanding the awful examples of punishment, which have been made by the Supreme Court; but it is not such punishment of Crime, I submit, which will prevent the perpetration of it; and other means of prevention and protection must be resorted to. Within the last fortnight, two Military Parties have at different periods been attacked by

armed Bodies of Bushrangers, and I lament to say that a Corporal and Private of the 40th Regt., two very gallant Soldiers have been shot, and some Constables severely wounded. The boldness of these determined Offenders is so great that some of the Settlers are deserting their Farms, and resorting to the Town; and upon the representation, which I have this day received from the Magistrates, who have assembled in consequence of the extraordinary circumstances, developed at an *Inquest*, taken by the Coroner, I feel it necessary to adopt some prompt and energetic measure to dissipate the Panic, which is felt in the Interior, and have, therefore, determined to disembark and detain for a few weeks the detachment of the 57th Regt., which have just arrived in the Medina with Prisoners from England, and were to proceed to Sydney; and I purpose marching every disposable Soldier, whom I can with safety send out of Hobart Town, at once into the Districts to assist the civil power. There is not, I am persuaded, the slightest occasion for alarm, if the Settlers possessed more confidence in themselves, and would defend their dwellings with more resolution; but a large military force is most decidedly necessary for the tranquility of the Colony; for the contagion of Crime is such that, if it once gains head among such a Class of Characters as we have here, it is most difficult to be suppressed.

1826.
4 June.

Panic created amongst settlers.

Military sent to disaffected districts.

Small Military Stations, dispersed through the Districts in the Interior, acting under the directions of the Magistrates, would give confidence to the Settlers, and would repress, if not altogether put an end to Bushranging *as a System*. I am, therefore, again under the necessity of anxiously drawing Your Lordship's attention to an increase of the Military force of the Colony, which, with two such penal Stations to guard as Macquarie Harbour and Maria Island, and such an extent of Country, as the Prisoners are dispersed over, cannot at the least be computed at less than five hundred Men.

Request for additional troops.

UNDER SECRETARY HAY TO GOVERNOR DARLING.*

Sir,

Downing Street, 7th June, 1826.

7 June.

Mr. John P. Webber will have the honor of delivering this letter to you. This Gentleman having been strongly recommended to Lord Bathurst by Mr. C. W. Wynne, his Lordship requests that you make to Mr. Webber a Grant of Land, upon as favorable terms as the extent of his finances and the Regulations will admit of.

Recommendation of J. P. Webber for land grant.

I have, &c.,

R. W. HAY.

* Note 64.

1826.
14 June.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(A private letter per ship Speke; acknowledged by Governor Darling, 6th February, 1827.)

My Dear Sir, Downing Street, 14 June, 1826.

Proposed
formation of a
civil service
in colony.

I cannot help thinking that, whenever circumstances will admit of its introduction, the greatest benefit would arise to our Colonies from the Establishment of a Civil Service, similar to that which is to be found in Ceylon and Mauritius. In the latter Island, the scheme is defective, as no arrangement has been made for pensioning those who, from various causes, may be desirous of retiring; but, from your acquaintance with that Colony, it is unnecessary for me to point out to you the improvements, of which the system, established there, might be capable; nor will it be difficult for you to furnish me with such information, as may render it easy to decide whether a similar plan could be introduced with advantage in your present Government. I am aware that considerable expence would necessarily attend the first establishment of the measure in question, and that some consideration will be required in settling to what official situations the benefits of the Civil Service shall be exclusively confined; but it is precisely upon these points that I would request your assistance, as it is impossible, from the information which the Blue Book affords, to make a classification of the Public Servants of the Colony sufficiently accurate for the purpose in view. The two chief advantages to be gained by the general adoption of the measure, to which I have called your attention, are the ensuring to our Colonies a regular supply of well trained and efficient public Servants, and the providing for their retirement after a certain period of service. To secure the former object, I am satisfied that no system is so effectual, as that by which young men are sent out as Writers, who may in process of time become fitted for higher situations; and the advantage of establishing a fixed rate of Pension, in proportion to the contribution of the Party who is to benefit by it, is too obvious to require any observation on my part.

Advantages
to be derived.

As it is possible you may not be in possession of them, I have enclosed for your information a Copy of the Regulations of the Civil Fund as established at Ceylon. I remain, &c.,

R. W. HAY.

[Enclosure.]

Regulations of
civil fund as
established in
Ceylon.

REGULATIONS of the Civil Fund, as established at Ceylon under the authority of H.M. Government, soon after the transfer of the Island from the Government of the East India Company to that of the Crown.

1. That the Secretary of Government, the Resident of the Board of Revenue, and three other Persons, to be named by the Governor, be appointed Trustees for the management of the Fund.

2. That an annual payment be made to the Fund from the Revenues of Ceylon, equal in amount to 10 per Cent. upon the aggregate of all Salaries of Civil Officers.

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14 June.

3. That an annual payment to a similar amount be paid to the Fund by the Civil Paymaster, who, for that purpose, shall be authorised to make a stoppage of 10 per Cent. from the amount of the said Salaries.

Regulations of
civil fund as
established in
Ceylon.

4.* That the Trustees, or any of them, shall be authorized to lay out all the monies, so paid into this fund, in Loans upon good and sufficient security, bearing an Interest not exceeding 12 per Cent., which Interest is to be added to the principal and made part of the fund.

5. That upon this fund shall be established Pensions for all those, who shall retire from the Civil Departments of the Service; the amount of which shall be regulated by a scale proportioned to the length of their Service, and to the Offices they may have held, so that those, who may have been appointed in the first instance to the Superior Departments should be entitled, after a period of eight years' Service, to retire upon the following Pensions:—

The Secretary of Government (whose Salary was fixed at £3,200). £700 a year; The President of the Board of Revenue, or any other public Servant receiving a Salary of £2,000. £600; The Members of the Board of Revenue, and all others receiving Salaries of £1,500 a year, £500 a year; Others receiving a Salary of £1,000 a yr., £400; and to all others upon the Civil Establishment, at the termination of 12 years' service on the Island of Ceylon, an annuity of £400, to be advanced to £500 a year, if they should have extended the term of their service to 15 years; to be further advanced to £600, if their Services should be extended to 18 years, and lastly to be advanced to the amount of the Pension, attached to the *highest Office they shall have attained at the period of their retreat*,† provided they shall have completed the term of 12 years resident Service: it being explicitly understood that the scale of Pension is not to be estimated upon any aggregate amount of Salaries, arising from more than one Office being in the possession of any individual at the same time.

6. With a view to giving to the Establishment at Ceylon every advantage compatible with the public Service, the plan proposes to allow of a Furlough for two years at any time within the twelve, which two years shall not be counted as part of the term, but during which those persons, who may avail themselves of the Privilege, shall be permitted to draw an allowance from the Subscription Fund at the rate of £300 for each year.

7. For the purpose of providing in the most effectual manner for the punctual payment of the Pensions, that may be assigned upon this fund, it is proposed that the Revenues of the Island of Ceylon should be charged with the amount, and that the Pensions should be made payable in London by the Treasury through the Agent for

* *Marginal note.*—From the state of the Trade in the Island, this mode of employing the Capital of the Fund was found to be impracticable. The subscriptions were, therefore, received into the Treasury, and Debentures issued with interest to their amount.

† *Marginal note.*—By an additional Regulation, it was provided that no servant should be allowed to receive the Pension of the Office, he enjoys, unless he has been in the possession of that Office for two years, or one of equal amount; and such of the Servants, who from ill conduct have been dismissed, must by that dismissal forfeit their claims to any Pension whatever.

1826.
14 June.

Regulations of
civil fund as
established in
Ceylon.

the Island, reserving to Government the power of discontinuing to contribute annually to the Fund, and also of deserting it, subject as before expressed to the payment of the Pensions that had and that may accrue upon it.

Mem.—Some alterations were subsequently made in the original Regulations. The issue of Debentures was discontinued. The subscriptions were paid into the Colonial Treasury at Ceylon, the Government becoming the guarantee of the Pensions, which are *now* paid by the Agent of the Colonial Government in this Country. But the security of the Subscribers required that the Accounts should be continued to be kept as heretofore, in order that they might have a constant record of the Principle, on which their pensions rested, and not receive a Pension, for which they had paid the price of a reduced Salary, as a pure gratuity from the Government, liable hereafter to cavil as to the right of modification as to its amount. The Accounts of the Fund are accordingly kept by crediting the Government with the amount of all Pensions paid to Civil Servants, and by charging on the other side of the account the amount of Subscriptions and Donations received, and the Interest annually accruing upon the Balance.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Speke.)

My dear Sir,

Downing Street, 14th June, 1826.

Recommend-
ation in favour
of W. Harper.

At the request of Sir John Oswald, who takes an interest in Mr. Harper of the Surveyor General's Department in New South Wales, I take the liberty of bringing his name under your notice, and of requesting that you would be good enough to afford him your countenance and protection, should his conduct be such as to merit your approbation.

I remain, &c.,

• R. W. HAY.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 40, per ship Woodford.)

Sir,

Downing Street, 20th June, 1826.

20 June.
Appointment
of Roman
Catholic clergy.

I do myself the honor to inform you that I have sanctioned the appointment of two Roman Catholic Clergymen, the Revd. Roger Murphy and the Revd. Daniel Power, for the service of New South Wales with Salaries of £100 per annum each, to commence from the Date of their embarkation, of which Six Months Advance has been made in this Country. I take this opportunity to request that you will give these Gentlemen your countenance and protection, and afford them any assistance in your power in the prosecution of their duties.

I have, &c.,

BATHURST.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Speke; acknowledged by Governor Darling,
29th January, 1827.)

1826.
25 June.

My dear Sir, Downing Street, 25th June, 1826.

I have submitted to Lord Bathurst your separate letter of the 5th December, stating the circumstances under which you have been induced to permit Mr. Dumaresq, who accompanied you from England, to remain at Van Diemen's Land in charge of the Surveyor General's Department; and I now beg, by his Lordship's desire, to express his regret that the arrangements, made in anticipation of Mr. Evans' retirement and which have been already communicated to Colonel Arthur, render it impossible for Lord Bathurst to comply with your wishes by confirming Mr. Dumaresq in the appointment which you have provisionally conferred upon him.

Confirmation of appointment of W. Dumaresq to Tasmania refused.

I remain, &c.,

R. W. HAY.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 41, per ship Speke; acknowledged by Governor Darling, 4th December, 1826.)

Sir, Downing Street, 26th June, 1826.

26 June.

I have the honor to acknowledge the receipt of your Dispatches of the dates mentioned in the Margin,* which have been submitted to the King; and I am commanded by His Majesty to signify to you His Approbation of the Proclamations, which you issued on your being sworn in to the Office of Captain General and Governor in Chief over the Island of Van Diemen's Land and its Dependencies, as well as of that which you subsequently issued on arriving in New South Wales and assuming the Government of that Colony.

Dispatches acknowledged.

Approval of procedure.

I cannot conclude this Dispatch without expressing the particular satisfaction, which His Majesty has derived from the Loyalty† which appears to have been displayed by all classes of the Inhabitants on that occasion, a continuance of which, added to those feelings of cordiality, which His Majesty trusts will long subsist between the local authorities and the Colonists, cannot fail to lead to the permanent welfare and prosperity of the Settlements in that quarter of the World.

Loyalty of inhabitants.

I have, &c.,

BATHURST.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 42, per ship Speke; acknowledged by Governor Darling, 4th December, 1826.)

Sir, Downing Street, 27th June, 1826.

27 June.

Having brought under the consideration of the Secretary of State for the Home Department Sir Thomas Brisbane's

* Marginal note.—5 Decr., 1825; No. 1, 21 Decr., 1825. † Note 84.

1826.
27 June.
Free pardon
granted to
H. Carline.

Dispatch of the _____ of _____ last,* together with the copy of a letter which accompanied it from the Chief Justice of the Supreme Court, respecting the case of Hugh Carline, convicted of Murder, I do myself the honor of transmitting to you the enclosed free pardon, which His Majesty, in consequence of the favorable circumstances which have been submitted to him touching the case of the Prisoner, has been graciously pleased to grant in his behalf; and I am to desire that you will take the necessary measures to ensure to the Prisoner the full benefit thereof.

I have, &c.,
BATHURST.

[Enclosure.]

[*This pardon to Hugh Carline was of the usual form.*]

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 43, per ship Speke; acknowledged by Governor Darling, 4th December, 1826.)

28 June.
Application
from E. Walsh
for land grant.

Sir, Downing Street, 28th June, 1826.

I do myself the honor of transmitting to you herewith the enclosed copy of an application, which I have received from a Lady of the name of Walsh, representing the difficulties which she has hitherto experienced in obtaining a Grant of Land in New South Wales, the Colonial Government having declined complying with her request on account of her being a single Woman. I am not aware of any reason why females, who are unmarried, should be secluded from holding Lands in the Colony, provided they possess sufficient funds for the purpose, intend bonâ fide to reside on their Lands and to fulfill any other stipulations which may be required of them in common with all other Grantees. You will therefore consider yourself at liberty to comply with the Petitioner's request, unless upon enquiring you shall find that there existed other reasons for refusing it than those which appear from the Memorial or from the correspondence with which it is accompanied.

I have, &c.,
BATHURST.

[Enclosure.]

Memorial of
Eliza Walsh
soliciting
land grant.

THE MEMORIAL of Miss Eliza Walsh, residing in New South Wales, To The Right Honorable Earl Bathurst, Secretary of State for the Colonies, etc., etc., etc.,

Respectfully Sheweth,

That Your Lordship's Memorialist arrived in these Colonies in the Year 1819 with her Sister and Brother in Law, Deputy Commissary General Drennan.

That, in the commencement of the 1801, having determined on forming an Establishment with a view to a permanent residence

* Note 85.

in the Country, and having then disbursed about one Thousand Pounds in the purchase of a small allotment of Land and Horned Cattle, and being possessed of an additional Sum of about one Thousand pounds, which it was her desire to apply to agricultural purposes, Your Lordship's Memorialist solicited the late Governor, His Excellency Lachlan Macquarie, Esquire, for a grant of Land; but which application was rejected on the stated grounds that it was contrary to late regulations to give grants of Land to Ladies.

1826.
28 June.

Memorial of
Eliza Walsh
soliciting
land grant.

That, the Honorable The Commissioner of Enquiry being then on the spot, Memorialist enclosed to His Honor Copy of her letter to Governor Macquarie and His Excellency's reply, accompanied with a request that the Commissioner would be pleased to take such steps in the affair, as might seem just.

That His Honor was pleased in consequence to solicit an explanation from Governor Macquarie as to the late regulations touching the granting of Land to Females; when His Excellency was pleased to explain that he had received no particular Instructions or Regulations from His Majesty's Government at Home, either for or against giving Grants of Land to single women, but that, as he had considered it a bad practice, he had of late discontinued it, and intended by the earliest opportunity making reference Home on the subject.

That the Honorable the Commissioner now made to Your Memorialist the interrogatory proposal, by which His Honor desires to be informed, whether she would consent to receive a Grant of Land, subject to reference to His Majesty's Government and their decision, and also binding herself not to alienate it for two years, and further whether it was her intention to reside on the grant.

That, by these Stipulations, Your Lordship's Memorialist immediately expressed her willingness to abide, and further that she would commence the cultivation and cause a House to be built upon the Grant, where she would occasionally reside.

That Your Lordship's Memorialist, however, not having received any Grant, and soon after the arrival of Sir Thomas Brisbane (January, 1822), again made application that she might be allowed that indulgence, stating additionally, in consequence of the departure of her Sister and her Brother in Law, Deputy Commissariat General Drennan, her intention in future to reside on her Farm; and that His Excellency might be in full possession of the case transmitted to His Excellency with her letter Copy of the whole of the correspondence on this subject up to that period.

1826.
28 June.
—
Memorial of
Eliza Walsh
soliciting
land grant.

That Memorialist, on the 14th Instant (February, 1823), waited personally on the Colonial Secretary, Frederick Goulbourn, Esquire, in order to obtain His Excellency The Governor's decision to her application; when the Colonial Secretary stated that the matter was one, on which the late Governor had deemed it proper to take the pleasure of His Majesty's Government at Home, and that it had been submitted to the Commissioner of Enquiry, and that His Excellency Sir Thomas Brisbane had therefore declined deciding upon it, until he should have received Instructions on the subject. But that on your Lordship's Memorialist requesting of Mr. Goulbourn what steps she should pursue, that Gentleman expressed himself that a direct application to Your Lordship would be in his opinion the readiest way of furthering her views.

That Memorialist, under these circumstances, begs to be permitted to lay before Your Lordship the proceeding case, to which with every deference she subjoins the following arguments in its support.

1st. That the stated Ground of the late Governor's objection, as to granting Land to unmarried Females, is of itself no way valid, such Lands not being more subject to be neglected than those of other Individuals, where the circumstances of the Parties are similar, and

2ndly. That Grants of Land to both married and single women, as well as Children, have been and are by no means infrequent; that therefore Memorialist as precedent both directs and analogies in her favour, and

3rd. Waving all consideration of the abstract principle, on which was founded the stated objection of the late Governor to such Grants, that no such Grounds of objection could be discovered in Memorialist's particular case, Memorialist being willing to give every required Security for the due fulfillment of the Stipulations, that might be attached to any Land that might be granted to her.

Your Lordship's Memorialist here rests her case, and adverting to the difficulties and the exigencies connected with it, and those more particularly of providing for an increasing Herd of Horned Cattle, amounting to upwards of One Thousand and eighty Head, with no ground on which to depasture them with the exception of the small allotment, before mentioned, purchased by herself, and which now, from the common that was contiguous to it having been lately divided in Grants to various Individuals, is unequal to their support, trusts that she will not appear as obtrusive in thus addressing Your Lordship, and, under the hope that the mere circumstance of Sex will not be allowed to

operate to her prejudice, ventures to solicit that Your Lordship will be pleased to allow to her a Grant of Land of such extent, as to Your Lordship may seem fit. And Your Lordship's Memorialist as in duty bound will ever pray,

Sydney, New South Wales,
17 February, 1823.

ELIZA WALSH.

1826.
28 June.

Memorial of
Eliza Walsh
soliciting
land grant.

[Sub-enclosure No. 1.]

MISS WALSH TO GOVERNOR MACQUARIE.

Sir, Sydney, 17th January, 1821.

I beg leave to state to Your Excellency that I have made up my mind to settle a Farm in this Country, and that I have already purchased one, about 3 miles from Mr. Bell's at Richmond Hill, where I have horned Cattle and Stock, which amount to upwards of £1,000.

I can also command £1,000 more, if Your Excellency will be so kind as to make me a Grant of Land with the usual indulgencies to Settlers according to means, I can exhibit for cultivation and rearing of Cattle.

I remain, &c.,

ELIZA WALSH.

Request for
land grant.

[Sub-enclosure No. 2.]

GOVERNOR MACQUARIE TO MISS WALSH.

Madam, Sydney, 19th January, 1821.

I have the Honor to acknowledge the receipt of your Letter, dated the 17th Instant, and in reply beg to inform you that I cannot comply with your request, it being contrary to late Regulations to give Grants of land to Ladies.

Refusal of
request.

I have, &c.,

L. MACQUARIE.

[Sub-enclosure No. 3.]

MISS WALSH TO MR. COMMISSIONER BIGGE.

Sir, Sydney, 19 January, 1821.

I do myself the honor to acquaint you that, in consequence of being informed that His Excellency the Governor has been in the habit of granting Land to Females, and having already some stock by me, and the means of purchasing more, I was induced to request he would be pleased to grant me a portion of Land, which would enable me to proceed on a larger Scale than at present with my view of cultivation and rearing Stock, which would not only tend to my own benefit ultimately, but must be of considerable advantage to the Colony.

Application to
J. T. Bigge.

I enclose to you Copy of my Letter to him, with his answer; and I leave it to you, Sir, to take any means in this affair, which may appear to you to be grounded in justice.

1826.
28 June.
Precedents
of land grants
to women.

It is, however, incumbent upon me to state that the Governor lately granted Land to Mrs. Ward, Mrs. Gore, and even Mrs. Allen, wife of the Deputy Commissary General, who was here previous to my landing in the Colony; and it does not appear altogether a just measure to exclude Ladies from making use of their money for the benefit of the Colony in consequence of their Sex, nor can it be deemed a real objection that a Lady could not be able to conduct a Farm as well as a Gentleman.

I remain, &c.,

ELIZA WALSH.

[Sub-enclosure No. 4.]

MR. COMMISSIONER BIGGE TO MISS WALSH.

Madam,

Sydney, 22nd January, '21

I have the honor to acknowledge the receipt of your letter of the 19th instant, enclosing Copy of your application to Governor Macquarie for a Grant of Land and the Governor's Answer.

I shall forthwith take care to inform myself of the Regulations, to which Governor Macquarie alludes, and shall have the honor of communicating to you the result.

I have, &c.,

JOHN THOMAS BIGGE.

[Sub-enclosure No. 5.]

MR. COMMISSIONER BIGGE TO MISS WALSH.

Sydney, 24 January, 1821.

THE Commissioner of Enquiry has the honor to enclose for Miss Walsh's perusal the communication, he has received from His Excellency the Governor, on the subject of granting Land to single Ladies, which, when she has read, he will thank her to return.

It appears that His Excellency purposes taking the pleasure of His Majesty on this subject.

[Sub-enclosure No. 6.]

GOVERNOR MACQUARIE TO MR. COMMISSIONER BIGGE.

Government House, Sydney,

Sir,

23 January, 1821

I have the honor to acknowledge the receipt of your letter of this date; and, in reply thereto, I beg to inform you that I have never received any particular Instructions from His Majesty's Government at Home either for or against giving Grants of Land to single women. But, as I consider it a very bad practice (except in some extraordinary and pressing cases of necessity) and very injurious to the Interest of the Colony to

Reasons for
refusal of
grants to single
women.

Inquiry to
be made by
J. T. Bigge.

give grants of Land to single women, I have declined for some time past making such Grants, on the ground that such persons are incapable of cultivating Land, and thereby not adding to the resources of the Colony.

1826.
28 June.

Under the Conviction of the inexpediency of giving Lands to single women, I have lately resisted some applications of this nature, and intend by the earliest opportunity to make a reference Home on the subject.

Reference to
be made to
England.

Some large tracts of Land, granted by my Predecessors to Women and Children many years since, remain still unimproved and unprofitable.

I have, &c.,

L. MACQUARIE.

[Sub-enclosure No. 7.]

MR. COMMISSIONER BIGGE TO MISS WALSH.

Sydney, 24th Janry., 1821.

THE Commissioner of Enquiry would wish to be informed by Miss Walsh whether she would consent to receive a Grant of Land, subject to a reference to His Majesty's Government and their decision, and also binding herself not to alienate it for two years; at the same time he would wish to know, if it is her intention to reside on the Grant.

Proposed
conditional
land grant.

[Sub-enclosure No. 8.]

MISS WALSH TO MR. COMMISSIONER BIGGE.

Sydney, 25 Janry., 1821.

MISS WALSH begs respectfully to inform the Honorable the Commissioner of Enquiry that she would willingly receive a Grant of Land subject to the decision of His Majesty's Government, and that she would bind herself not to alienate it for two years; she also begs to mention that, on her receiving the Grant, she will order cultivation to be commenced, and cause a House to be built upon it, where she will occasionally reside.

Conditions
acceptable to
E. Walsh.

[Sub-enclosure No. 9.]

MISS WALSH TO SIR THOMAS BRISBANE.

Sir, Philip Street, Sydney, 19 January, 1822.

I do myself the Honor to enclose herewith Copies of a Correspondence between His Excellency the late Governor, the Honorable the Commissioner of Enquiry, and myself, on the subject of a Grant of Land, which I had solicited from His Excellency, and which he had refused to me.

Correspondence
submitted to
Sir T. Brisbane.

Your Excellency will be pleased to observe by No. 7 and 8 that the Grant was eventually, however, offered to me by the Honorable the Commissioner under certain provisions, and which provisions I consented to abide.

1826.
28 June.
Request for
conditional
land grant.

In addition, I have now only to submit for Your Excellency's consideration that the Land has not, however, to this day been granted to me, and that I have expended considerable Sums on the Cultivation of Grain and Buildings on the little Farm, I have purchased, and which is mentioned in this correspondence, but that this Farm and the contiguous run, the greater part of which has been granted of late, are, from their considerably increased numbers, insufficient for the depasturing of my Stock, and that I am, therefore, induced to solicit Your Excellency's attention to these Circumstances, and that Your Excellency will be pleased, if not incompatible with what Your Excellency may consider just, to grant me the Land I have solicited under the stated Stipulations.

I beg to state to Your Excellency that I am ready if required to lay before the Colonial Secretary the precise amount of my land and Stock, as well as my means for further improvements, and that my intentions now are to reside entirely on my Farm.

I have, &c.,

ELIZA WALSH.

[Sub-enclosure No. 10.]

MISS WALSH TO COLONIAL SECRETARY GOULBURN.

Sir,

Sydney, 10th February, 1822.

Correspondence
transmitted.

I did myself the honor of transmitting to you in January last a Package for His Excellency Sir Thomas Brisbane, consisting of a letter from myself to His Excellency, and a Copy of a Correspondence between His Excellency the late Governor, the Honorable The Commissioner of Enquiry, and myself, on the subject of a Grant of Land, solicited by me from the late Governor, and which had been refused.

Statement
previously
submitted.

In my letter to His Excellency Sir Thomas Brisbane, I submitted to His Excellency that this Grant (as evidenced by enclosures of that Package Nos. 7 and 8) was eventually offered to me by the late Commissioner of Enquiry under certain stipulations, namely, that it should be subject to a reference to His Majesty's Ministry; that I should not alienate it for two years; and that I should reside on the same; and that by those stipulations I had consented to abide. That I had no Land but a small Farm, which I had purchased; that the run contiguous to this Farm has in great part of late Years been given away; and that from this circumstance and their considerable increase in Numbers, I have not now sufficient Land for the depasturing of my Stock, and ventured to solicit in consequence from His Excellency the Grant, which had been the subject of the correspondence.

I beg to state that I am now on the point of leaving Town, with a view of going to my Farm, where it is my intention in future entirely to reside; and I trust you will, therefore, have the goodness to pardon my again intruding myself on your attention, and begging that, at the first convenient opportunity, you will oblige me so far as to draw His Excellency's attention to the of my former Letter, as which, from my anxiety to make my earliest possible final arrangements, I am most solicitous to receive a reply.

1826.
28 June.

Request for
decision.

I remain, &c.,

ELIZA WALSH.

MAJOR-GENERAL TAYLOR TO GOVERNOR DARLING.

(Per ship Speke.)

Sir,

Horse Guards, 5 July, 1826.

5 July.

I have submitted to the Commander in Chief your Letter of the 3rd February last, and am directed to acquaint you that your application had been anticipated, the three Veteran Companies having proceeded to New South Wales independently of the Detachments required to escort Convicts.

Sailing of
veteran
companies.

I have, &c.,

H. TAYLOR.

COMMISSIONERS OF NAVY TO GOVERNOR DARLING.

5th July, 1826.

[A copy of this despatch, acknowledged by Governor Darling, 3rd January, 1827, is not available.]

UNDER SECRETARY HAY TO GOVERNOR DARLING.*

My dear Sir,

Downing Street, 6th July, 1826.

6 July.

The enclosed letter is addressed to Sir Henry Torrens from an intimate friend of his employed in the India Company's Service, and will explain the object which the Writer has in view in applying for a Grant of Land in New South Wales.

Application of
Hanson for
land grant.

I have explained to Sir Henry that, as it does not appear to be the Intention either of Major Hanson or his Brother in Law, for whose Benefit the land is ultimately destined, to superintend personally the cultivation of the property, I fear the Regulations with respect to the residence of the parties on their Grants will create a difficulty in complying with Major Hanson's wishes. Lord Bathurst has however desired me to give that Gentleman a Letter of introduction to you, and to state that, if any mode can be pointed out to him, which will enable you to meet his wishes

* Note 64.

1826.
6 July.
Application of
Hanson for
land grant.

without departing from any fixed Regulation, and provided that such proposal on his part meets with your approbation, his Lordship will be glad to afford him the means of carrying into effect the kind Intentions, which he entertains towards his Brother in Law and his family.

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

[Enclosure.]

[A copy of this letter is not available.]

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Speke; acknowledged by Governor Darling, 29th January, 1827.)

8 July.
Application of
A. Scott for
additional
land grant.

Sir, Downing Street, 8th July, 1826.

With reference to my Letter of the 6th February last, accompanied by an application from Mr. A. Scott for an additional Grant of 10,000 Acres to his Brothers in New South Wales, I am directed by Earl Bathurst to transmit to you, in order to assist your decision on this subject, the enclosed letter, which has been since received from Sir Thomas Brisbane, recommending an extension of Land to the two Messrs. Scott in proportion to their means of cultivating the same.

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

[Enclosure.]

SIR THOMAS BRISBANE TO EARL BATHURST.

My Lord, Ibbetson's Hotel, Bond St., 3d July, 1826.

Testimony in
favour of
R. and H. Scott.

I beg to recommend to your Lordship's favorable consideration the application of Mrs. Scott in behalf of her Sons, that your Lordship would be pleased to allow a farther extension of Land in New South Wales being assigned to them in proportion to their means of cultivating the same.

Mrs. Scott's two Sons, already settled in the Colony, have frequently come under my personal observation as young men of great promise, and whose exertions and zeal in Agricultural pursuits are likely to be of general benefit. The superior education and acquirements (particularly of the elder) enable them to maintain the highest consideration and afford the best earnest that whatever favour Your Lordship may be pleased to grant to them will be repaid in their endeavour for the good of the country and attachment to His Majesty's Government.

I have, &c.,
THOS. MAKDOUGALL BRISBANE.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 44, per ship Speke; acknowledged by Governor Darling, 4th December, 1826.)

1826.
10 July.

Sir,

Downing Street, 10th July, 1826.

I have received Sir Thomas Brisbane's Dispatch No. 81 of the 12th September, 1825, relative to a claim for compensation advanced by Mr. Hankinson for losses which he had sustained in executing a contract, into which he had entered with the Deputy Commissary General in the month of February preceding for supplying Bread to the Troops and to the Prisoners in Jail at Sydney.

Despatch
acknowledged.

I am of opinion that a dangerous precedent would be established, if relief were granted to Mr. Hankinson to the extent contemplated in Sir Thomas Brisbane's Dispatch; but taking into consideration the advantages which the public would derive from the establishment of a regular system of Contracts in the Colony, and that encouragement ought therefore to be given to those who enter into them on fair principles, and considering also that Mr. Hankinson might have been deceived in his calculations by the two circumstances which he has brought forward in his Memorial to the Governor, I am willing to consent that Mr. Hankinson should not be called upon to refund the Sum, which has been advanced to him under the authority of Sir Thomas Brisbane until January, 1828, and that then he shall be allowed to repay it by Installments at the rate of £100 per annum.

Relief
withdrawn.Concessions
granted to
J. Hankinson.

I have, &c.,

BATHURST.

COMMISSIONERS OF NAVY TO GOVERNOR DARLING.

10th July, 1826.

[A copy of this despatch, acknowledged by Governor Darling, 3rd January, 1827, is not available.]

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 45, per ship Speke; acknowledged by Governor Darling, 4th December, 1826.)

11 July.

Sir,

Downing Street, 11th July, 1826.

I have received Sir Thomas Brisbane's Dispatch No. 98 of the 21st of November last, accompanied by a Memorial from Captain Rossi for an augmentation of Salary.

Despatch
acknowledged.

However satisfactory it may be to me to receive the assurances of Captn. Rossi's zeal and activity, which are conveyed to me by Sir Thomas Brisbane, I cannot sanction any increase of Salary to that officer after the short period of his Service, which scarcely exceeds a Twelvemonth.

Refusal of
increase of
salary to
F. Rossi.

I have, &c.,

BATHURST.

1826.
12 July.

EARL BATHURST TO GOVERNOR DARLING.
(Despatch No. 46, per ship Speke; acknowledged by Governor Darling, 4th December, 1826.)

Sir, Downing Street, 12th July, 1826.

I have the Honor to acknowledge the receipt of your Dispatches of the dates and Numbers mentioned in the Margin.*

I approve the several measures which you have taken for improving the efficiency of the Public Departments of your Govern't, as detailed in your dispatch to my Under Secretary of State under date of the 2nd February, 1826; and I shall take an early opportunity of communicating with the Lords Commissioners of His Majesty's Treasury upon the subject of the Establishment of Custom House Officers, which you state to be necessary for the protection of the Revenue.

I have to convey to you my sanction of the appointment, which you have made of a Clerk with a Salary of £200 per annum for the purpose of registering in the Supreme Court all Deeds of conveyance of Lands in the Colony.

A communication has been made to the Commissioners of the Navy acquainting them with the reprehensible conduct of Mr. Carter, desiring them to take measures for preventing the recurrence, on board of Convict Ships, of such censurable proceedings as those alluded to in your Dispatch No. 4 of the 4th February last.

The arrangement which you have reported in your dispatch of the 5th Feby. renders it unnecessary for me to enter into any consideration of the doubts, which had arisen with respect to the claim of the Archdeacon to exercise the Functions of King's Visitor.

I have also to signify to you my approval of the determination, which you adopted to decline all interference in the discussions which arose out of the publication of certain reflections upon the Archdeacon in the Australian Journal.

I am, &c.,

BATHURST.

EARL BATHURST TO GOVERNOR DARLING.
(Despatch No. 47, per ship Speke; acknowledged by Governor Darling, 4th December, 1826.)

Sir, Downing Street, 12th July, 1826.

I have the honor to acknowledge the receipt of your dispatches of the 6th of February and 6th of March last, from which I have had the satisfaction to learn that the Party of Bush Rangers, who have so daringly disturbed the peace of the

* *Marginal note.*—No. 1, 1 Feby., 1826; 2nd Feby., 1826; No. 2, 3rd Feby., 1826; No. 3, 4th Feby., 1826; No. 4, 4th Feby., 1826; Separate, 5th Feby., 1826; No. 10, 5th March, 1826; 6th March, 1826.

Despatches
acknowledged.

Approval of
departmental
reforms;

of appointment
of clerk for
registration
of deeds.

Disputes on
convict ships.

T. H. Scott as
King's visitor.

Suppression of
bushranging.

Colony, have been apprehended; and I trust that the measures, which you have adopted for rendering the example of these men, as impressive as possible, will have a beneficial effect in putting a stop for the future to such outrageous proceedings.

I have, &c.,
BATHURST.

1826.
12 July.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 48, per ship Speke; acknowledged by Governor Darling, 4th December, 1826.)

Sir, Downing Street, 13th July, 1826. 13 July.

I have had the honor to receive your dispatch No. 7 of the 2nd March, 1826, accompanied by the proceedings of a Board of Enquiry appointed to investigate the conduct of Mr. West, Assistant Surgeon on the Medical Establishment of New South Wales, and as it appears that you have already suspended Mr. West, I have only to desire that you will not reinstate him in a situation of which his highly reprehensible conduct has shewn him to be undeserving.

I have, &c.,
BATHURST.

Dismissal of
M. West.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 49, per ship Speke; acknowledged by Governor Darling, 4th December, 1826.)

Sir, Downing Street, 14th July, 1826. 14 July.

I have received your dispatch No. 8 of the 3rd of March last, and I do myself the Honor to inform you that I approve the appointment which you have made of Mr. William Richardson and Mr. George Busby to be assistant Surgeons in consequence of the re-establishment of the penal Settlement at Norfolk Island and the removal of Mr. West.

I have, &c.,
BATHURST.

Appointments
of assistant
surgeons
approved.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch marked "Separate," per ship Speke; acknowledged by Governor Darling, 28th January, 1827.)

Sir, Downing Street, 15th July, 1826. 15 July.

Sir Thomas Brisbane has communicated to me the enclosed Letter, which was addressed to him by Mr. Lethbridge before his departure from New South Wales, together with his reply thereto; and, in transmitting Copies of these papers to you, I have to desire that you will demand such an Apology from Mr. Lethbridge, as the highly improper terms, in which his letter is couched, appears to require; and you will be guided

Correspondence
with
R. Lethbridge.

R. Lethbridge
to make
apology.

1826.
15 July.

by your opinion of the fitness of the Apology made by Mr. Lethbridge in the decision you may come to on the propriety of admitting his name to the Commission of the Peace.

I have, &c.,

BATHURST.

[Enclosure No. 1.]

MR. ROBERT LETHBRIDGE TO SIR THOMAS BRISBANE.

Sir, Flushcombe, Prospect, 20th Nov., 1825.

Demand of
R. Lethbridge
to be appointed
a magistrate.

I beg to state, while I entertain the highest respect for Your Excellency's character as a Gentleman, I require an explanation from you in your official capacity.

It is now six months, since I received intelligence from Mr. Barnard that an order was to be sent to this Colony, from my Lord Bathurst's office, desiring that I should be placed in the Commission of the Peace, which I find was obtained through the Influence of my relations with the Government; presuming the order to be in the Colony, I suspect there must be some cause for the appointment being withheld, and am at a loss to imagine any other than my having been one of the Parramatta Grand Jury, who brought certain cruelties to light; if such be the case, I trust Your Excellency will acquaint me with the fact, that I may write to my Cousin, General Lethbridge, and Mrs. Lethbridge's Uncle, the Bishop of St. Asaph, for their satisfaction.

I have, &c.,

ROBT. LETHBRIDGE.

[Enclosure No. 2.]

LIEUTENANT FENNELL TO MR. ROBERT LETHBRIDGE.

Sir, Government House, Paramatta, 21 Novr., 1825.

Reply by
aide-de-camp.

I am directed, by His Excellency the Governor, to acknowledge the receipt of a letter, dated the 20th Instant, and to inform you that no order from Lord Bathurst's Office to place you in the Commission of the Peace, nor any communication respecting you, has been received up to this period.

I am further directed to inform you that the Governor considers the cause, for which you are pleased to suppose such an order to have been withheld, to be no less unbecoming, than the fact itself is unfounded; and that His Excellency will not fail to lay your letter before his Successor.

I have, &c.,

JOHN FENNELL, Actg. A.D.C.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 50. per ship Speke; acknowledged by Governor Darling, 4th December, 1826.)

16 July.

Sir, Downing Street, 16th July, 1826.

I have the honor to acknowledge the receipt of your despatch No. 9 of the 4th March, accompanied by the Proceedings

of a Board appointed to investigate the claim of Mr. Busby to remuneration for his Services in recovering the Government Brig "Elizabeth Henrietta," which was stranded on the Island of New Zealand; and I have to approve the payment of Three Hundred Pounds, which you had desired to be made to Mr. Busby in consideration of the zeal, which he had manifested on that occasion.

1826.
16 July.

Approval of
payment to
J. Busby.

I have, &c.,
BATHURST.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Speke; acknowledged by Governor Darling,
29th January, 1827.)

Sir, Downing Street, 17th July, 1826. 17 July.

I am directed by Earl Bathurst to transmit to you the accompanying application for a Grant of Land from Mr. Sherwin, a Gentleman who has been recommended to his Lordship by General Foveaux; and I have to request that you will assign such a portion of Land to Mr. Sherwin, as he may have the means of bringing into cultivation.

Land to be
granted to
W. Sherwin.

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

[Enclosure.]

MEMORIAL OF WILLIAM SHERWIN.

The humble Memorial of William Sherwin of Sydney in
N. S. Wales.

Memorial of
W. Sherwin
soliciting
land grant.

To the Earl Bathurst, His Majesty's Secretary of State for the Colonies, etc., etc., etc.

74 Seymour Place, Bryanstone Square, 10th July, 1826.

YOUR Memorialist humbly represents that he was born at Parramatta in that Colony, where his Father was originally a free Settler and afterwards was appointed Storekeeper, in which situation he continued for 17 years, and held the same with credit until his death about three years ago, leaving a Widow and ten children.

Your Memorialist was educated for the Profession of Medicine* and served his apprenticeship at Sydney; but, finding that he could not be regularly established as a Surgeon without passing the College in London, he has been under the necessity of proceeding to this Country, and of remaining here during 18 months to attend Lectures and Hospital practice, the expence of which, including his passage back, will not amount to less than five or six hundred pounds.

Having recently obtained his Diploma from the College of Surgeons and purporting to return to that Colony by the first

* Note 86.

1826.
17 July.
Memorial of
W. Sherwin
soliciting
land grant.

opportunity, your Memorialist humbly requests that in consideration of the services of his Father and of the heavy expences, which he has incurred in qualifying himself for a Surgeon, your Lordship will be pleased to award him a grant of land in New South Wales.

Your Memorialist thinks it right to state to your Lordship that his Mother is in possession of a Farm in Prospect Hill District, New South Wales.

Your Memorialist begs leave to refer to Major General Foveaux in confirmation of what he has stated.

WILLIAM SHERWIN.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(A private letter per ship Australia.)

18 July.
Agreement with
T. Winder.

My Dear Sir, Downing Street, 18 July, 1826.

I have not as yet been able to obtain from Sir Thos. Brisbane an explanation of the circumstances, under which the arrangement for the delivery of a certain quantity of Coal from the Mines at Newcastle to Mr. Winder has been made; and I must defer, therefore, till another opportunity, my official Reply to your Secret and Confidential letter of the 3d Feby.

Lease of
coal mines to
A.A. company.

You will in the meantime receive Instructions from Lord Bathurst in regard to the Speculations of the Australian Company in the article of Coal.

Occurrence of
coal in colony.

I understand that it has shewn itself in so many spots at intervals of a line, drawn from Port Stephens to Paramatta, that there can be little doubt of its being found in abundance in various places; but you will, of course, so exercise your discretion in selecting the portion of land, which you are directed to grant to the Australian Company in this direction, as to prevent the possibility of any future inconvenience being experienced by the inhabitants as the same kind as that, to which you have alluded in the case of Mr. Winder.

I remain, &c.,

R. W. HAY.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch marked "No. 36.*" per ship Lady Rowena; acknowledged by Earl Bathurst, 18th January, 1827.)

My Lord, Government House, 18th July, 1826.

Papers re
land grant to
W. Bligh.

I have the honor to transmit to Your Lordship, in reference to Sir Thomas Brisbane's Dispatch of the 8th of February, 1825, No. 35, the Copy of a letter from the Surveyor General, and likewise of one from the Attorney General, on the subject of the land at Parramatta, claimed by the late Governor Bligh's Heirs.

* Note 87.

On receiving the Surveyor General's Letter, I was desirous of ascertaining whether any Steps could be taken here; and, with that view, I referred it immediately to the Attorney General, whose opinion is stated that it would be necessary to institute a suit in England. I have only to add that the death of Mr. Meehan, which the Surveyor General seems to have anticipated, occurred soon after the date of his Letter.

1826.
18 July.

Death of
J. Meehan.

I have, &c.,
RA. DARLING.

[Enclosure No. 1.]

SURVEYOR-GENERAL OXLEY TO COLONIAL SECRETARY MCLEAY.

Sir, Surveyor General's Office, 13th March, 1826.

I have the honor to enclose a Copy of a Report, made by me to the late Governor Sir Thomas Brisbane, on the subject of certain lands at Parramatta, granted by Governor King to Governor Bligh* and ordered to be resumed.

In transmitting this Report, I would respectfully suggest that legal measures be pursued in order to secure possession of the Land to the Crown, as great confusion and loss must be the consequence, should the heirs of the late Governor Bligh succeed in obtaining possession under the original Grant; and I have reason to believe they will try the point on the death of the Surviving Witness, Mr. Meehan, who alone can prove the fact stated in the report.

Legal
proceedings
proposed.

Surviving
witness.

I have, &c.,
JOHN OXLEY, Surveyor General.

[Sub-enclosure.]

[A copy of this report, dated 2nd February, 1825, will be found on page 515, volume XI.]

[Enclosure No. 2.]

ATTORNEY-GENERAL BANNISTER TO GOVERNOR DARLING.

Sir, Sydney, 15th March, 1826.

I have considered Your Excellency's commands, conveyed to me by the Colonial Secretary this morning, relative to the land claimed by Colonel Bligh's heirs; upon which I can only repeat the opinion I gave on this case last year, that I apprehend it to be necessary to institute a suit in England against the proper parties, there being no person here who can be defendants in the cause. I then recommended that this circumstance should be stated to His Majesty's Secretary of State.

Counsel's
opinion.

I have, &c.,
S. BANNISTER.

GOVERNOR DARLING TO EARL BATHURST.*

1826.
19 July.(Despatch No. 37, per ship *Lady Rowena*; acknowledged by Earl Bathurst, 10th January, 1827.)

My Lord,

Government House, 19th July, 1826.

Deed of trust
to church
missionary
society.

1st. I have the honor to forward to Your Lordship the accompanying Copy of a Letter, addressed to me by the Attorney General, with the enclosed Duplicate of a Deed of Trust in favor of the *Church Missionary Society*. Your Lordship will probably have received the Original Deed, though I cannot find the Entry of any Dispatch from Sir Thomas Brisbane on the subject; and I forward the enclosed, as suggested by the Attorney General, lest the original may have been mislaid or miscarried.

Application
for grant by
Wesleyan
mission.

2nd. While on this subject, I beg to acquaint Your Lordship that the Members of the Wesleyan Mission have made application for a similar Grant of Ten Thousand Acres of Land, which I have declined complying with at present, as it may be desirable, previous to encreasing these Grants, to ascertain whether the object is duly attended to; and there are other Bodies here, who would no doubt apply for Land on the same ground, should they find that Grants were easily obtained.

I have, &c.,

RA. DARLING.

[Enclosure.]

ATTORNEY-GENERAL BANNISTER TO GOVERNOR DARLING.

Sir,

Sydney, 6th February, 1826.

Duplicate of
deed of trust
transmitted.

The enclosed Duplicate of a Deed of trust, subject to the King's approval, was placed in my hands by His Excellency the late Governor.

I take the liberty of delivering it to Your Excellency with a suggestion that it may be right to transmit it to England as a duplicate, lest by any hazard the former dispatch may miscarry.

The provisions of this Instrument are similar to those of a Deed made to the London Missionary Society,† and if, as I understand, a grant is about to be made, one for 10,000 Acres for the latter body, the provisions of this may be usefully consulted in framing it.

An addition of one or two Trustees will, I believe, be necessary in consequence of the decease of Mr. Riley, and I think the departure of another Gentleman from the Colony.

I have, &c.,

S. BANNISTER.

[Sub-enclosure.]

[A copy of this deed is not available.]

* Note 89. † Note 90.

MR. E. BARNARD TO GOVERNOR DARLING.

1826.
20 July.

20th July, 1826.

[A copy of this despatch, acknowledged by Governor Darling, 9th February, 1827, is not available.]

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 38, per ship Lady Rowena; acknowledged by Earl Bathurst, 2nd December, 1826.)

My Lord, Government House, 20th July, 1826.

I have the honor to transmit for Your Lordship's consideration the Copy of a Government Order, which I have issued with a view of regulating the remuneration to be granted to the Prisoners of the Crown, when employed as Overseers and in other Situations of responsibility.

Regulations for remuneration of prisoners employed as overseers, etc.

An Arrangement of this nature appeared to me highly expedient. There was no fixed rule or principle of proceeding. Some of these men received more than was proper, considering their condition. Others were not allowed any Pay and were consequently negligent; while additional Rations of Provisions and other indulgences were generally granted, which tended greatly to embarrass the Public Accompts. With a view of simplifying these and holding out encouragement to the well disposed, I have laid down the Scale of Gratuities, pointed out in the enclosed order, and have adopted, as a general principle, that Convicts in all Situations shall be clothed and victualled; But that free Men shall receive nothing from Government in addition to their Salaries, which are of course at a much higher rate than the gratuities (hitherto termed Salaries) which the Convicts receive.

I do not mean to recommend this arrangement to Your Lordship on the Ground of economy alone. Some fixed principle was desirable on every Account, and I have no doubt it will be attended with many important advantages.

I have, &c.,
RA. DARLING.

[Enclosure.]

GOVERNMENT ORDER.

Colonial Secretary's Office, 31st May, 1826.

1st. The Government being desirous to hold out due Encouragement to such Prisoners as are disposed to render themselves useful and merit its Countenance and Protection, His Excellency the Governor has, with this view, established the following Scale of

Government order re remuneration of prisoners employed by government.

1826.
20 July.

Government
order *re*
remuneration
of prisoners
employed by
government.

“Gratuities” to be paid to such of them, as are employed in the different Departments and Establishments as Overseers, Storekeepers, Clerks or in other Capacities. *Vizt.*

1st Class 1s. 3d. per diem £22 16s. 3d. Sterling per Annum

2nd do 10d. do £15 4s. 2d. do

3rd do 6d. do £ 9 2s. 6d. do

4th or Probationary Class to be allowed, as a Means of Distinction, Clothing the same as Overseers.

2nd. The Men of the above Classes will be allowed Clothing and Rations.

3rd. It is not to be considered as a Matter of Course that every Department is to employ overseers of all the several Classes, or necessarily an overseer of the 1st or any particular Class; but the Gratuity of those, who are employed, is, according to their Conduct and the Responsibility of their Situation, to be fixed conformably to the established Scale.

4th. Any Prisoner, employed as above, who shall be guilty of Misconduct or Neglect his Duty, shall be liable to be removed to a lower Class, or be deprived altogether of the Gratuity according to the Degree of his offence.

5th. In like Manner, any one, who shall lose through Neglect any Stores or Property committed to his charge, shall be mulct, and further be dismissed, should his conduct require such Punishment.

6th. The Heads of Departments are authorised to act in the two latter cases; but Advancement to a higher Class is never to take place without the Governor's Authority.

7th. An Exception to the last Article will be made in the Case of the Penal Settlements, the commandants of which will be allowed to appoint to Vacancies, but are not to exceed the fixed Establishments.

8th. In filling up a Vacancy, the Appointment is to be made from the Class immediately succeeding, except in some special Case. When a deviation from this Rule is deemed advisable, Reference is to be made for the Authority of the Governor.

9th. The Heads of Departments and Establishments will immediately send in to the Colonial Secretary a List of the Prisoners proposed to be employed according to the above Scale, to be accompanied by a Statement of the Numbers and Descriptions of those at present employed, specifying the allowances, which they respectively receive.

By His Excellency's Command,

ALEXANDER MCLEAY.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 39, per ship Lady Rowena.)

My Lord,

Government House, 20th July, 1826.

The System, which had prevailed of employing Convicts as Clerks in the Public Offices and different Establishments of the Government (which no doubt originated in necessity), has appeared to me so extremely objectionable, that I have considered it of importance to discontinue it progressively, as respectable free Men may be found to fill the different Situations.

Convict clerks
to be replaced
by free men.

In pursuance of this determination, it has become necessary to lay down a Scale of Salaries to be allowed to the free Clerks; and, in order that the subject should receive full consideration, I appointed Mr. McLeay, the Colonial Secretary, Mr. Lithgow, the Auditor, and Mr. Campbell, formerly Secretary to Governor Macquarie, as a Committee to report, agreeably to the accompanying Extract of Minute No. 83; and I do myself the honor herewith to enclose a Copy of Minute No. 108, which I drew up, on receiving their Report, with a view of establishing and giving effect to the recommendation of the Committee. The Scale laid down in their report, as quoted in Minute No. 108, and the Regulations they suggest, appear so reasonable and salutary, that it cannot be necessary to offer any observations in support of their adoption, which I trust Your Lordship will be pleased to confirm.

1826.
20 July.
Scale of salaries
for clerks.

It cannot be doubted that the employment of Convict Clerks has been a very serious evil. It degraded the offices, by placing individuals in them, who had forfeited every claim to character. Besides the smallness of their Salary, which seldom exceeded (£30) Thirty pound a Year, scarcely afforded the means of existence; and they are not a Class of Men, on whose resistance of temptation much dependence could be placed.

Objections to
employment of
convict clerks.

I have, &c.,
RA. DARLING.

[Enclosure No. 1.]

EXTRACT from His Excellency The Governor's Minute, No. 83.
- 1826.

3d. It appears desirable in determining the last point, the rate of Salary, that the Board should consider generally what would be a reasonable Salary to Clerks on first entering into the employment of Government, and the progressive augmentation, which they might fairly expect, provided they proved efficient and continued their Services.

Board to draw
up scale of
salaries.

4th. It is to be understood that the proposed Arrangement has reference only to free Clerks, and that it is not intended they should receive any addition to their Salaries either on account of House Rent, Rations, Servants, or Horses, or any other allowance whatever.

RA. DARLING.

[Enclosure No. 2.]

[This enclosure was the same as that numbered two in the despatch numbered 41; see page 372.]

1826.
20 July.

GOVERNOR DARLING TO EARL BATHURST.
(Despatch No. 40, per ship Lady Rowena.)

My Lord, Government House, 20th July, 1826.

Establishment
of colonial
secretary.

I have the honor to transmit, for Your Lordship's consideration, in reference to the Arrangement Notified in my Despatch, No. 39, the accompanying Extract of a letter, addressed to me by the Colonial Secretary, respecting the Establishment of his office, as likewise of a Minute, No. 114, fixing the Establishment on the principle, laid down in My Despatch above alluded to, until Your Lordship's pleasure shall be known.

I have, &c.,
RA. DARLING.

[Enclosure No. 1.]

EXTRACTS from the Colonial Secretary's letter, dated 28th June, 1826.

Staff proposed
for office of
colonial
secretary.

1st. Having now had sufficient time to ascertain the nature and extent of the Duties of my Office, and the fitness of the several Persons employed in it, I beg leave to submit to Your Excellency's consideration the following scheme of an Establishment for the Office, on the principles laid down in Your Minute of the 14th of this Month, No. 109, relative to the Pay and advancement of the free Clerks, employed in the Public Offices in this Colony.

I am of opinion that the business of my Office at present cannot be properly undertaken with a less number of Clerks than Twelve, and I submit that they may be arranged as follows Vizt.

Chief Clerk	1	—	—
Clerks employed in Correspondences	—	1	2
Copying Clerks	—	—	3
Clerks preparing and registering Certificates, Tickets of Leave, etc.	—	—	1
Clerk preparing Returns, etc.	—	—	1
Muster Clerks	—	1	2
Totals	1	2	9

I am doubtful, however, whether three Clerks will be found sufficient for the Muster Branch. There are only two employed in it at present, and both are incompetent Persons; but no Muster Rolls have been sent to England for several Years past, and it is particularly desired that they should be sent yearly.

Salary of
R. Crawford.

The present salary of Mr. Crawford the chief Clerk is £260 per Annum; but his Fees, in the last year, amounted to £280 15s. 0d., making his yearly income from the office £540 15s. 0d. Consistently with the principle, now established by Your Excellency's Minute, those Fees cannot be continued, and therefore it

is proper that his Salary should be augmented. According to the new Scale of Salaries, he is entitled, by the length of his Service, to a Salary of £360 for the present Year.

1826.
20 July.

2nd. I now beg leave to recommend that the Salaries in my Department, from the 1st of January last, be paid as follows, Vizt. Salaries proposed by colonial secretary.

Robert Crawford, chief clerk	£—
William Elyard 2nd do.	200
Charles Nye 3rd do.	110
Thomas Ryan 4th do.	110
W. C. Greville 5th do.	110
George B. White 6th do.	100
Patrick Brodie 7th do.	100
James W. Vaux 8th do.	95
Matthew Gregson 9th do.	—
John Layton, Principal Muster Clerk	150
James W. Watt, Assistant do.	52
F. W. Stannard do. do.	52

If Mr. Crawford's Salary be increased from the 1st of January, he will have to account for the Fees received since that time; and Messrs. Nye, Ryan, Vaux, Gregson, Watt and Stannard, receiving Rations at present, will have to deduct from their advanced Salaries the value of these Rations from the 1st of January to the 1st of July, when they will cease. Fees and value of rations to be refunded.

Messrs. Robt. Martin, James Erskine and Douglas Mills, three free Clerks, were severally employed for a few weeks, and I submit that, for the time they were so employed, they be respectively paid at the rate of £100 per annum. Remuneration of temporary clerks.

There is likewise some pay owing to William Howarth, a Prisoner Clerk, who was discharged in the last Quarter and whose rate of pay was £30 per Annum. Pay due to W. Howarth.

Mrs. Watson, the Widow of a Person who was employed in the Commissariat, left with a large family, has been employed as office Keeper since Feby., 1823, and is paid at the rate of 2s. 6d. per diem with Apartments and Fuel. Pay and allowances of office-keeper.

There are two Messengers attached to the Department, but one of them has *hitherto*, I submit, improperly been paid as a Constable in the Police Department. The other is a Prisoner, who was appointed by Sir Thomas Brisbane Doorkeeper to the Council with a Salary of £60 per annum, but who, I conceive, ought now to be paid under the Regulations contained in the Government Order, No. 25. Pay of messengers.

I have only to add that I have not increased the number of Clerks, Although the business of my office is certainly more than double what it was in the time of my Predecessor.

I have, &c.,
ALEXANDER MCLEAY.

1826.
20 July.

[Enclosure No. 2.]

MINUTE BY GOVERNOR DARLING, No. 114.

6th July, 1826.

Classification
and salaries of
officials in
department of
colonial
secretary.

LET the Regulations for the classification and Salaries of Clerks, as laid down in Minute, No. 109, be applied to the Office of the Colonial Secretary, the Establishment of which is fixed as follows:—Vizt.

1st. Class, 1 Clerk; 2nd do., 2 do.; 3rd do., 7 do.

The Clerks, at present employed, are to be placed in the following order:—

1st. Class, Mr. R. Crawford, £360 Per Annum; 2nd Class, ———; 3rd Class, Wm. Elyard, £150; Jno. Layton, £150; Mr. C. Nye, Thos. Ryan, Mr. C. Greville, G. B. White, P. Brodie, £100 each.

The Arrangement, as far as respects Mr. R. Crawford, Clerk of the 1st Class, is to take place from the 1st of the present Month, from which date all Fees, received on account of the Chief Clerk, are to be collected by the Colonial Secretary, and paid into the Treasury at the end of each Quarter on the Public Account.

The increased rates, granted to the other Clerks, are to be issued from the 1st of the present Year, from which date they will account for the Allowance they have received in commutation of rations.

The Establishment of Clerks of the 2d Class not being complete, the employment of the following Persons as Extra Clerks will be permitted in the mean time at the rates specified, Vizt.

J. W. Vaux, £95; M. Gregson, Ticket of Leave, £75; J. W. Watt, £52; F. W. Stannard, £52.

The Salaries of the Extra Clerks will commence from the first of the present Year, subject to the same deduction on account of Rations received as the Clerks of the 3rd Class.

Let Messrs. Martin, Erskine and Mills, who were temporarily employed as Clerks, receive an allowance at the rate of £100 per Annum for the period they were respectively retained.

Mr. Howarth, who was also employed as a temporary Clerk, is to be paid at the rate of £52 a year.

The Office Keeper, Mrs. Watson, to be continued at the same Salary (2s. 6d. a Day), which she has hitherto received.

Two Messengers will be allowed on the Establishment of the Office at the rate of 1s. 3d. each per Diem under the Government Order No. 25.

RA. DARLING.

GOVERNOR DARLING TO EARL BATHURST.

1826.
20 July.

(Despatch No. 41, per ship Lady Rowena; acknowledged by Earl Bathurst, 3rd December, 1826.)

My Lord, Government House, 20th July, 1826.

1st. Mr. Balcombe, the Treasurer, having made application for an Allowance on Account of Office Rent, and it being necessary that the Establishment of his Office should be fixed, which had never yet been sanctioned by proper Authority, I appointed a Committee of the Board for general Purposes, agreeably to the enclosed Extract of a Minute No. 83, to enquire into and report what might be proper in these cases; and I have now the honor to transmit, for Your Lordship's consideration, the accompanying Copy of a Minute, No. 108, which I prepared in consequence of the Report of the Committee; and I trust Your Lordship will be pleased to approve thereof.

Re-organisation
of department
of colonial
treasurer.

2nd. I beg to add that I have given directions that a Building, which was commenced during Sir Thomas Brisbane's Government, and which is situated in the Barrack Square in an angle, totally unconnected with the other Buildings, and which is not immediately required by the Garrison, should be completed as offices for the Colonial Treasury, the Cash Department of the Commissariat, and the Auditor of Colonial Accompts. From the frequent attempts, which have been made on the Commissariat, and the insecure state of the Treasury, the arrangements, which I have made for these Offices, is very desirable, and I trust it will be approved by Your Lordship.

Offices to be
completed
for treasurer,
auditor, and
pay branch of
commissariat.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

EXTRACT from His Excellency The Governor's Minute, No. 83,
1826.

1st. Let the "Board for General Purposes" consider and Report to what Allowance Mr. Balcombe may be considered to have a claim on account of office Rent, in consequence of the accommodation afforded in his private residence for the office of the Colonial Treasurer.

Board to
consider
allowance for
office rent to
W. Balcombe :

2nd. The Board will further be pleased to consider what Number of Clerks may be necessary for the Establishment of the Colonial Treasury, and the rate at which they should respectively be paid. Mr. Balcombe's application on this subject is herewith returned.

and number of
clerks required
at treasury.

RA. DARLING.

[Enclosure No. 2.]

1826.
20 July.

MINUTE BY GOVERNOR DARLING, No. 108.

14th June, 1826.

Report of
committee.

HAVING received the Report of the Committee of the Board for general purposes, appointed by Minute No. 83, to consider:—

1st. As to the Amount of Allowance proper to be made to Mr. Balcombe the Colonial Treasurer for Office Rent:

2nd. As to the Number of Clerks necessary for the Treasurer's Establishment, with the rate at which they should be paid? And the Committee having reported as follows, Vizt.

“We have fully considered the said several subjects, referred to us, and we beg leave to report as follows:—

Allowance of
office rent to
W. Balcombe.

“1st. Considering that the Treasurer pays a rent of £150 per Annum for his Dwelling House and Office, and that, besides the outer house, which is exclusively occupied for Official purposes, he is obliged to appropriate a part of his dwelling house to the same use, and actually, for the better security of the Public Money, keeps it in his own Bed room, We are of opinion that he ought to be allowed one half of the whole Sum, paid by him, or £75 Currency per Annum for office Rent.

Salaries
proposed
for clerks
to colonial
treasurer.

“2nd. We are of opinion that, in consideration of the great and encreasing extent and importance of the duty of the Colonial Treasurer, it is indispensably necessary he should have *two* established Clerks; and that he should be authorised to employ an Extra Clerk in case of any extraordinary press of business. It also appears to be necessary that the Treasurer should, subject to the Governor's Approval, have the Nomination of his own Clerks, as he must be held entirely responsible for them. The Situation of First Clerk is one of great trust and responsibility; and we submit that no person, qualified for such a Situation, ought to receive less than £300 per Annum, and that such Salary should advance at the rate of £20 per Annum, until it shall have amounted to £360. We accordingly recommend that the Salary of Mr. Harrison, the present first Clerk of the Treasurer, be after the rate of £300 for the present year; but, as it is not expedient that any New Regulation now to be made should have a retrospect effect beyond the first day of January last, we recommend for his services previously he should be only allowed at the rate of £200 per annum, which is stated to have been already paid to him. It is almost unnecessary for us to observe that the peculiar Nature of the Treasurer's duty renders it necessary that his Second Clerk also should be a person of trust and respectability; for, although the duties of these Clerks may not be as laborious as that of Clerks in some other Departments, yet

the probability of the unavoidable absence of the first Clerk, from Sickness or other cause, ought to be provided for by having a second capable of supplying his place; and we submit that a person, thus qualified, ought to be allowed not less than £150 per Annum. We, therefore, beg leave to recommend that Mr. Wallace, the Second Clerk of Mr. Balcombe, be allowed after the rate of £150 for the present Year, and that his Salary be augmented at the rate of £10 per Annum, until it shall have amounted to £200."

1826.
20 July.
Salaries
proposed
for clerks
to colonial
treasurer.

I have approved the proceedings of the Committee, as above stated, and direct in consequence that an allowance of £75 a Year be made to Mr. Balcombe for Office Rent; and further that the Establishment and Salaries of the Clerks of the Treasury be fixed according to the rates and Regulations recommended by the Committee. The allowance for office Rent to Commence from the 7th Feby., 1825, and both this allowance and the Salaries of the Clerks to be issued as proposed, until the pleasure of the Secretary of State be known. Let directions be given accordingly.

Approval of re-
commendations
by governor.

RA. DARLING.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 42, per ship Lady Rowena; acknowledged by Earl Bathurst, 1st February, 1827.)

My Lord,

Government House, 21st July, 1826.

21 July.

Lieutenant Woods of the Buffs having Died lately and left his Widow and family without provision, I have felt it necessary, on the part of the Government, to order an advance of £60, Sixty Pounds Sterling, from the Colonial Fund, to assist in defraying the Expence of their passage to England.

Assistance
granted to
family of W. W.
Woods to return
to England.

Your Lordship will not suppose that I have acted without due consideration in affording this necessary assistance to the family of an old and Meritorious Officer. Mr. Woods had served long and been repeatedly Wounded; and I felt that the justice of the Government might be questioned, should his family be detained in this remote quarter for the want of means to enable them to return Home. I beg to add that the Sum, I have granted, is but a small portion of the Expence incurred on this account, the rest having been raised by subscription. It would no doubt be more satisfactory to the parties in these Cases, if the Government were to pay the whole of the Expence; and I confess it appears to me that it would only be just to the Individuals to render them independent of the Charitable Donations of the Public on these unfortunate occasions. I have, &c.,

RA. DARLING.

1826.
22 July.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 43, per ship *Lady Rowena*; acknowledged by Earl Bathurst, 2nd April, 1827.)

My Lord,

Government House, 22nd July, 1826.

Arrangements
re land grants.

1st. In bringing under Your Lordship's consideration certain Arrangements, which have been adopted with respect to Granting land without purchase, it is necessary to premise that no progress has yet been made in the Survey and Valuation of the unlocated Lands.

Delay created
in granting
of lands.

2nd. According to the 42nd Clause of these Instructions,* no lands can be granted without purchase, until after they have been surveyed and valued by the Commissioners and have been put up for Sale for a period of Six Months. Seeing the injurious consequences, which would result from a rigid adherence to this part of the Instructions, and the Settlers, who have recently arrived, having expressed much anxiety to be allowed to select their land without waiting the process pointed out, I was induced to bring the subject under the consideration of the Executive Council; and I beg to submit to Your Lordship the accompanying Copy of a Minute embracing the particular points, which appeared to me to Demand immediate attention.

Consideration
by executive
council.

3rd. These points having been duly considered by the Council, I do myself the honor to enclose, for Your Lordship's information, an Extract from the Minute of their Proceedings, as likewise a Copy of a Minute, which I prepared in consequence, pointing out briefly the arrangement and conditions, under which Settlers will be placed in possession of the land, which they may be desirous of obtaining by Grant.

Deviations
from general
instructions.

4th. It may save trouble and be satisfactory to Your Lordship to see at one view the deviations from the general Instructions, which the Executive Council have considered necessary in the present circumstances of the Colony. They are as follows, Vizt:—

1st. Settlers, instead of being confined to the Surveyed parts of the Country, and not being permitted to receive Grants without purchase until the Land shall have been put up for Sale for Six Months, are allowed immediately to select their land within certain prescribed limits.

2ndly. Settlers are not to receive any Allowance on Account of the Convicts they maintain in redeeming their Quit Rent.

5th. The other points, adverted to in the Enclosure No. 3, are either according to the general Instructions or are matter of local regulation, and do not appear to require any particular notice in this place.

* Note 91.

6th. I now beg to submit to Your Lordship the accompanying Reports of the Surveyor General and the Land Board, which I beg leave to recommend to Your Lordship's consideration, as containing much useful information on all the points, connected with the Sale and Granting of Land without purchase.

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22 July.

Reports
submitted.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

MINUTE BY GOVERNOR DARLING.

In considering the arrangements necessary for carrying into effect His Majesty's Instructions for disposing of the Crown Lands, I have thought it advisable in the first instance to confine myself to those points, which appear to require immediate attention, and to leave the subject of the Sale of Lands for future consideration, as likewise the various details pointed out in the Instructions, should the course of proceeding laid down be found inconsistent with the existing circumstances of the Colony.

Points
submitted
to executive
council.

The first point of immediate importance in the Instructions is the course, which is prescribed by the 42nd Clause,* in making *Grants without purchase*, on which I beg to refer the Council to the reports of the Surveyor General and the Land Board, and request they will be pleased to consider whether, under present circumstances, it appears advisable to conform to the Letter of the Instructions, or to adopt any of the suggestions, contained in the reports above referred to.

Grants without
purchase.

It may be proper to state that there are at this moment several Individuals in the Colony, who have recently arrived from England with a view of becoming Settlers, and who have expressed much anxiety to be put in possession of Land in proportion to the Amount of their Capital, which they understand by the Secretary of State's Letter (usually given to persons coming out to settle in the Colony) they would receive immediately on their arrival. If these Persons do not receive Grants, until the Country has been surveyed and the Land has been advertised for Sale for Six Months (the course directed by the Instructions), their ruin is inevitable, as their Capital will in the meantime be exhausted, and without Capital they will not be entitled to Land.

Difficulties
of settlers.

On the present occasion, I, therefore, beg to submit for the consideration of the Council,

1st. Whether the Instructions for granting Land without Purchase as laid down in the 42d Clause should be considered imperative?

Alternative
procedures
suggested.

2ndly. Whether Grants should be made before the Land is surveyed and valued? or

* Note 91.

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Alternative
procedures
suggested.

Limitation
of area for
selection.

3dly. Whether Persons coming out to settle should be permitted to occupy Land, which has not been surveyed and valued, to be confirmed to them by Grant, should His Majesty Approve thereof?

4thly. If either of the two latter Cases be adopted, should the Settler be limited in selecting his Land to the immediate neighbourhood of the established Counties, the first part of the Country to be surveyed, or be allowed to take it any where within the range of the Settled Districts, that is, taking a Line from Port Stephens to Wellington Valley as the Northern Boundary: The River Macquarie and a direct line thence to the latitude of Bateman's Bay as the Western Boundary: and Bateman's Bay in a line Westward to the 149th Degree of Longitude as the Southern Boundary.

Allowance for
maintenance
of convicts in
redemption of
quit rent.

5th. Whether, under the change of circumstances since the general Instructions were prepared, it is necessary to make any Allowance for the maintenance of Convicts in redeeming the Quit Rent. It should be kept in mind that the number of Convicts actually maintained could never be ascertained with any degree of correctness, the machinery for checking the returns of the Settlers would be complicated and expensive, and further the measure would hold out a temptation to fraudulent proceedings. Besides Settlers could hardly be on an equal footing in this respect. If one Man should have *twenty* Convicts, and another only *ten*, the former would benefit doubly from the greater means, which Government had afforded him of bringing his land into cultivation, and he at the same time would receive twice the Amount of Credit which the latter, who had been less fortunate in obtaining Servants, would be allowed in redeeming his Quit Rent. But, at any rate, it is a boon which in the present circumstances of the Colony it cannot be necessary to grant. The number of Settlers is increasing to that degree that it appears likely the demand for servants will in future greatly exceed, as it has for some time past, the means of supply. It cannot, therefore, be necessary to hold out a reward to the Settlers to take the Convicts off the hands of Government.

Relation of
capital to
area of grants.

6th. It appears desirable that a scale should be laid down of the quantity of Land, which Settlers should receive in reference to the Amount of the Capital they possess. The Letters, which the Settlers receive from the Secretary of State, express generally that they are to receive Grants according to their means of bringing the Land into Cultivation.

Improvements
on land grants.

The 45th clause* of the present Instructions signifies that the Governor is to be satisfied that the Applicants are able and do intend to lay out a Sum, equal to one fourth of the Valuation

* Note 91.

fixed by the Commissioners, in the improvement of their Land. A Scale is laid down in the Reports of Mr. Commissioner Bigge, to which the Land Board adverts in their Report No. 3, and proposes a different Rule.

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7th. Whether a right should not be reserved in making Grants for Public Roads, and to the indigenous Timber for the use of Government?

Reservations
proposed.

8th. Whether a period should not be fixed, previous to the expiration of which Settlers should not be allowed to dispose of or alienate their Lands?

Clause *re*
alienation.

9th. Whether "Tickets of Occupation" should not be withdrawn, or Persons holding them be required to pay Rent, or whether it might not be advisable to allow Settlers to graze their Cattle on the unlocated Lands generally, without assigning particular Stations for their use?

Regulation
of tickets of
occupation.

RA. DARLING.

Government House, 28th June, 1826.

[Enclosure No. 2.]

EXTRACT FROM THE MINUTES OF THE EXECUTIVE COUNCIL.

Adjourned Meeting, 5th July, 1826.

THE Council then proceeded to the further Consideration of the Subject of His Majesty's Instructions relative to the Granting and Selling of Land; and, having maturely deliberated on the various propositions contained in the Governor's Minute of the 28th Ultimo, it was of opinion that, with respect to the 1st, 2nd and 3rd propositions, it will be necessary to deviate from His Majesty's Instructions, in order to prevent the total ruin of Persons, who Came to the Colony as Settlers in the full and well grounded expectation of obtaining Grants of Land immediately after their arrival.

Recommend-
ations of
executive
council.

The Council, therefore, recommended that, agreeably to His Excellency's 3rd proposition, Settlers for the present shall be permitted to select their Land within the limits described in the 4th proposition.

With respect to the 5th proposition, the Council was of opinion that the present state of the Colony does not warrant any allowance whatever being made to Settlers in Consideration of the maintenance of Convicts.

On the subject of the 6th proposition, the Council recommended that, according to the suggestion of the Land Board, Grants be made to Settlers in the proportion of a Section or Square Mile for every £500, which he has the means of expending upon it, to the fullest extent of Land which His Excellency is authorized to grant.

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Recommend-
ations of
executive
council.

The Council Considered, with respect to the 7th Proposition, that it is highly desirable in all Sales of Land that a specific reservation be made of such portion of it, as may hereafter be judged necessary for Roads, as likewise the right of erecting Bridges, and Cutting such Timber, or Quarrying such Stone, and removing it or other Materials, Considered necessary for making Roads and Bridges and for keeping them in repair.

The Council recommended that, according to the 8th proposition, a Legislative enactment be proposed for the purpose of preventing the alienation of Grants before the time allowed.

In Considering His Excellency's 9th and last Proposition, The Council recommended that "All the present Tickets of occupation be immediately withdrawn, and that, agreeably to the suggestion of the Land Board, Persons applying for the temporary occupation of Land be required to pay a Yearly Rent for the same at the rate of One Pound for every Hundred Acres."

a true Extract:—H. DUMARESQ, Clerk of the Council.

[Enclosure No. 3.]

MINUTE NO. 115 BY GOVERNOR DARLING.

18th July, 1826.

Regulations
for grants
without
purchase.

LET the Land Board and the Surveyor General be informed that, having submitted to the immediate consideration of the Executive Council those parts of the Public Instructions, which relate to the Granting of the Crown Lands *without* purchase, and the Council being unanimously of opinion that a strict adherence to those Instructions would under present circumstances prove highly injurious to the Colony, I have, with the advice of the Executive Council as aforesaid, been induced to authorise the adoption of the following course, until His Majesty's pleasure shall be known in this respect. Vizt:—

1st. Persons, coming out as Settlers, to be permitted to select Land within the following Boundaries, to be hereafter confirmed to them by Grant, should His Majesty be pleased to approve thereof, Vizt:—

The Northern Boundary from Port Stephen to Wellington Valley; Western Boundary, the River Macquarie and a direct line thence to the Latitude of Bateman's Bay; Southern Boundary, Bateman's Bay in a line Westward to the 149th Degree of Longitude.

2nd. The lands to be held in free and common soccage, and the grantee to pay a Quit Rent of 5 per Cent. per Annum on the value to be fixed by the Commissioners.

3rd. The payment of the Quit Rent not to commence until the end of Seven Years, after the grantee shall have been authorised to settle on the Land.

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22 July.

Regulations
for grants
without
purchase.

4th. The Quit rent to be redeemable at the option of the Grantee on payment into the Colonial Treasury of a Sum equal to Twenty Years purchase, provided such payment be made within Twenty Years after the date and Execution of the Grant.

5th. Land will be granted in the proportion of one Square Mile or 640 Acres for every (£500) Five Hundred Pounds Sterling of Capital, which the Applicant can immediately command to the extent of four Square Miles or 2,560 acres.

6th. The Crown reserves to itself the right of making, and constructing such Roads and Bridges, as may be necessary for Public purposes, on the Lands to be granted as above, and to such Timber, Stone, and other Materials, the produce of the Land, as may be required for Making and Keeping the said Roads and Bridges in Repair.

RA. DARLING.

[Enclosure No. 4.]

SURVEYOR-GENERAL OXLEY TO GOVERNOR DARLING.

Sir, Surveyor General's Office, 26th Jany., 1826.

1. I have the honor to acknowledge the receipt of the Colonial Secretary's letter of the 9th Inst., enclosing an extract from Your Excellency's instructions under the King's Sign Manual, relative to the disposal of lands in New South Wales and the division of the Territory into Counties, Parishes, etc., desiring me to report to Your Excellency on the subject, and to point out the course, which, in my opinion, it may be necessary to pursue.

Surveyor-general's
report.

2. Before I advert to the subject of the instructions, on which I am to report, I trust it will not be considered irrelevant if I state the principle and practice which, up to this period have governed the disposal of the Crown lands in New South Wales, as they will form the principal practical reasons, which will prevent His Majesty's instructions being carried into full execution, so far as they have reference to specific details and regulations connected with the principal measure.

Previous
practice in
disposal of
crown lands.

3. From the first Settlement of the Colony, up to the Year 1810, the successive Governors had granted to Individuals 177,500 Acres of land, principally to Convict Settlers, the Grants seldom exceeding 100 Acres; these locations were spread over a considerable tract of Country in the County of Cumberland, the forms of the several Grants were very various, and the Quit

Grants made
prior to year
1810.

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22 July.
- Rent in no case exceeded 2s. per 100 Acres. The only reservations, made for the use of the Church and Schools (Female Orphan Institution excepted, the Grant to which exceeds 12,000 acres) were situated at Sydney and Parramatta, and did not exceed 880 Acres in the whole.
- Conditions imposed in land grants by L. Macquarie.
4. On the arrival of the late Governor Macquarie in 1810, he consolidated the several forms of Grants, previously in use, retaining the old Quit Rent, and making a certain portion of Cultivation the only obligation on the Settler, reserving a right to roads and Timber, with a non-alienation clause during a period of five Years.
- Area granted by L. Macquarie.
5. The land granted by Governor Macquarie exceeded 400,000 Acres, a principal portion of which remained unsurveyed at the period of his departure.
- Free selection allowed to prospective grantees.
6. The Individuals, who received orders for land, were allowed an almost uncontrolled right of selection; and, as the Country became more generally known, the several occupations and Selections were proportionally more widely separated and extended; the lands appropriated by Governor Macquarie for Glebes to the respective Churches and Schools extended to 2,400 Acres, situated near such Towns as had Resident Chaplains.
- Form of grant adopted by Sir T. Brisbane.
7. An entire change in the form of Grant to be made to Settlers took place immediately after the departure of Governor Macquarie in 1822; and the principal condition of this new form was the permanent maintenance of a certain Number of Convicts, still retaining the old Quit Rent of 2s. per 100 Acres; and, at the same time, I was directed to survey the Colony, and divide it into Counties, Townships, and Sections of a Square Mile, reserving in each Township four Square Miles or 2,560 Acres in the most eligible situation for future Villages, etc., The appropriation of these reservations for the support of Churches and Schools not being at that time contemplated.
- Survey of colony ordered.
- The prosecution of such a Survey with the means placed at my disposal was unfortunately extremely tedious; every exertion was made to bring up the arrears and to prevent the free Settlers arriving from England suffering inconvenience by being kept from the occupation of their Grants.
- Area alienated by Sir T. Brisbane.
8. The different Settlements and farms were scattered over an extent of Country of nearly 250 Miles in length by 140 in width; and, on the departure of Sir Thos. Brisbane in November last, the several appropriations of land made under his authority exceeded 1,068,000 acres, of which about 200,000 acres were denominated Crown Reserves, and 334,000 contracted to be sold to Individual Settlers; nearly all these lands were in the possession and occupation of the persons to whom they were assigned.

9. Although the situations of these locations were known, yet the boundary lines of each grant, to the extent of at least one half of the whole, remained unmarked; care, however, had been taken to reserve in each projected Township one seventh or nearly so of the intended area of such Township, and, with this exception, Settlers were permitted to choose their lands in such situations, as they conceived best adapted to their respective pursuits.

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Selection
of sites by
settlers.

10. Directions being received from Earl Bathurst to raise the Quit Rent to 15s. per 100 Acres, notice to that effect was given in the Sydney Gazette of the 5th November, 1823; and, as it was considered impossible that any Settler could fulfil the Conditions in the form of Grant previously in use, in addition to such quit Rent, a new form became indispensable; and, after much consideration, the form marked A was adopted. No grants, however, under this form have yet passed the Seal of the Colony; but all Settlers, who subsequently to the 5th Novr., 1823, received orders for land, are considered as holding their land under it, subject to the Conditions and the increased Quit Rent of 15s. per Hundred Acres.

Increase
of quit rent.

New form
of land grant
adopted.

11. Your Excellency will perceive from this detail that, on your arrival in the Colony, there were four forms of Grants in use,

Current forms
for land grants.

The 1st for lands ordered by Govr. Macquarie, but not yet passed the Seal:

The 2nd for lands granted on condition of permanently maintaining a certain number of Convicts.

The 3rd for lands on which a Quit Rent of 15s. per Hundred Acres is imposed: and

The 4th for purchased lands.

12. As respects the Grants made under the first form, few comparatively remain to be made out, and those chiefly small ones; the arrear in the second description is greater; and in the third and fourth forms none have as yet been executed.

Unexecuted
grants.

13. From the Statement, I have made, it appears that upwards of 1,800,000 Acres of land have been appropriated under various conditions in New South Wales, including reserves to the extent of 200,000 Acres, situated in more than Eighty distinct Parishes or Townships, and spread over an Area of 35,000 Square Miles, comprising eight Counties, the boundaries of which are undefined and of course subject to future arrangement.

Area of land
alienated.

14. The present County of Cumberland forms an exception as respects the reserved lands; and, on this point, I beg leave to refer to the annexed report (Marked B) and return made by desire of the late Governor to the Archdeacon.

Reserves in
county of
Cumberland.

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Valuation
of lands in
settled districts.

15. After the most anxious consideration of the state of the several present divisions of the Colony, I see nothing to prevent such parts of Your Excellency's instructions, as relate to the division of the Territory into Counties, Parishes, etc., being carried into the fullest effect; and a valuation of such Crown lands, as remain ungranted within the area of the Settled Country can also be made, reference being had to the value of the present located lands, on which a quit Rent of 15s. per Hundred Acres is imposed.

Difficulties
in valuation.

16. The difficulty in making this valuation will be in proportion to the greater or less number of acres, which the Commissioners may find previously occupied in each Parish; in some, the value of the unoccupied lands will be found not worth six pence per Acre, while in others it may be possible to affix an aggregate value corresponding in Amount with the Quit Rents imposed on the granted lands; it, therefore, may be obvious that these circumstances will prevent anything like an uniformity of value; and, instead of the Quit Rent in each Parish being alike, as contemplated by the Instructions, it will vary according to the quality of the land remaining ungranted, unless an assumed Value (founded on the present Quit Rent of 15s. per 100 Acres) is fixed on the lands in Parishes, which are at present only partially settled.

Appropriations
for clergy and
school estates.

17. The 31st and 32nd paragraphs* of Your Excellency's Instructions direct the appropriation of a tract of land equal to the one seventh part of each County in extent and value, which tract is to be named the Clergy and School Estate, and to be taken, if possible, in one continuous and unbroken tract; "and, when it shall be impossible to select such a tract of land for that purpose without serious injury and inconvenience to private Settlers, then the Commissioners shall be at liberty to select such Clergy and School Estates in two or more Continuous tracts in the same County; but such Clergy or School Estates are not to be interspersed with or divided by other lands, excepting only in such special cases as aforesaid."

Compliance
with
instructions
impossible
in settled
districts.

18. I regret to be obliged to report to Your Excellency that, so far as relates to the present settled part of the Country, such an arrangement of the Clergy and School Estates is impracticable; the whole known surface of the Country is extremely broken, and the soil of various qualities; there are few continuous tracts of good land, the good and medium portions being intermixed with and frequently surrounded by extensive barren wastes, unfit for any purpose whatever. It is principally owing to the Country being as above described, that the Settlers are

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so widely scattered over an immense Surface, instead of being placed in Continuous allotments. I am not acquainted with any tract of land in the Settled Counties, which could be beneficially applied to the purposes contemplated in the 31st and 32nd Paragraphs; and, even if the existing State of the locations in the several Counties did not oppose insuperable difficulties to the execution of this part of the Instructions, I humbly and respectfully submit that such continuous tracts would inevitably remain during many Years unproductive wastes, while on the Contrary, if the one seventh be permitted to be taken out of the present reserved lands in each Parish, those lands would speedily come into demand, as the Parishes became settled; the Church and School lands would let well, more particularly if the arrangement were not made, which is contemplated by Government of returning the purchase Money of lands on the purchaser producing proofs of the Maintenance of Convicts to a certain extent free of expence to Government; should this measure be adopted it would diminish the value of the Church lands, particularly the portion that may be offered for Sale; and I am the more induced to submit this to Your Excellency's consideration, because I feel assured the demand for the labour of Convicts will continue to exceed the Supply.

Amendment
of procedure
proposed.

19. It may not be unimportant to remark that, if the Church Estate could be taken in one continuous tract, there would necessarily be in each County about ten Parishes, the lands of which, when occupied, would be held by a tenure altogether different from the other parts of the same County. No Settler would take land from the Corporation upon a lease of 31 Years, who could obtain it either by Grant or purchase from the Crown; and the rent, which the Church might obtain for such lands, could not be expected to equal the rent, reserved to the Crown upon the value of the lands granted. In the first case, the Individual holds of the Church for a determinable number of Years, without the power of redeeming the rent and becoming the proprietor of the land, while the Individual holding under the Crown pays a fixed rent for ever, with the further advantage of redeeming it at 20 Years purchase.

Difficulties
anticipated
in location of
church estate
in continuous
tracts.

20. It would appear from the tenor of the Paragraphs in question that difficulties were contemplated in the location of the Church Estate, and that a certain latitude is therefore given to provide against them. I would humbly submit, in consequence, that, under existing circumstances, it will not be contrary to the spirit of the Instructions, if the several lands, now reserved in each Parish to the extent of one Seventh, are comprised in One Grant to the Corporation of the Clergy.

Discretionary
powers
suggested in
instructions.

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This arrangement will cause a little additional trouble; but the transfers can be as regularly made, and the boundaries of the lands as well defined and marked on the Record Maps, as they could be were it possible to set the lands out precisely as directed.

Advantages
to corporation
in proposed
change.

21. The Corporation will also derive an advantage in the greater value of the lands from their being situated in Parishes, already settled; the rents of much of this land would become immediately available, and in a great degree compensate for the disadvantages of Church tenures, as compared with tenures under the Crown.

Reservations
ordered in
instructions.

22. The wise and beneficent reservations, directed to be made in every County in the 30th Paragraph* of Your Excellency's Instructions, may certainly be effected without any difficulty; the reservations, which have already been made, will in a very considerable degree facilitate the execution of these Instructions, and, in the greater number of instances, provide for the smaller description of Grants, which Your Excellency may be pleased to make under the provision contained in the 45th Paragraph* of them.

Right to make
roads to be
condition in
grants.

23. I have stated in my Report to the late Governor, dated 23rd May last (a Copy of which Marked C is annexed), the inconvenience, which would attach to the reservation of particular portions of lands for Public roads, submitting that a general right to make such roads should be reserved to the Crown in each Grant; daily experience evinces the necessity of such a Clause being inserted in the Grants; the principal obstacles in the formation of New roads through old Settled districts arise from there being no clause of this kind in the old Grants.

24. It is with the greatest diffidence that, in reporting to Your Excellency on the operation of those Clauses in the Instructions, that relate to the mode in which Crown Lands are to be in future sold and granted to private Individuals, I shall be obliged to state the inevitable difficulties that will attend the execution of them.

Difficulties
due to varied
character of
land.

25. I have before observed that upwards of 1,800,000 acres of land are already disposed of on various conditions. This number of Acres is nearly one quarter of the proposed Area of eight Counties; and I rather exceed the quantity in estimating that about an equal quantity of land of three several qualities may be found in detached portions, so that, in any given part of the Settled Country, a Settler, who receives 1,920 Acres, might have one section of moderately good arable land, another of open grazing land, and the remaining one comparatively barren and of little or no value at present. The other moiety consists of

* Note 93.

Mountainous, Rocky Ravines, and stony wastes, covered with small brush and dwarf Timber, in some few parts of which, in the more elevated districts, the Cattle, however, find Shelter and a precarious Support during the Winter Season.

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26. If, therefore, the 2,000,000 Acres of the Mixed description, which it is assumed may be found eligible for Settlers, could be found detached and not intermixed with a large portion of barren land, its average value might for the purpose of Calculation be assumed at 3s. per acre; but, if, as directed, the average of a whole Parish is to be taken as the value, then the price will certainly not exceed 1s. 6d. per Acre; and from this price, be what it may, the Quit Rent is to be calculated and the lands put up for Sale.

Probable
average value
of lands.

27. I most humbly submit for Your Excellency's consideration that such a measure, rigidly adhered to, will be productive of serious injury to the Crown and little less than ruinous to the free Settler from the Mother Country.

28. The Instructions direct that all lands, which may have been put up to Public Sale and remain unsold for a period of Six Months, may be allotted by Your Excellency to free Settlers in proportion to their Capital, not exceeding 2,560 acres; these allotments are to be subject to a quit Rent after the first seven years of 5 per Cent. on the value. I humbly submit that all Settlers, who receive land on a Quit Rent on the value, are as much Purchasers of that land, as persons who may pay for the same in 12 Months. The Government to encourage emigration are contented to receive the interest of the full value, remitting it for the first seven years, and giving the Settler the option of paying the Capital Sum within Twenty Years.

Land grants
without
purchase.

Lands granted
on quit rent
equivalent to
lands sold.

29. The opulent Man, instead of paying interest on the purchase, pays the principal at once; and I think there are just grounds to apprehend that many of the most valuable Allotments of land would be purchased by speculators and land jobbers, who would be enabled to use the adjacent inferior lands as commons, and without improvement or any other return to the Crown beyond the Cost of one or two Allotments. These unprofitable occupants would be enabled to maintain a decided advantage over the free emigrant Settler, who in the first instance receives his land on paying the Interest of the value, and who might, in the Course of three or four Years, by the improvement and extension of his Stock, find it absolutely necessary to have more extensive Grazing grounds; but the opportunity is past and nothing will remain to purchase but lands, for which almost any price would be too much.

Advantages of
immediate
purchase
of lands.

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Probable
inferiority
of lands
available
for grants
without
purchase.

Objections to
system of
grants by
purchase.

Im-
practicability
of instructions
re grants
without
purchase.

Proposed
reversion to
former practice.

30. I respectfully beg to remark that Emigrant Settlers, under the 42nd Paragraph* of the instructions, will only have those lands allotted to them, which remain unsold; but I think it will be obvious that such lands must be of the most inferior description, and that no Settler could venture, with any prospect of Success, to embark his Capital on them either in agriculture or grazing; all Settlers, arriving from England, expect and indeed are ordered to receive a grant in proportion to their Capital, and no Settler, within my experience, has ever arrived here prepared with Capital to purchase lands in the first instance. I must again state that the land granted to such Settlers is in fact sold, the difference solely consisting in the mode of payment; and I humbly submit for Your Excellency's consideration, how far the interests of the Government and Settler are promoted in requiring a great additional Capital to be expended in the purchase of land in the first instance, when it might be so much more advantageously expended, both for the Public and the Individuals themselves, in the Stocking and improvements of land, for which they are able and contented to pay the interest of their value; and I humbly submit it, as a matter of serious consideration, whether the Government and Settler might not be proportionably benefitted by receiving optionally (for particular lands under certain Circumstances) an interest for the cost price of the land, rather than the Capital Sum, which must abstract from the Settlers means, however opulent he may be.

31. I humbly submit that, under existing circumstances, it would be impracticable to carry into full execution the provisions of the 42nd Paragraph,* which relate to free Settlers. It would be ruinous to any Settler to be Compelled to remain idle and without an homestead, until certain Parishes have been surveyed and put up to Sale. It must be the object of every Settler to get on his lands, as speedily as possible; and I, therefore, submit, after the required selection for the Church and School Estate, Towns, and Villages has been made, that all Settlers of that description may be at liberty, as heretofore, to make eligible selections for their respective purposes, taking their land as at present in Square Miles, which, of course, naturally embrace a fair proportion of good and bad land, the quit Rent to depend, according to the instructions, on such valuation as may afterwards be made by the Commissioners. Until, however, the general Survey is so far advanced as to admit the valuation of particular Parishes in the aggregate, the lands for the purpose of Rent might be valued at 3s. per Acre, being, at 5 p. Cent., a quit Rent of 15s. per 100 Acres; in so (temporarily) affixing a

* Note 91.

value of 3s. per Acre, I feel confident I have much exceeded the actual average money price; and, on this point, I am in a considerable measure borne out by the fact of the land to be granted to the Australian Agricultural Company being valued by His Majesty's Government at only 1s. 6d. per Acre.

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Value of lands
granted to
A.A. company.

32. Respecting the applications, which the resident Settlers are constantly making for permission to purchase lands, on the condition of 3 Years Credit, at a fixed price of 5s. per Acre, and to New Settlers, at a rent for the first 3 Years previous to purchase, I most respectfully refer to the report Marked D; and, until it is possible to make arrangements for public Sales, it is for Your Excellency's consideration whether limited sales, on those conditions and prices, will be any material departure from the spirit of the discretionary powers, vested in Your Excellency under the provisions of the 36th paragraph of the Instructions.*

Applications
to purchase
lands.

33. The reserves, already stated to have been made in each Parish, will I hope afford the means of Settlement for the description of persons, contemplated in the 47th paragraph* of the Instructions; but I would respectfully suggest that no orders for land should be issued to such persons, until lands are reported to be ready for their reception; such Settlers would, otherwise, consider they had a right of choice to any ungranted lands, it being with the utmost difficulty that I can at present regulate the claims of the numerous individuals of this description, who hold orders for small Allotments.

Grants of
allotments in
neighbourhood
of towns.

34. Whatever modification of the Instructions it may appear to Your Excellency expedient to permit under existing circumstances, I feel it my duty humbly to state that it will be impossible even to approximate to the mode of survey and settlement, pointed out in Your Excellency's instructions, so long as Individuals are not restrained from settling unauthorisedly beyond, what may be termed the settled limits of the Country; tickets of occupation of unknown and unsurveyed tracts must obviously diminish the Sale of lands to a very great extent; no person who can occupy undisturbed lands for nothing, will ever purchase or hold on rent. In another point of view, these tickets of occupation are open to serious objection. Persons obtaining them take in Cattle for payment from other Settlers at the rate of 10s. per head; and there are instances of Individuals, possessing scarcely any property and of doubtful Character, receiving from £400 to £500 per An'm in this manner. The Cattle wandering over the Country almost wild to the great injury of every one endeavouring to improve the breed of his Stock, and who holds his lands by rent or purchase, it cannot be expected that any improvements will

Objections
to tickets of
occupation.

* Note 94.

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be made in such occupations, while the facility, with which they have been obtained, operates as a bar to the improvement and enclosure of the granted lands by providing additional pasture without exertion or Commensurate outlay of Capital.

Proposed
return of
tickets of
occupation.

35. I respectfully beg leave to submit to Your Excellency's consideration the expediency of obtaining, as soon as possible, a return of the "Tickets of occupation," that have been issued, to discover as accurately as possible their locality, of regulating such as are in the vicinity of Settled Districts, where the greatest injury is experienced, and of requiring from the occupiers of all of them, particularly those beyond certain boundaries, a rent at least equal to the Quit Rent upon granted Lands of the tract of land, they have permission to occupy, which will not place them in a worse Situation than the Settler, who is confined to lands held by grant or purchase.

Regulations
suggested.

Procedure
recommended.

36. Having with respectful deference submitted such remarks on Your Excellency's instructions, as appear in my humble judgment to be of most importance, I will shortly state the course of proceeding, which I should recommend for Your Excellency's consideration, in order to enable me to carry the instructions into effect, modified in such degree as may appear most expedient to Your Excellency.

Compliance
with existing
orders for
settlers' lands.

37. First, to comply with all the existing orders for Settlers' lands with every despatch, conforming to the divisions pointed out in the instructions, and, during the progress of the survey, to adopt such measures with the Commissioners, as will render such survey co-operative in the divisional boundaries of Counties and Parishes and valuation of ungranted lands.

Limitations on
new orders
and additional
grants.

38. Secondly, to confine such Settlers, as may obtain orders for land, within certain limits, and to defer as much as possible the *extension* of Grants to Individuals, until a certain portion of unoccupied Country is marked and divided as directed. Settlers, in present possession of lands, cannot suffer much from a short delay in the measurement of the lands, which they may be permitted to receive in extension of their original Grants; at the same time, it would enable me to reduce to some degree of method the locations at present ordered, and afford the means of ascertaining the extent of useful Country available to Settlers, as well as the reserves for the Church Estate, and for other purposes.

Survey of
allotments
near towns
or villages.

39. Thirdly, the portions of land, intended to be given to deserving Applicants under the 46th and 47th Paragraph,* to be first marked out in such Situations as may appear fit for the

* Note 94.

purpose, and contiguous to the reservations for intended Towns and Villages, before such Individuals receive any Warrant or letter, which may authorize their receiving the same.

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40. Fourthly, that, as regards Settlers from England, in order to prevent any inconvenience arising to them from being kept from their farms, they may be permitted to settle in such Counties and Parishes, as are at present partially Settled, but not to extend their selection beyond certain limitations of distance and Surveyed Country.

Arrangements
for new settlers.

41. Fifthly, as applications for permission to purchase waste lands will principally, if not entirely, be made by established Settlers, I would respectfully recommend, until the Area of Measurement and Survey be reduced, it would be desirable to restrict the permission to purchase to such lands, as immediately adjoin the present possessions of the applicants, and as nearly as may be of the required extent of 1,920 Acres. It should be distinctly understood by the intending purchaser that the Sale could only be conditional, subject to the approbation of His Majesty, as departing in some measure from the strict letter of His Majesty's instructions, and continuing to require the deposit of 10 per Cent., as an equivalent rent for the land during the intermediate period, requisite to obtain His Majesty's approval.

Restriction
of permits
to purchase.

All purchases to
be conditional.

43. Sixthly, as to the Church and School Estates, it not being possible within the present range of Settled Country to make the reserves as directed, that one Seventh of each Parish, as heretofore, may be reserved for that purpose, as there is a considerable tract of Country partially occupied, but not surveyed, and in which no reserves have been made.

Reservations
for church and
school estates.

44. Although the Manner, in which land the property of the Crown, situated in Towns, etc., may hereafter be granted or leased, is not adverted to in His Majesty's Instructions, in order to place Your Excellency in full possession of every point connected with my duties, I have annexed a Copy of a Report marked E, which I made to the late Governor Sir Thos. Brisbane on the subject, together with the form of the Grant and lease adopted in consequence thereof, and now in use.

Procedure in
town grants
and leases.

As soon as the necessary local arrangements can be made, I shall respectfully submit for Your Excellency's consideration the extent of practical assistance, which may be required in field Surveyors, draftsmen, etc., in order to execute the required duties of the extensive survey contemplated by His Majesty's Government.

Assistance
required in
survey
department.

I have, &c.,

J. OXLEY, Surveyor G'l.

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orders *re*
land grants.

[Sub-enclosure A.]

GOVERNMENT AND GENERAL ORDERS.

Civil Department, Sydney, 5 November, 1823.

HIS EXCELLENCY the Governor, having deemed it expedient to make certain Alterations in the Conditions, heretofore inserted in the Grants of Land given to Settlers, is pleased to direct that the new Form of Grants, together with a Schedule of the Conditions intended to be imposed applicable to all Grants, from Thirty Acres to Two Thousand, be published for the Guidance and Information of those concerned.

Numerous Applications having been made to His Excellency by Individuals, who have expressed a Desire to be permitted to purchase certain Portions of unoccupied Crown Lands, near to or adjoining their present Grants, and His Excellency, being of opinion that the Sale of Lands under certain Limitations will be highly beneficial to the Settler, hereby notifies (until His Majesty's Pleasure is known) that He will continue to receive Applications for the Purchase of Waste Lands, and now directs that the Form of the Grant, which will, hereafter, be given to the Purchaser of the said Lands, together with Extracts from His Instructions to the Surveyor General on the Subject be published for general Information.

By His Excellency Sir Thomas Brisbane, K.C.B., Governor of the Colony of New South Wales, etc., etc., etc.

Know all Men, by these Presents, that, in Order to promote the due Settlement of the said Colony, and in Consideration of of having stated to me on Behalf of His Majesty the King that he the said intends to settle himself upon the Lands, hereinafter described, or duly to cultivate the same, or to occupy the same sufficiently with live Stock, I, the said Sir Thomas Brisbane, in Pursuance of the Powers vested in me as Governor of the said Colony, do hereby grant unto the said , his Heirs and Assigns, Acres of Land, situate in the of County of , bounded , with all the Appurtenances whatsoever, excepting such Timber of native Origin, as may be considered by or on behalf of His said Majesty, or of any of His Successors, to be fit for Government Naval Use, or for the Construction of Roads and Bridges, and excepting such Parts of the said Land, as may hereafter be set out for a Highway or Highways by any Person or Persons, lawfully authorised in that Respect, To hold the said Land with the Appurtenances, except as aforesaid, to the said his Heirs and Assigns, for ever, paying, therefore, yearly from Day of to His Majesty, His Heirs and Successors, or as he or any of them shall appoint, the Quit Rent or Sum of Fifteen Shillings for each and every Hundred Acres of lawful Sterling Money, until the same shall be redeemed by the said , His Heirs or Assigns, at the Rate of Twenty Years' Purchase. And this Grant is further on Condition that the said doth in the Course of Five Years from the Date hereof clear or improve Acres of the said Land, or maintain for One Year Convicts, or erect Buildings, Fences or other permanent Improvements, to the Value of £ , within the said Term of five Years, which

shall be ascertained by two Persons, one to be appointed by the Crown, and the other by the said ; and not within the same Term of Five Years voluntarily alienate the said Land, or any Part thereof, except in Exchange for Lands in the Colony, certified by three Freeholders of the Colony to be of equal Value with the Lands, so alienated. Provided always that if the said Rent, until redeemed, be unpaid Ten Days after being due, or any or more of the aforesaid Clauses or Conditions be not duly observed, or be broken, then this Grant shall be void ; and it shall be lawful for His Majesty, or any of His Successors, or any Person duly authorised in that Behalf, to re-enter into the said Lands, or any Part thereof, and thence to remove the said or his Heirs or Assigns, and to hold or re-grant the same, notwithstanding these Presents.

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Given under my Hand, etc.

It is expected and will be inserted, as a Condition in the Holding of all future Grants, that the Settler, receiving a Grant of

30 Acres, shall clear and cultivate 10 Acres thereof, or maintain three Convicts for One Year, or erect Buildings, Fences, or other permanent Improvements to the Value of £50, within the Term of Five Years, which Value shall be ascertained by two Persons, one to be appointed by the Crown, and the other by the Grantee.	
50 Acres	15 Acres, or four Convicts, or Buildings as aforesaid to the Value of £75, etc.
60 Acres	16 Acres, or four Convicts or Buildings, etc., as aforesaid.
70 Acres	17 Acres, five Convicts or Buildings, etc., £ 85
80 Acres	18 Acres, 5 Convicts, or Buildings, etc., £ 90
90 Acres	19 Acres, 5 Convicts, or Buildings, etc., £100
100 Acres	20 Acres, 5 Convicts, or Buildings, etc., £100
120 Acres	22 Acres, 6 Convicts, or Buildings, etc., £110
150 Acres	25 Acres, 6 Convicts, or Buildings, etc., £125
200 Acres	30 Acres, 7 Convicts, or Buildings, etc., £150
270 Acres	35 Acres, 8 Convicts, or Buildings, etc., £175
300 Acres	38 Acres, 9 Convicts, or Buildings, etc., £190
400 Acres	45 Acres, 11 Convicts, or Buildings, etc., £225
500 Acres	50 Acres, 12 Convicts, or Buildings, etc., £250
700 Acres	60 Acres, 15 Convicts, or Buildings, etc., £300
800 Acres	65 Acres, 16 Convicts, or Buildings, etc., £325
1,000 Acres	70 Acres, 19 Convicts, or Buildings, etc., £350
1,100 Acres	75 Acres, 19 Convicts, or Buildings, etc., £375
1,200 Acres	80 Acres, 20 Convicts, or Buildings, etc., £400
1,500 Acres	120 Acres, 30 Convicts, or Buildings, etc., £600
2,000 Acres	120 Acres, 30 Convicts, or Buildings, etc., £600

By His Excellency Sir Thomas Brisbane, K.C.B., Governor of the Colony of New South Wales, etc., etc., etc.

Know all Men, by these Presents, that, in Consideration of , having duly paid, on Behalf of His Majesty the King, the Sum of Pounds of lawful Money of Great Britain, being the Value or Price affixed by me, on Behalf of His said Majesty, on Acres of Land that I, the said Sir Thomas Brisbane, in Pursuance of the Power vested in me, as Governor of the said Colony, do hereby grant unto the said A.B., his Heirs and Assigns, Acres of Land, situate in the Township of and County of , bounded with all Appurtenances whatsoever, excepting such Timber of native Origin, as may be considered, by or on Behalf of His said Majesty, or of any of His Successors, to be fit for Government Naval Use, or for the Construction of Roads and Bridges, and excepting such Parts of the said Land, as may be hereafter

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set out for a Highway or Highways by any Person or Persons, lawfully authorised in that Respect, to hold the said Lands with the Appurtenances, except as aforesaid, to the said A.B., his Heirs and Assigns for ever, paying, therefore, yearly from the Day of to His Majesty, his Heirs and Successors, or, as he or any of them shall appoint, the Quit rent or Sum of Two Shillings for each and every Hundred Acres of Land, hereby granted, until the same shall be redeemed by the said A.B., his Heirs or Assigns, at the Rate of Twenty Years Purchase.

In Witness, whereof, I have hereunto set my Hand and Seal of the Territory at Sydney in New South Wales, this
Day of in the Year of Our Lord, One thousand eight hundred and twenty .

EXTRACT from His Excellency The Governor's Instructions to the Surveyor General.

[A copy of these instructions will be found on p. 332 et seq., volume XI.]

By His Excellency's Command.

F. GOULBURN, Colonial Secretary.

[Sub-enclosure B.]

SURVEYOR-GENERAL ONLEY TO ARCHDEACON SCOTT.

Surveyor General's Office,

Reverend Sir,

29th August, 1825.

Return of
unlocated lands
in counties of
Cumberland
and Camden.

1. In conformity with the direction contained in a letter, dated 16th June, from Major Ovens, Private Secretary to His Excellency the Governor, I do myself the honor to forward herewith a list of the unlocated lands in the Counties of Cumberland and Camden, and in this return I have included the whole of such lands as are at present in the actual occupation of Government, together with the granted Glebes, and lands set apart for Schools under the old regulations; the remaining ungranted lands in the County of Cumberland, not adverted to in this return, may be considered as of little present value, consisting principally of barren rocky tracts in the South Eastern parts of the County between Georges river and the Coast, also large tracts of a similar description between the harbour of Port Jackson and Broken Bay.

Allocation of
church and
school estates
in county of
Cumberland.

I am of opinion that the value of the lands comprehended in the return is not equal in Amount to one seventh of the granted lands in the County of Cumberland; the actual number of acres of land, which will be necessary to make up the one seventh part required to be set apart for the Church, cannot be immediately stated, as reference must be had to the value of the lands originally granted to Settlers previous to improvements being made thereon; while, on the other hand, much of the land now returned being favorably circumstanced with respect to

situation, and considerable sums expended on enclosures and buildings by the Crown, a less proportion will now be required to equal the value of the granted land in its natural state, than would have been the case, provided one Seventh of the whole County had originally been set apart, in accordance with the rules prescribed in Lord Bathurst's dispatch.

It is impossible to make a correct return of the value of the ungranted lands in the adjoining County of Camden without an actual inspection and survey of the whole County, a great proportion of which is of little value and not likely to be further Settled; as this County was originally much occupied by the Government herds, considerable tracts were reserved for their use, and I think the value of the ungranted lands, so reserved, is more than equal to one seventh part of the value of the land granted to Settlers in its original state; with reference to those parts of the County altogether unoccupied, either by the Crown or Individuals, there can be no difficulty in making the Church Reserves of a proportionate value with the lands which may be set apart for Settlers, and I shall take immediate measures to ascertain what quantity of useful land remains ungranted (exclusive of the lands herewith returned) in order that the deficiency of Church lands in the County of Cumberland may be made up therefrom.

4. The Glebes in the actual occupation of the resident Chaplains are included in the return herewith made; but no value has been affixed thereon; the real present value of these lands can be best estimated by the Clergymen who occupy them, as the whole of the Glebes set apart have been enclosed, and a portion cleared at the expence of Government, and the return therefrom must therefore be increased or diminished according to the purposes to which those lands may be appropriated by the occupiers.

5. I do not think high rents can be obtained for land in its natural state on a lease for 28 Years; but, in order to arrive at some general result, I have assumed a rent proportionate to the value of the lands estimated at 5 per Cent., and as the lands set apart for the Church will in most Cases (provided the portion to be reserved in each County be taken in seperate portions out of every Parish) be favorably situated, the value of those lands is not overrated at 5s. per Acre, for the purposes of Calculating a rent thereon, and this rent I am of opinion can be at present obtained for the greater proportion of the lands included in the present return, as being unlocated in the County of Camden.

I have, &c.,

J. OXLEY, Surveyor Gl.

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22 July.

Allocation of
church and
school estates
in county of
Cumberland;

and in county
of Camden.

Inclusion of
glebe lands
in returns.

Probable value
of church lands.

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ungranted lands
in county of
Cumberland.

[Enclosed in sub-enclosure B.]
A GENERAL RETURN of the Ungranted Lands in the County of Cumberland.

District or Parish.	Number in Chart.	Name of the Occupier.	Quantity in			If on Lease and Time to run.	Estimated Value.		Remarks.
			Acres.	Roods.	Perches.		Sale.	Lease.	
Sydney.....	unoccupied.....	17,000	.....	.....	.....	£	occupied by the resident Chaplain.	
Sydney.....	Glebe.....	480	.....	.....	.....	4,250	Ditto	
Liberty Plains.	Glebe.....	450	.....	.....	.....	.....	{ occupied by and attached to Government House, Parramatta, exclusive of domain Common to Parramatta.	
Parramatta.....	unoccupied.....	500	.....	.....	.....	300		
Toongabee.....	".....	1,775	.....	.....	.....	2,000		
Field of Mars..	".....	600	.....	.....	.....	300		
Prospect.....	".....	840	.....	.....	.....	1,000		
Windsor.....	Glebe.....	400	.....	.....	.....	8,400		
Melville.....	Government.....	8,400	.....	.....	.....	.....	occupied by resident clergyman occupied by Government: valued exclu- sive of buildings and cleared Land.	
Even.....	Glebe.....	400	.....	.....	.....	1,275	Poor barren land, no advantages of situation.	
Even.....	unoccupied.....	17,000	.....	.....	.....	.....	occupied by clergyman, used by Town of Liverpool.	
Liverpool.....	Glebe.....	400	.....	.....	.....	1,000	unoccupied.	
Liverpool.....	Common.....	1,000	.....	.....	.....	200	occupied by resident Clergyman.	
Liverpool.....	School.....	200	.....	.....	.....	.....	very good land, but hilly.	
Airds.....	Glebe.....	400	.....	.....	.....	150	Indifferent Land.	
Airds.....	School.....	100	.....	.....	.....	375	exclusive of value of cleared land and buildings.	
Cabramat'a.....	Government.....	1,000	.....	.....	.....	9,450		
Cabramatta.....	Orphan School.....	12,300	.....	.....	.....	.....	{ Let on lease for the purpose of cutting timber.	
Broken Bay.....	Berry & Woolstonecraft.....	2,000	.....	.....	.....	50		
Castle Hill.....	Thos. Hyndes.....	2,000	.....	.....	.....	50		
Castle Hill.....	D. D. Mathews.....	800	.....	.....	.....	20		
Grose Farm.....	Government.....	280	.....	.....	.....	4,000	occupied by Government.	
Longbottom.....	Government.....	663	.....	.....	.....	738	value of buildings included.	
Cooke.....	Government.....	100	.....	.....	.....	150	occupied by Government.	
			69,088	£	33,588	130

[Enclosed in sub-enclosure B.]

A GENERAL RETURN of the Ungranted Lands in the County of Camden.

1826.
22 July.

Return of ungranted lands in county of Camden.

District or Parish.	Name of the Occupier.	Quantity in			If on lease and time to run.	Estimated Value.		Remarks.
		Acres.	Roods.	Perches.		Sale.	Lease.	
Brownlow Hill.....	Government	1,500	..	..	..	£ 1,500	..	
Camden	unoccupied	5,600	..	..	..	1,400	..	
Pieton	unoccupied	1,700	..	..	..	850	..	
Bargo	unoccupied	2,000	..	..	..	300	..	
Mittagong.....	unoccupied	2,000	..	..	..	500	..	
Hill.....	....	8,000	..	..	..	3,000	..	
Government grazing ground, West side of the Nepean River.	Government	20,000	..	..	..	3,000	..	
		40,800	..	..	..	10,550	..	

[Sub-enclosure C.]

[This sub-enclosure consisted of copies of the letters from surveyor-general Oxley to Sir Thomas Brisbane and Major Ovens, and from Sir Thomas Brisbane to surveyor-general Oxley, dated 18th June, 1824, 23rd May, 1825, and 12th August, 1824, respectively; see pages 334, 692, and 335, volume XI. The letter to Major Ovens was addressed to secretary Goulburn in the copy transmitted in this despatch. The forms of grants, referred to as marked A and B in the letter, dated 23rd May, 1825, were the two forms recorded in sub-enclosure A. The following additional papers were enclosed:—]

[1] FORM OF APPLICATION FOR LAND BY FREE SETTLERS FROM ENGLAND. Sydney,

Form of application for land.

Sir, I do myself the honor to enclose to Your Excellency a letter from the Colonial Office authorizing me to proceed to this Colony as a Settler, and informing me that Your Excellency would give me a grant of land in proportion to the Capital I intended to employ in Agricultural pursuits.

I beg leave most respectfully to submit to Your Excellency that it is my intention to vest £..... in Stocking and improving such land as your Excellency may please to assign me, and I respectfully refer to the Certificate annexed in proof of my being in possession of the above Stated Capital.

I have, &c.,

.....

[2] CERTIFICATE OF FINANCIAL STABILITY.

Sydney,

WE the Undersigned do hereby Certify that Mr. is to our Knowledge in possession of £..... in Cash and Goods, and that we have every reason to believe it to be the intention of the said Mr. to invest the same in Agricultural pursuits.

..... }
..... }

1826.
22 July.
Form for certificate of financial stability.

[3] FORM OF MEMORIAL FOR LAND, BY SETTLERS AND OTHERS.

To His Excellency Governor Darling, &c., &c., &c.

THE Memorial of A.B., resident in the parish of C., most respectfully sheweth that Your Excellency's Memorialist arrived in this Colony in the Ship.....in the Year.....under Sentence of Transportation for.....years, that Your Memorialist is now free by*and has acquired.....† head of horned Cattle and Sheep, and has received from Government.....Acres of land (or not, as the case may be) which are wholly or in part (as the case may be) under Cultivation; that Your Excellency's Memorialist has now in his employment.....Convict Servants, and has maintained the same free of expense to Government; that Your Excellency's Memorialist is married (or not as the case may be) and has a family of.....Children and resides upon his land (or not as the case may be). Your Excellency's Memorialist therefore respectfully solicits Your Excellency will be pleased to order him such a portion of land in extension, as Your Excellency may deem meet, in consideration of the foregoing statements and the Subjoined Certificates of Memorialist's general good Character and the means in his possession to improve and cultivate the same.

And Your Excellency's Memorialist will ever pray, &c.

We, the Undersigned Magistrate and Chaplain acting for the Parish of, do hereby certify that, during the Period A.B. has resided within the said Parish, he has conducted himself as an honest industrious man, and we further Certify, that we believe the statement made by him, as to his family and present property, to be correct, and that he will cultivate and improve such land as may be granted to him.

..... Magistrate.
..... Chaplain.

or by three land holders of known respectability.

NOTE.—By omitting the description, in the first part of this form of Memorial, the form may be easily adapted to the circumstances of Individuals born in the Colony, or who may have originally arrived free, and the Certificate in these latter cases may state the intention of the parties to reside on the land, as well as the intention to cultivate or otherwise improve it; other matters of detail may also be altered, so as to meet the circumstances of most of the cases intended to be submitted to His Excellency's consideration.

* Here state if by service, free pardon or emancipation.
† Insert description of property in possession.

Form of memorial for emancipist soliciting additional land grant.

Form of certificate of character.

Alterations necessary for free settlers.

[Sub-enclosure D annexed to C.]

1826.
22 July.

SURVEYOR-GENERAL OXLEY TO SIR THOMAS BRISBANE.

Sir, Surveyor General's Office, 4th November, 1824.

1. The very numerous applications, which are continually made to Your Excellency to extend the grants of land already in the possession of Individuals, having rendered it indispensable that some permanent principle should be adopted in order impartially to regulate the proportion of land intended to be given to each deserving applicant, in obedience to Your Excellency's directions, I do myself the honor of submitting a proposition having that object in view, the outline of which met with Your Excellency's approbation in the last interview I had the honor to have with Your Excellency on this Subject.

Proposed
regulations re
extension of
land grants.

Assuming therefore that each Grantee, fulfilling the conditions of his original Grant, viz., to clear and cultivate a certain proportionate number of acres, will of necessity (within the limited term of 5 Years) employ one Convict for every 100 Acs. so granted, as every Settler here does grazing with agriculture, I would respectfully suggest that for each Convict supported by the Settler free of expence to the Crown, beyond one for every 100 Acs. originally granted, that every applicant should receive an additional grant of 100 Acs. for every Convict so employed by him, beyond the number it is assumed above as necessary to bring his original grant into cultivation. Thus for example, A Settler in the Year 1821 receives a Grant of 1,000 Acres, and it appears from the muster list of that year, or any succeeding Year, that he had in his Service, say 6 Convicts, and that by the muster list of 1824 it appears that the same settler employs 16 Convicts, and that the average number, so employed for the last Complete Year, was in Consequence 14, it would be seen that, on this principle, such Settler, so applying for an extension of his Grant, had at least a fair claim to receive 400 Acres, in as much as Government had been relieved for One Year of the expence of maintaining 4 Convicts, and taking the average expence of each Convict to Amount to £25 per Annum, and the Average Value of Land to be 5s. per Acre, 100 Acres for each Convict so employed will not, I hope, be considered too great an extension of the original Grant; and I venture to express my opinion that this plan will be equally applicable to the claims of every description of Settlers; I think it will appear to Your Excellency that, on the principle above stated, no one but a bona fide settler, actually employing his Capital and industry on the land originally granted, need apply for an extension of his Grant, the Government will benefit in proportion to the number of Convicts

1826.
22 July.

Proposed
regulations re
extension of
land grants.

each Settler may employ in excess, while the Settler will be rewarded for his industrious exertions by a corresponding liberality in the extension of his Grant.

3. In order to guard as much as possible against fraud and collusion, a Certificate from the Colonial Secretary of the Average Number of Convicts, employed by the Applicant for a Complete past Year, should be an indispensable requisite, and it would very much tend to prevent improper and importunate applications, if none were received that did not disclose this most necessary document.

4. It would also be an important point towards attaining a Correct Knowledge of the Convicts in the employment of Settlers, if, on the discharge (for whatever reason) of the Convict, a Certificate thereof was transmitted by the master to the Office of the Colonial Secretary.

I will only further observe that, on the principle thus stated, no greater number of additional acres of land can ever be granted in one Year to original Settlers, than in proportion to the Number of Assigned Convicts, and that the Government will receive the value of the Maintenance of the Convict beforehand, while it was not obligatory on any Settler to take a Single Convict more than his Capital and pursuits enabled him profitably to employ; and I hope, if Your Excellency should be pleased to adopt this suggestion, that it may be the means of reconciling the present conflicting claims of the Settler with the obligations which are no less due to the liberal encouragement which it has been so much the object of Your Excellency's Government to afford to all Classes of the Community.

I have, &c.,

J. OXLEY, Surveyor Gl.

[Sub-enclosure E.]

SURVEYOR-GENERAL OXLEY TO SECRETARY GOULBURN.

Sir, Surveyor General's Office, 5th April, 1823.

Map of town of
Parramatta.

1. I beg leave respectfully to submit, for the approbation of His Excellency the Governor, a Map of the Town of Parramatta.

Return of
allotments.

2. The Map is accompanied by a return of the proprietors or occupiers of the Allotments within the Town; His Excellency will not fail to perceive that, out of 390 Allotments, not more than 10 hold their lands by lease from the Crown, and that 6 other persons hold grants or are entitled thereto, in consequence of the value of the buildings they have erected on the ground. The Quit Rents, at present payable annually by the lessees of

the Crown, do not amount to Twenty Pounds; the remainder of the Town lands, being held by permissive occupation, pay no Quit Rent, and no legal title can be given or transfer made of such land by the Occupant, as the Crown has neither leased or granted to the Individual any definite interest in the ground.

1826.
22 July.

Absence of
legal titles.

In order to remedy in some measure the loss and inconvenience to Individuals, arising out of such a State of Property, and to secure to the Crown the full benefit of the Ground rents, properly derivable from Town lands, I respectfully beg leave to enclose the draft of a lease to be given by His Excellency to the present proprietors of Town lands in Parramatta. By the return which accompanies the Map, it will appear that the Amount of Quit Rents, arising from such leases, will be upwards of £600 per Annum, besides the contingent advantages of fines on renewal; and, should the lessees at any future time be desirous of possessing their Allotment in fee, the Amount of Quit Rent receivable will be double, and a very Considerable Sum received as a fine for making the lease into a Grant.

Proposed
lease for town
allotments.

3. Although the Amount of Quit Rent per rod or perch (6d.) on all leases, and 9d. per rod or perch on all Grants, may in the present State of the Towns of Sydney and Parramatta be considered as a fair and equitable rent, I would most respectfully suggest that the quit Rent to be payable from the lessees of the more distant and less improved Townships of Liverpool, Richmond, Windsor, &c., be in the first instance limited to 3d. per rod or perch, for a lease of Twenty One Years duration; but, should any proprietor be desirous of receiving a Grant of his Allotment, then, in that case the terms to be the same as in the Towns of Sydney and Parramatta. This regulation will tend to prevent the accumulation of Grants of Town lands in the hands of Individuals, and secure to the Crown the prospect of an increased Quit Rent at the expiration of the leases, consequent on the probable increased value of property in the remoter Townships.

Quit rents
proposed for
town allotments.

4. The Allotments, shaded green in the plan, are reserved for the use of the Crown and for such purposes as His Excellency may please to appropriate them.

His Excellency will observe that one individual, Saml. Larkin, holds no less than 20 distinct Allotments, few of which are either enclosed or built upon; to these lands I am not aware that he possesses any interest in them by purchase from persons who had no right to dispose thereof; I most respectfully request His Excellency's Commands what number of leases it is his pleasure shall be made out for Samuel Larkin. Should His Excellency the Governor be pleased to approve of the manner of disposing

Allotments
held by
S. Larkin.

1826.
22 July.

of Town Allotments, thus respectfully submitted for his consideration, I beg to assure you that no time shall be lost in carrying His Excellency's commands into full effect.

I have, &c.,

J. OXLEY, Surveyor Gl.

[Enclosure A to sub-enclosure E.]

FORM FOR GRANT OF LAND.

Form for
grant of town
allotments.

NEW SOUTH WALES. By His Excellency Sir Thomas Brisbane, Knight Commander of the Most Honorable Military Order of the Bath, Captain General, Governor and Commander in Chief in and over His Majesty's Territory of New South Wales and its Dependencies.

WHEREAS full Power and Authority for granting Lands in the Territory of New South Wales is vested in His Majesty's Captain General and Governor in Chief, or, in his Absence, the Lieutenant Governor for the Time-being in and over the said Territory and its Dependencies, by His Majesty's Instructions under the Royal Sign Manual, bearing Date the Fifth Day of February, One thousand eight hundred and twenty one; Now, in Pursuance, therefore, of the Power and Authority in me vested as aforesaid, I do by these Presents give and grant unto all that Piece or Parcel of Land, lying and situate on the Side of Street, in the Town of containing by Admeasurement to have and to hold the said Piece or Parcel of Land unto the said his Heirs and Assigns for ever; yielding and paying therefore yearly and every Year unto His Majesty, His Heirs and Successors, the annual Quit Rent of Ninepence per Rod, of lawful Sterling Money of Great Britain, on the Thirtieth Day of June in each and every Year: Provided always, and it is hereby expressly to be understood, and these presents are on the following Conditions; That, if the said Annual Quit-Rent be in Arrear for the Space of Twenty Days after the Time appointed for Payment thereof, the same may be recovered by Distress or otherwise, as His said Majesty, His Heirs and Successors may deem proper or be advised. And in Case no sufficient Distress be found, and the said Quit rent be in Arrear after that Time, the Whole of the said Land to revert to the Crown, and these Presents to be and become from thenceforth absolutely null, void, and of no Effect, any Thing herein contained to the Contrary notwithstanding: Provided, and it is hereby also expressly to be understood, that if at any time hereafter the said Grantee, his Heirs or Assigns, or other Proprietor of the said Land for the Time-being, shall be minded and desirous of redeeming or purchasing off the annual Quit Rent hereby reserved and made payable, he, she, or they may be at Liberty so to do, on paying to His Majesty, His Heirs and Successors, the Sum of being equal to Twenty Years of the said Quit-rent hereby reserved; and, in that Case, from and after the Payment thereof, the said annual Quit-Rent to cease and determine, and the said Land, and the Owner or Proprietor thereof from thenceforth shall be and become absolutely released, freed and discharged therefrom. And it is hereby also expressly to be understood that, if at any Time hereafter the said Land, or any Part thereof, shall be required by His said Majesty, His Heirs or Successors, or His Majesty's

Government for the Territory aforesaid, for the making and improving the Streets, or the Town aforesaid, or any other public Purpose, it may be resumed by His Majesty, His Heirs or Successors, on giving the said Grantee, his Heirs or Assigns, or other legal Proprietor thereof, Twelve Calendar Months Notice thereof in Writing, and paying for such Buildings as may be then standing on the said Land, or such Part thereof as may be so required as aforesaid, and for the Fee Simple of and in the same, according to Valuation thereof to be made by two indifferent Persons, one to be chosen on either Side in the usual and customary Manner. But, in the Event of Refusal on the Part of the Proprietor of the said Land to nominate and appoint a Person on his Part for the Purpose aforesaid, both the said Persons to be nominated by His said Majesty, His Heirs and Successors, or the Governor for the Time-being.

1826.
22 July.

Form for
grant of town
allotments.

In Testimony whereof, I have hereunto set my Hand, and the Seal of the Territory, at Sydney, in New South Wales this Day of in the Year of Our Lord One thousand eight hundred and twenty

[Enclosure B to sub-enclosure E.]

FORM FOR LEASE OF LAND.

Form for
lease of land.

NEW SOUTH WALES. By His Excellency Sir Thomas Brisbane, Knight Commander of the Most Honorable Order of the Bath, Captain General, Governor and Commander in Chief, in and over His Majesty's Territory of New South Wales and its Dependencies, &c., &c.

By Virtue of the Power and Authority in me vested, I do, by these presents, Demise, Lease, Set, and to Farm Let unto that Piece or Parcel of Land, lying and situate on the side of Street, in the Town of containing by admeasurement Rods, bounded to have and to hold the said Piece or Parcel of Land unto the said his Executors, Administrators, and Assigns, for and during and unto the full End and Term of Twenty one Years next ensuing, to be fully complete and ended, from the Thirtieth Day of June last, yielding and paying therefor yearly, and every Year during the said Term, unto His Majesty, His Heirs and Successors, the annual Quit Rent of Sixpence per Rod, of lawful Sterling Money of Great Britain, on the Thirtieth Day of June, in each and every Year, during the said Term: Provided always, and it is hereby expressly to be understood, and these presents are on the following Conditions: that, if the said annual Quit rent be in arrear for the Space of Twenty Days after the Time appointed for Payment thereof, the same may be recovered by Distress or otherwise, as His said Majesty, His Heirs and Successors may deem proper or be advised; and in Case no sufficient Distress be found, and the said Quit rent be in arrear after that Time, the Whole of the Land to revert to the Crown*; And provided also that the said shall in no Way either divide the said Land, or separate or partition off any part or Parcel thereof, or directly or indirectly lease, let, sell, alienate, or transfer the same, or any part thereof, or any Buildings erected thereon, or any part thereof, without the Licence and consent of the Governor of the Territory for the Time being for that purpose first had and obtained, in any or either of which Cases

* Footnote in original.—Recommended to be omitted in future Town leases.

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22 July.
Form for
lease of land.

above mentioned, (and) this present Lease to be and become absolutely null and void: And it is hereby further understood that, in Case the said Lessee, his Executors, Administrators, or Assigns, should be desirous hereafter of purchasing the Fee-simple and Inheritance of the said Land hereby leased, subject to an annual Quit-Rent, as hereinafter mentioned, he or they shall be at Liberty so to do, on paying to the Crown, for the Purchase thereof, an Fine equal to Twenty one Years of the Quit Rent hereby reserved; or, in the Event of the said Lessee, his Executors, Administrators, or Assigns, erecting on the said Lands such Buildings as may be approved of by the Governor for the Time being, according to a Plan and Specification thereof, to be previously submitted to Him for His Approval, provided that the same shall not be of less actual Value and Cost than One thousand pounds Sterling; then, and in either of the said last mentioned Cases, a Grant of the said Land will be made to the said Lessee, or other legal Proprietor of the said Land, subject to the Payment of such reasonable annual Quit Rent as may be deemed proper by the Governor for the Time being, not exceeding double the annual Quit Rent hereby reserved, to hold to him, his Heirs and Assigns for ever: And it is to be hereby understood, that in Case the said Land should be required by Government at the Expiration of the Time hereby created, the said his Executors, Administrators or Assigns, shall be repaid or remunerated for any Buildings that may be then standing thereon, according to a Valuation thereof to be made by two indifferent Persons, one to be chosen on either Side in the usual and customary Manner; or in Case any part of the said Land at any Time hereafter during the said Lease should be required by the Governor for the Time-being for the making and improving the Streets, it may be resumed by the Crown, on giving the said his Executors, Administrators, or Assigns, Six Months' Notice thereof, and paying for such Buildings as may have been erected thereon, and for the Fee or such Term of Years then unexpired as the Proprietor of such Land may then possess, according to a Valuation thereof to be made by two indifferent Persons, chosen in the customary and usual Manner. But, in the Event of Refusal in either of the two last mentioned Cases, on the Part of the Proprietor of the said Land to nominate and appoint a Person on his Part for the purposes aforesaid, both the said persons to be nominated by His said Majesty, his Heirs and Successors, or the Governor of His said Majesty's Territory for the Time-being.

In Testimony whereof, I have hereunto set my Hand and Official Seal, at Sydney, in New South Wales, this Day of in the Year of our Lord

[Enclosure No. 5.]

MEMBERS OF THE LAND BOARD TO GOVERNOR DARLING.

Land Board Office, Bent Street, Sydney,

Sir,

23rd February, 1826.

1. We have the honor to acknowledge the receipt of two Letters, written to us at Your Excellency's desire by the Colonial Secretary on the 14th and 16th Instant, with which he transmitted an Extract from the Instructions, addressed to Your

Report by
land board
on proposed
modifications
of instructions.

Excellency under the King's Sign Manual on the 17th July, 1825, relative to the disposal of the Crown Lands in this Colony, together with a report from the Surveyor General on the same subject, and "desiring our opinion as to the course, which, under existing circumstances, may appear to us advisable to adopt in granting and disposing of the Crown Lands, so as to meet the views of His Majesty's Government, as far as may be practicable."

1826.
22 July.

Report by
land board
on proposed
modifications
of instructions.

2. Before we proceed to the general consideration of the Instructions and Report in question, we feel it our duty to lose no time in stating, for Your Excellency's information, that the greater proportion of the Applications for Land, laid before us by the Surveyor General, are for additional Grants founded on the Government Notice of the 8th November, 1824,* a Copy of which is enclosed, and on which we consider it urgent to offer some remarks.

Criticism of
government
notice issued by
Sir T. Brisbane.

3rd. This Notice, which holds out to each Settler an additional Grant "of 100 acres of Land for every Convict, maintained by him free of expense to the Crown for one complete year, such Convict being in excess above the number of one maintained by the Applicant for every 100 Acres, originally granted him," does not, from any Official Dispatches or other Documents, addressed to His Excellency the late Governor (which we have seen), appear to have been published either in pursuance of Instructions under the Sign Manual or from the Secretary of State for the Colonies; and the reasons, therein assigned for the extension of Grants, so far from appearing to be sanctioned or confirmed by the Instructions under the King's Sign Manual of the 17th July last, are on the contrary inconsistent therewith. By the 41st Paragraph of those Instructions,† a Credit of 32s. only is to be allowed to Settlers "for each and every Convict, they shall have employed and wholly sustained at their own expense for the term of twelve Calendar Months," which differs essentially both in the kind and extent of encouragement for maintaining Convict Servants free of expense to the Crown, from that held out in the Government Notice remarked upon. The continuance, therefore, of this mode of reward or premium for maintaining Convict Servants to the extent, held forth by the Government Notice of 8th November, 1824, in addition to the pecuniary remuneration, granted by the 41st Paragraph of the Instructions under the Sign Manual, would obviously be extravagant, and so highly injurious to the Interests of the Crown that we are satisfied it has never been contemplated by Government in any Instructions, transmitted from the Colonial Department to this Country.

* Note 95. † Note 96.

1826.
22 July.
Value of
concessions
offered.

To view it in this light, we need only observe that the lowest computed value of 100 Acres of Land at 3s. per Acre is £15 Sterling; and consequently an additional grant of Land to that extent for the yearly maintenance of each Convict servant, free of expence to the Crown, gives a ratio of remuneration of nearly ten times the amount of that, held out by Government for the maintenance of a Convict servant during the same period by the Instructions of 17th July, 1825. We have further to observe that, in the present state of the Colony, encouragement of this nature is altogether unnecessary, the voluntary demand for Convicts as servants to Settlers being now much greater than can be supplied.

4. It further appears to us that the Government Notice in question is not only complicated in its details, but liable to abuse, as being of a nature to hold out temptation to the making of fictitious musters and unfair returns of Convict Servants employed.

Proposed
repeal of
government
notice.

5. Under these circumstances, we beg leave respectfully to suggest for Your Excellency's consideration the expediency of causing it to be publicly notified that the said Notice of the 8th November, 1824, should be considered as repealed, and should cease to have effect from the commencement of the present year, or from such other fixed period, as Your Excellency may deem most advisable.

Settlement of
claims to be
postponed.

6. With respect to those Settlers, who may establish their Claims for extensions of Land under the Government Notice of the 8th November, 1824, as they are already settled and in possession of Land in the Colony, and cannot consequently suffer much from a short delay in receiving the extensions, which they claim on the faith of the Government Notice in question, we would further beg to suggest the expediency of postponing the satisfying of their Claims, until the Surveyor General has had sufficient time to reduce to some degree of method the locations, already ordered to New Settlers, and may also be enabled to ascertain the extent of useful Land, available for the satisfaction of such additional Grants in the immediate neighbourhood of each Claimant's present property, as also the reserves to be made for the Church and School Estates, as pointed out in the 38th Paragraph of his report to Your Excellency of the 26th Ultimo.

7. In the event Your Excellency may deem it advisable to cancel the Government Notice of the 8th November, 1824, as recommended, it will be found indispensable that some permanent Regulation should be adopted in its room to meet the numerous and unreasonable applications, which will otherwise be continually pouring in upon Your Excellency from resident Settlers

for the extension of their Grants. With this view, we would respectfully suggest that, as the instructions of the 17th July last direct that the Crown Lands shall be put up to Public Sale, and as the Settlers in General, after the discontinuance of the Government Order in question, will have no grounds whatever for making further claims on the liberality of Government, a Public Notice should be issued declaring that all those Settlers, who have already received Grants of Land *without purchase*, should not in future receive any additional Grant from Government, unless *by purchase*, after the Survey and Subdivision into Counties, Hundreds and Parishes, shall have taken place, with the exception alone of those, who may have well founded claims upon Government for an extension of their Grants, as a reward for some important Public Service, they may have rendered to Government or to the Interests of the Colony. The Publication of a Notice of this nature will save endless trouble, as it will at all times furnish a ready Answer to unreasonable Applications, and will prevent the intrusion of a numerous Body, who have no claim whatever upon Government, but on the contrary have already received liberal Grants or Extensions almost without exception.

8 We further feel it our duty to lose no time in submitting for Your Excellency's consideration the subject of Tickets of Occupation. The Surveyor General in the 34th Paragraph of his report states "that it will be impossible even to approximate to the mode of Survey and Settlement, pointed out in the Instructions to Your Excellency under the Sign Manual, so long as Individuals are not restrained from settling unauthorisedly beyond what may be termed the settled limits of the Country, pointing out at the same time that Tickets of Occupation must obviously diminish the sale of Lands to a very great extent. as no person, who can occupy large tracts for nothing and undisturbed, will ever think of purchasing or holding lands on rent."

We fully concur in opinion with the Surveyor General in his clear and forcible remarks on this subject; and we would, therefore, beg leave respectfully to suggest for Your Excellency's consideration the expediency of withdrawing the whole of the Tickets of Occupation in six months time, by the promulgation of a Public Government Notice to that effect, with the exception alone of those held by Individuals (if such there are), who may possess a written promise from a former Governor that the Lands, they now hold by Tickets of Occupation, should be converted into Grants; and should Your Excellency think fit to concede to any of the present holders the indulgence of retaining their

1826.
22 July.

Proposed
regulations
re additional
land grants.

Proposal
to cancel all
tickets of
occupation.

1826.
22 July.

Proposal
to cancel all
tickets of
occupation.

Tickets of Occupation, until such parts of the Country should be regularly surveyed and valued, they should only in such cases be permitted to remain in possession, under the express stipulation of paying an Annual rent for the Land so held, which rent (as Persons soliciting that indulgence invariably select the richest and finest parts of the Country for Pasturage) should be fully equal to the quit rent upon Land of the first quality gratuitously granted by Government, say One Pound Sterling for every 100 Acres.

9. With the view also of effectually removing all future obstacles to the speedy survey and location of Lands to New Settlers, we would respectfully beg leave to recommend that no Tickets of Occupation should in future be issued, but that, instead thereof, the Individuals, to whom Your Excellency may find it expedient to extend an indulgence of this nature, should be allowed to rent from year to year the Land, they wish to occupy at the yearly rent above specified, but always under the express Provision of being obliged to remove therefrom on six Months' notice from Government.

10 How soon we are enabled to bestow due deliberation on subjects of so much importance, we shall again respectfully submit for Your Excellency's consideration some further remarks on the Instructions and on the Surveyor General's Report, laid before us relative to the granting and disposal of the Crown Lands.

We have, &c.,

WILLIAM STEWART. J. T. CAMPBELL.
WM. LITHGOW.

P.S.—Since writing the above, we find, on perusing the Surveyor General's Report of the 26th Ultimo, that the Government Notice, referred to of 8th Novr., 1824, was issued in consequence of a Letter addressed by that Officer on the subject to Sir Thomas Brisbane on the 4th Novr., 1824, a copy of which will be seen under that date, appended to the Surveyor General's Report, and marked D annexed to C.*

[Enclosure No. 6.]

MEMBERS OF THE LAND BOARD TO GOVERNOR DARLING.

Land Board Office, Bent Street, Sydney,

Sir,

11th March, 1826.

1. Since we had the honor of addressing Your Excellency on the 23rd Ultimo, respectfully suggesting for early consideration the expediency of cancelling the Government Notice of the 8th November, 1824, and of putting an end to the practice of issuing Tickets of Occupation, as tending materially to impede

* Note 97.

the objects, contemplated in His Majesty's Instructions under the Sign Manual, we have again reverted to the subject matter of those Instructions, and, having resumed the consideration of the other details of the Plan, which His Majesty's Government have in view in the granting and disposing of Crown Lands, together with the Surveyor General's Report on that subject, we beg leave respectfully to submit for Your Excellency's consideration some further remarks and suggestions, which in our humble judgement may facilitate and accelerate the accomplishment of the objects in contemplation.

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Report by
land board
on proposed
modifications
of instructions.

2. On perusing the Surveyor General's Report, addressed to Your Excellency on the 26th January last, the first leading obstacle (which forces itself on our attention) to the carrying into immediate execution the proposed plan for the settlement and disposal of the Crown Lands, is the great arrear of Survey in the Surveyor General's Department, owing to which a very considerable extent of the Lands, already located and granted by the two last Governors, remain to this day unsurveyed, and consequently the Boundaries of Grants are still undefined. The Surveyor General states in his Report "that the principal portion of 400,000 Acres, granted by the late Governor Macquarie, remained unsurveyed at the period of his departure, and that out of 1,068,000 Acres, appropriated by Sir Thomas Brisbane by Grant and by Sale, or as Crown Reserves, the Boundary Lines of at least one half still remain unascertained."

Arrears of
work in survey
department.

3. There can, we think, be no question that it is of paramount importance that the Districts, in which these Lands have been granted, should be surveyed and the Boundaries of each location accurately fixed and defined with all possible dispatch. Till this is effected, it will be impracticable either to locate or survey properly the ungranted lands in those Districts, and the uncertainty as to the Boundary Lines of each Grant, if allowed to continue for any considerable length of time, must inevitably give rise to troublesome applications on the part of the Settlers, who may now be occupying Land, to which they are not entitled, as well as to interminable disputes, litigation and disappointment. The portion of Country partially occupied is now so extensive that, unless the arrears of Survey are brought up, it will be almost impossible for Your Excellency to prevent the greatest irregularity and confusion, taking place in the distribution of Lands, the pernicious consequences of which might seriously affect the Peace and Prosperity of the Country for many years to come.

Irregularity
and confusion
anticipated in
distribution
of lands.

4. We cannot, therefore, we think, too strongly recommend the adoption of the most effectual measures for adding to the means

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Necessity for
division into
counties,
hundreds, and
parishes.

already placed at the disposal of the Surveyor General for bringing up this weighty arrear of Survey, as being an object of the greatest importance towards the regular settlement of the Country, and for enabling Your Excellency to give due effect to the beneficent views of His Majesty's Government.

5. The preliminary object next in importance for carrying into execution His Majesty's Instructions appears to be that the Commissioners, appointed for dividing the Colony into Counties, Hundreds and Parishes, and for making a valuation of all the waste and unoccupied Lands, should proceed in the prosecution of their important duties with every possible dispatch, so as to co-operate and keep pace with the demands for Land by *Sale and by Grant*.

6. The expediency of the operations of the Commissioners being forthwith commenced is sufficiently obvious; but it remains a question what County should first be proceeded with, and how the obstacles, which could not be foreseen or provided for by His Majesty's Instructions, may best be surmounted.

Survey of
county of
Cumberland to
be postponed.

7. With respect to the Counties, which merit the earliest attention of the Commissioners, it appears, from the Report marked B,* made to the Venerable the Archdeacon by the Surveyor General, dated the 29th August last, and by the return of ungranted Lands thereunto appended, that the whole of the waste Lands in the County of Cumberland consist generally of such barren rocky Tracts as to be of little or no value, and that the whole of such Lands, including those on which improvements have been made by the Crown, will rather fall short of than exceed one seventh of the extent and value of the granted Lands, and consequently will most, if not all of them, be required to form the Church and School Estate for that County. As it is, therefore, very improbable that any of those Lands will be applied for by Settlers, and as the natural boundaries of this County are unequivocally and distinctly defined by the Sea or by Rivers on all sides, we think its valuation and Survey is not of a pressing nature, and may for the present be deferred without inconvenience.

Boundary
between
counties of
Camden and
Argyleshire
to be defined.

8. The County of Camden has been the longest settled next to that of Cumberland; but, as the unappropriated Land in this County will not probably be more than sufficient to compleat what is required for the Church and School Estate, the labours of the Commissioners might for the present be confined to the fixing of the Boundary line between it and Argyleshire, as the lands appropriated to the Church and School Estate might afterwards be surveyed and valued, when the pressing demands for New Grants of Land should be satisfied.

* Note 97.

9. The Commissioners might, therefore, in the first instance, proceed with the Survey and valuation of Argyleshire, and afterwards with that of the new Counties,* bordering immediately on Argyleshire, and also with those on Hunter's River, as being all of them already partially settled, unless Your Excellency should feel authorised to give up for the benefit of Settlers the extensive Tracts of valuable Lands in the vicinity of Bathurst, from that to Wellington Valley, and to the West of the Macquarie River, in which case they should in preference first proceed with the Survey and valuation of that part of the Country, where their operations would meet with no obstructions from Settlements already formed, or from the natural difficulties of the surface, which presents to view a gently undulating Plain of great extent, and of which the Survey and valuation might consequently be carried on with more ease and celerity than would be practicable in any other known part of the Colony, and thereby put it in the power of the Commissioners and Surveyor's Department to Survey, Apportion and value a considerable Tract of desirable Country, equal to all the probable demands for Land, until the Survey and valuation of the other Districts, requiring more time and labour, should be finally accomplished. We have no doubt Your Excellency's information has already satisfied You of the inexpediency of occupying so extensive a tract of Country at a heavy expense, and unprofitably for the Crown, when its distribution, by sale or otherwise, would invite a highly respectable class of Settlers, and greatly promote the general interests of the Colony. After the Survey and valuation of so desirable a tract of Country, and of the several New Counties, before mentioned as already partially settled, the Surveyors and Commissioners might afterwards value and Survey the extensive tracts of fine pasture Country, lying about the source of Hunter's River and above Port Stephens, and from thence to Liverpool Plains and Bathurst, and from Hunter's River to the Hawkesbury.

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Proposals re
first surveys and
valuations.

10. The obstacles, which principally impede the Surveyor General and the Commissioners from proceeding in the prosecution of their important duties, and which require to be previously obviated or removed, appear, from the Surveyor General's Report, to be:—

Difficulties in
complying with
instructions.

1st. The difficulty or rather impracticability of complying with His Majesty's Instructions, as to setting apart the Church and School Estates in the settled Districts *in one continuous tract*, in consequence of the intervention of extensive barren tracts or of lands already settled upon.

* Note 98.

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Allocation of
lands for
clergy and
school estates.

2nd. The difficulty of fixing, in accordance with the Instructions, an equitable average value on the unappropriated Lands in the settled Districts, from the greater proportion of such Lands being of little or no value.

With regard to the 1st, it is to be inferred from His Majesty's Instructions that the occurrence of such a difficulty was anticipated, as it is therein provided that, when it is impossible to select the Lands for the Church Estate in *one continuous tract*, they may be allotted in two or more continuous tracts in the same County. We concur, therefore, with the Surveyor General in thinking that it is perfectly competent for Your Excellency, under these Instructions, to authorise, when necessary for the convenience of the Settlers and for the interests of the Church and School Estate, to set apart the Lands for that purpose in several separate Allotments in each County. We are persuaded that in many situations it might be found more advantageous for all the parties concerned to set apart one seventh of the Land in each Parish, as recommended by the Surveyor General; but, at the same time, we can see no objections to the Land destined for the said Estates being also reserved in *continuous tracts* in other situations, where no local difficulties or other obstacles intervene to prevent it.

We presume it might, therefore, be left to the judgement of the Commissioners, while engaged in fixing upon the Church and School Reserves, to report for Your Excellency's information in what Counties such local difficulties present themselves; and, on receiving Your Sanction with the advice of the Executive Council to that effect, they might in such case set apart one seventh of each Parish so situated for the Church and School Estate, or the Land for that purpose might be set apart in such other portions of greater extent as the Commissioners, with Your Excellency's approval, might consider the most advantageous. In making the various appropriations, directed by the Instructions, it must be sufficiently obvious to every Person, who has traversed this Country, that no general rule can be strictly adhered to without frequently making an unnecessary sacrifice of general or Individual Interests.

11. The course, above recommended, would we conceive be the best mode of obviating the 1st of the difficulties referred to.

Allotments for
churches and
schools.

Whilst adverting, however, to the subject of the Church and School Reserves, we respectfully beg leave to suggest that a sufficient portion of the Church and School land should be appropriated in each Parish for a Glebe, and the site of a Parsonage House for the Clergyman, and also for a Garden for the Schoolmaster with a Site for his House and School House, together

with a Site for the Parish Church and Church Yard surrounding it, in Country situations, or at a desirable and convenient distance, if the Church be situated in a Town. In all situations, the Allotments of ground for the Clergyman and Schoolmaster's accommodation and for the School House ought to be contiguous to each other, and as nearly as possible in the Centre or in the most populous part of the Parish, it being very important that the School House should in all situations be near the residence of the Clergyman, in order to its being placed under his vigilant superintendance.

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Allotments for churches and schools.

12. In his remarks on the Church and School Reserves in the 18th Paragraph of his Report, the Surveyor General draws the inference that the returning of the Purchase Money of Lands, in cases where the Purchaser produces sufficient proof that he has maintained a certain number of Convicts free of expense to the Crown, would be injurious to the sale of Church Lands. We are decidedly of opinion that the very reverse would be the consequence of the return of the purchase Money by Government, for the plain and simple reason that the Proprietors of Land, being by this means put in possession of an augmented Capital in ready Cash, would naturally be desirous to lay it out in purchasing the Church or other Lands contiguous to their own, and thus, by the increased number of Purchasers on the spot, a competition would be excited for the Purchase of Church Lands or any other for sale, which would inevitably encourage, instead of proving injurious to the sale of such Lands.

Effects of refunds of purchase money on sale of church lands.

13. With respect to the 2nd difficulty, that of fixing, agreeably to His Majesty's Instructions, an equitable value on the unappropriated Lands in each Parish of the settled Districts, in consequence of the greater portion of such Lands being of little or no value, we would beg to submit it as our opinion that the means of obviating this difficulty can best be determined upon, when its nature and extent shall have been accurately ascertained by the Commissioners on the spot, while actually engaged in making the Inspection and Survey of the Districts, where such difficulty presents itself.

Valuation of unappropriated lands.

The average value of the unappropriated Lands in each Parish of the settled Districts may be ascertained by two modes, either by estimating the average value of those Lands *separately*, or by striking such average from the aggregate value of all the Lands, located or unlocated within the Parish, making allowance for improvements on the Lands already granted; and, after having reported their Opinion to Your Excellency as to the average value ascertained, both according to the former and latter mode,

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we anticipate that Your Excellency will have little difficulty in deciding which method of fixing the average value ought to be preferred.

Proposed
variations in
valuation.

14. We would beg to remark that the fixing of one average value on all the Lands of each Parish, as contemplated by His Majesty's Instructions, might in some cases fall peculiarly heavy on the Grantee of Lands below an average quality; and we suggest, therefore, whether it might not be consistent with the solicitude evinced by His Majesty's Instructions for the Interests of the Settler that the Commissioners should be instructed to propose two or more average rates, according to a corresponding division of the quality of the soil, as the average value of Lands in those Parishes, where unusual inequalities of soil prevail and where local circumstances require such modification.

Necessity for
prompt action
by commission.

15. For the reasons stated, we are, therefore, decidedly of Opinion that the difficulties, adverted to as well as most others that might be stated, so far from rendering it advisable that the Commissioners should defer proceeding with the prosecution of their important duties, till those difficulties are removed, afford on the contrary the strongest additional reasons for promptitude in commencing them, as it can only be, by actual inspection and measurement of the Lands, and by exact information acquired on the spot as to the qualities and the relative situation and extent of the several kinds of soil, that difficulties of the nature described can be satisfactorily got rid of, and doubtful points cleared up and decided upon.

16. Your Excellency will no doubt feel satisfaction in remarking that, in the Opinion of the Surveyor General, there is nothing to prevent His Majesty's Instructions, so far as they relate to the Division of the Country into Counties, Hundreds, and Parishes being carried into full effect; and that the reservation, directed to be made in the 30th Paragraph* of the said Instructions, can be accomplished without any difficulty.

17. Having thus submitted such measures, as appear to us advisable to adopt for enabling the Commissioners and the Surveyor General's Department to proceed without further delay with the Survey and valuation of the Country, together with the course which presents itself to us as the best adapted for removing the impediments to their proceedings (which is not sufficiently provided for in His Majesty's Instructions), we further beg leave to recommend that every practicable means should be used to give to their operations efficiency and dispatch, to stimulate to exertion, and to ensure to the prosecution of such important duties the necessary degree of steadiness, perseverance

* Note 93.

and energy, so that, if practicable, the Survey and valuation may not only overtake, but keep pace with, and precede the demands for Land by sale and by Grant.

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18. It ultimately rests with Your Excellency to decide upon the mode best adapted for accomplishing these desirable objects. It is very obvious, however, that an adequate number of draftsmen, and of Assistant Surveyors, must be procured and employed in the execution of so extensive a Survey, in order that the making up of proper Maps or Charts of each County, Hundred and Parish, may be a simultaneous operation with that of the Survey and valuation. A Report also Monthly, or oftener when necessary, should be transmitted to Your Excellency by the Surveyor General and the Commissioners, specifying the progress they have made in surveying, valuing and apportioning the particular Districts or Counties, where they have been employed during the Month.

Employment
of draftsmen
and assistant
surveyors.

Reports to be
submitted.

19. Whenever they shall have completed the Survey and fixed the average value of the unappropriated Lands in any one Parish, they should forthwith transmit a separate report of the same to Your Excellency, along with a Chart of the Parish, divided into lots of one square mile each, and with a Schedule annexed to the Chart, pointing out and describing the natural and artificial Land marks, corresponding with the divisional lines on the Chart and with the number, marked on each lot of a square mile, in a manner so clear and distinct that the granting or sale of such Land may be easily made with reference to such Public Chart of the Parish, as directed in the 39th Paragraph* of His Majesty's Instructions.

Report on
completion of
survey and
valuation of
each parish.

20. It remains for us to submit the suggestions, we have to offer as to the course, which appears to us most advisable for the advantageous disposal of the Crown Lands; but, as the measures which we have felt it our duty to recommend for consideration, in this and our preceding Report, appear to us extremely urgent, we have deemed it right to submit them for Your Excellency's consideration with the least possible delay.

We have, &c.,

WILLIAM STEWART. J. T. CAMPBELL.
WM. LITHGOW.

[Enclosure No. 7.]

MEMBERS OF THE LAND BOARD TO GOVERNOR DARLING.

Land Board Office, Bent Street, Sydney,

Sir,

20th March, 1826.

1. With reference to the Report, which we had the honor of addressing to Your Excellency for consideration on the 11th instant, we now proceed to submit such further suggestions as

* Note 99.

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Recommendations re disposal of crown lands.

we have to offer as to the course, which appears to us most advisable to pursue in disposing of the Crown Lands by *Sale* or *Grant*, keeping in view the general principles, laid down in His Majesty's Instructions under the Sign Manual, and the remarks on their practicability, as contained in the Surveyor General's Report.

2. The great object aimed at in those Instructions, to which all others are held justly subordinate, is the regular settlement of the Country, consistently with the just rights of the Crown and the general interests and prosperity of the Settler; and, so long as our remarks are directed to the furtherance of that important object, we are not apprehensive they will be found irrelevant, and least of all that they will be viewed as comments wanting in respectful deference to the distinguished sanction, with which those Instructions are honoured, a deference which on the contrary we are most anxious to evince.

Procedure for disposal of crown lands.

3. In perusing the Instructions, we observe that two modes only are proposed for the disposal of Crown Lands; the first, by *Public Sale* to such Purchasers, as His Excellency may approve of, on payment of the full price within twelve Months after Purchase; and the second mode, by Grants *without Purchase* to Free Settlers in proportion to their Capital, but not exceeding 2,560 Acres to each, subject without exception to the payment of a Quit rent to the Crown, after the first seven years, of five per Cent. per Annum on the value of the Lands, so granted, as fixed and determined by the Commissioners.

Grants without purchase.

4. The greater urgency of deciding on the Applications, made by Free Settlers for Land *without purchase*, seems to claim priority of consideration for the mode of disposing of Crown Lands.

5. The mode of Application for Grants of Land without purchase, as prescribed in the 42nd and 43rd paragraphs* of the Instructions, and which require that the Applications should invariably be made according to a Printed Form, appears to us unobjectionable; and we have already submitted a suitable Form for the purpose, which has been approved of by Your Excellency.

6. The requiring that all Applicants for grants of Land should produce satisfactory evidence of their ability and intention to lay out in the cultivation and improvement of the Land applied for a sum equal to one fourth of its estimated value, we also consider in every way expedient, and the mode of obtaining evidence of the required Capital has also been provided for by the nature of the Form alluded to.

7. In apportioning, however, the extent of Land to each Applicant according to his Capital, it appears to us advisable, in order

* Note 91.

to avoid the division of Sections of square miles into inconvenient fractional parts, that each grant should consist of even portion of a square mile, and that no fractional part should consist of less than 80 Acres, or one eighth of a square mile, unless in the distribution of Lands in the immediate neighbourhood of Towns or Villages.

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Area of grants.

8. Untill a sufficient extent of Land has been surveyed and valued in advance for the location of free Settlers, it will be advisable that each Applicant should, as hitherto, be made acquainted with the extent of Land, to which he will be considered entitled, before he takes it up; and it would be convenient for this purpose to adopt as a general rule that every approved Applicant should be considered entitled to 640 Acres, or one square mile, for every £500 of his real Capital; and, in proportion for any greater or lesser amount, the extent of each grant, however, not to exceed 2,560 Acres, nor to be less excepting in the neighbourhood of Towns and Villages than 320 Acres as directed by His Majesty's Instructions.

9. As the price of stock of every description has fallen in the Markets here, since Mr. Commissioner Bigge left this Colony, and as it must continue to fall gradually still more, we consider the foregoing scale of the proportion of Land to capital, as more simple and more equitable than the one recommended by that Gentleman* and hitherto acted upon; according to which, the ratio of the extent of the Grant to the Capital diminishes in proportion, as the capital rises in amount; whereas it appears to us the reverse ought to have been the case, in as much as the result of all experience proves that an extensive farm may be cultivated with proportionably less capital than a small one.

Diminished
values of
live stock.

Recommendations by
J. T. Bigge.

10. Whenever it may be deemed proper to order a Grant of Land for a New Settler, before he has fixed on the situation, where he intends to take it up, we would recommend that he should be required to make a second application for permission to occupy it, describing where it is situated; and that all such Applications should be submitted for His Excellency's approval through the medium of the Surveyor General and the Land Board in the same manner, as primary applications for Land; so soon, however, as a sufficient portion of Country shall have been surveyed and valued in advance, a second Application of this nature will be altogether unnecessary, as in such case the Settler would at once be enabled to point out in his first Application the situation, where he would wish to take up his Land, when both the extent and situation of his Grant could be decided upon together, according to the rule laid down in His Majesty's Instructions.

Selection of
situation of
land grant.

* Note 100.

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Age limit for
applicants for
land grants.

11. Among the Applications, laid before the Land Board by the Surveyor General, there appear to be some for Children or Youths without any specification as to Age; and, as His Majesty's Instructions are silent on this point, it becomes necessary, to prevent the accumulation of fruitless Applications, that Public Notice should be given that no Person will be entitled to a Grant of Land, who has not arrived at a competent age to undertake its management, which we think ought to be limited to 18, if not to 21 years.

Regulations re
applications
for land.

12. The propriety of the suggestions, hitherto submitted, for regulating and deciding on the Applications for Grants without purchase will, it is believed, be readily admitted, and be found in no wise inconsistent with the spirit or Letter of His Majesty's Instructions.

We have now, however, to advert to some points in the Instructions, the modification of which appears to be of much importance.

Hardships due
to instructions
re grants
without
purchase.

13. On taking into consideration the Provisions for granting Lands *without purchase*, as contained in the 42nd Paragraph* of the Instructions, we cannot help being strongly impressed with the degree of hardship, which a rigid adherence to those Provisions would occasion to the Free Emigrant of moderate Capital.

14. By this Paragraph, the granting of Lands *without purchase* is limited to such, as having been surveyed and put up for Sale during six Months, might still remain unsold at the expiration of that term, a provision which would evidently leave no alternative to the Settler *without purchase*, but a choice of the very worst description of Land, which remained unsaleable in each Parish.

15. The inexpediency and hardship of excluding Free Settlers from receiving Lands *without purchase*, excepting under these restrictions, have been so ably and fully pointed out by the Surveyor General in his Report that any further reasoning to the same purport may be deemed superfluous.

16. We are indeed fully satisfied that, if no Lands, but those found *unsaleable*, are granted to such Settlers, they will find it impracticable to obtain any, excepting Lands of a very inferior description, which added to the delay, occasioned by waiting until Lands shall have been exposed to sale for six Months, would prove ruinous to their prospects, and would deter instead of attracting to the Colony a class of Persons, whose Emigration it is obviously good policy to encourage by conceding to them every fair and reasonable advantage.

17. We would, therefore, strongly recommend that approved Free Settlers of moderate Capital should be permitted, as hitherto,

* Note 91.

to select their Lands in any of the Districts, now partially settled, till a sufficient extent of unappropriated Crown Lands shall have been surveyed and valued in advance, when they might be limited in their selection to the Districts, thus previously prepared for location; or, if it should be considered inexpedient to allow them to make the selection in those Districts, where the Lands are intended to be offered for sale, we would in such case suggest that certain other Districts should be surveyed and set apart *exclusively for the benefit of such Free Settlers*, as may apply for Grants of Land *without purchase*, and that they should be allowed the right of selection, as hitherto, within the range of the Districts, so appropriated, instead of being obliged to accept of the inferior Lands, which might be found unsaleable in the other surveyed Districts, and be at same time subjected to the serious inconvenience of waiting, until it was ascertained whether purchasers could be found for the Land, so offered for Sale at the average price fixed by the Commissioners.

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Proposed
modifications
of procedure.

19. With the view, therefore, of protecting New Settlers from unnecessary delay and disappointment, we would respectfully recommend that a Government Notice should be occasionally published to point out the Districts, in which it would be optional for them to select their Lands; and we would further suggest that it be at same time made publicly known that the situation, which a Settler might select for his Grant, would *in every case be subject to Your Excellency's approval*; and that the Frontage of a Location, bounded by a River or other large stream or Body of Water, should in no case exceed one third of the mean length, or direction of the Location backwards from such River; and also that no Grant should include both sides of a River, without Your Excellency's special permission to that effect being previously obtained and Officially notified.

Lands available
for new settlers.

Water frontages
to grants.

19. With respect to the tenor of the Title Deeds of Land, granted *without purchase*, we would recommend generally that they should not be burthened with any unnecessary conditions. Restrictions of this nature tend more to diminish the value of the Land to the Possessor than to be of any real benefit to the Crown. If too onerous, they defeat the object in view, and serve only to excite ingenuity in contriving the means of evasion. We are in short decidedly of opinion that an unincumbered, unimpeachable title is the most powerful incentive to the improvement of Land.

Title deeds to
be free from
unnecessary
restrictions.

20. We, at same time, consider the Proviso or condition, required by His Majesty's Instructions to be inserted in all Grants *without purchase*, to the effect that the Grantee shall be bound

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Conditions *re*
cultivation and
improvement.

Delivery of
title deeds.

Reservation of
right to make
public roads ;

and of
indigenous
timber.

to prove to Your Excellency's satisfaction that he has expended, within seven years from the time of receiving his Land, a sum equal to one fourth part of the estimated value in its cultivation and improvement, to be so proper and expedient that no bona fide Settler can with reason object to it. We would, however, recommend the introduction of an additional provision in all such grants, that, whenever satisfactory proof of such expenditure shall be brought forward at any period after twelve Months from the entry to possession, the Settler in such case shall have an immediate right to claim and receive his plenary Title Deeds to the Grant, without being obliged to await the expiry of the term of seven years, it being natural that every Settler should be extremely anxious to get early possession of complete Title Deeds for testamentary or other purposes.

21. We fully concur in opinion with the Surveyor General that a general clause should be inserted in the Title Deeds of every Grant of Land without exception, whether by purchase or otherwise, reserving to the Crown a general right to make Public Roads through all such Lands in any direction, which may be decided upon by competent Authority, without the Proprietors of such Lands having any right to claim compensation on that account. We at the same time fully approve of what he states to be the present practice that, on surveying and measuring off New Grants of Land, whether by purchase or otherwise, an extra portion of ground, over and above the number of Acres actually granted or sold, ought in every instance to be allowed in addition to each Grant, as an anticipated equivalent for the extent of surface, which may at any future period be required for the formation of Public Roads, such extra number of Acres, so allowed, to be in proportion to the extent of the Grant, say at the rate of $2\frac{1}{2}$ Acres for every 100, contained in the Original Grant.

22. We also consider it equally desirable, if not indispensable, that a similar general clause should be introduced into the Title Deeds of every Grant, whether by purchase or otherwise, that Persons, acting under the Authority of Government, should have the power of cutting down and using for the construction of Roads and Bridges, or other Public Works, whatever quantity or description of indigenous Timber may at any time be required for such purposes, without the Proprietor of the ground having any right to claim compensation for such Timber.

23. With the exception of the foregoing conditions, and of the indispensable stipulation as to the amount of Quit Rent, redeemable at any time within twenty years at the rate of twenty years purchase, we would recommend that the Title Deeds of

Lands, granted *without purchase*, should be left free of any restriction or limitation whatsoever; the total exemption from which would not only enhance the value of the Lands, but would operate as a powerful inducement to exertion in improving them.

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24. In proceeding to offer some remarks on the plan, pointed out in His Majesty's Instructions, for the disposal of the Crown Lands *by sale*, we are fully sensible of the great importance of rigidly adhering to the general principles, on which they are founded; but we at same time feel it a Public Duty to suggest some practical modifications in the detail, which appear to us essentially necessary for carrying those Instructions into complete effect. Before we enter, however, upon the particular features of the plan, we would beg to make some preliminary observations, which may serve to explain the nature of the modifications, which we shall have to submit.

Disposal of
crown lands
by sale.

25. We fully coincide in opinion with the Surveyor General that the unauthorised occupation of considerable tracts of the finest parts of the Country, together with the extensive issue of Tickets of Occupation, which has taken place, will prove a great obstacle to the *advantageous sale of the Crown Lands*, unless speedily removed. A considerable number of the Old Settlers and of other Individuals have lately possessed themselves of very extensive Tracts of the most valuable parts of the Country *under the sole cover of Tickets of Occupation*, and in numerous instances *without receiving any Authority whatever* to warrant their occupying those Lands. It is worthy of remark also that the Persons, who have thus possessed themselves of the most select portions of the Country, pay no Quit Rent to Government, nor are they subject to any stipulations or restrictions whatsoever. Should they be permitted, therefore, to remain for any length of time in the undisturbed possession of those fertile tracts, it would inevitably impede, *in a very serious degree*, both the *regular settlement and sale of the Crown Lands*; and it might ultimately be found difficult to remove them without involving the future Grantees and Purchasers of those Lands in interminable disputes and Animosities, which might eventually disturb the Peace and harmony of the Colony.

Obstacles
created by issue
of tickets of
occupation.

26. Among the foregoing class of Persons, however, as well as among the other various descriptions of Character in this Colony, there are no inconsiderable number of Speculators and other designing Individuals, who (unless prevented by the vigilance of Government) would be ready to avail themselves of every opportunity to purchase up all the richest vallies and the principal tracts of the finest alluvial soil, within a moderate distance

Necessity for
prevention of
speculation
in land.

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Necessity for
prevention of
speculation
in land.

of the Towns and other settled portions of the Country, to the exclusion of the more desirable and industrious class of Settlers; and, if not counteracted by measures of precaution, the designs of those persons would be greatly facilitated by the intimate local knowledge, which they have acquired of the interior Country. And, if they should succeed in purchasing up the scattered portions of the most fertile land, they would, thereafter, have all the intervening wastes completely at command as, when separated from the more fertile tracts, those wastes would be of little or no value, unless as Commons or Cattle runs to the Occupants of the adjoining Lands of superior quality.

27. Monopolies of the richer tracts of Land would thus render the remaining portions of those Districts, over which they extend, altogether unsaleable and unprofitable, even as Grants to Settlers *without purchase*; a result which would, in the most direct manner, defeat the beneficent views of His Majesty's Government, whose great object evidently is to apportion the Lands of the Colony in the most impartial manner, and in Allotments of moderate extent, to those classes of industrious and respectable Settlers, who would either reside on their Properties in Person or entrust the management to Relations or Overseers of respectable Character.

Precautions
against
monopolies
of land.

28. It is quite evident, from the Regulation, so pointedly laid down in His Majesty's Instructions, that no Individual shall be permitted to purchase more than 9,600 Acres, that Government have clearly foreseen the pernicious tendency of monopolies of Land, and were fully sensible of the importance of counteracting them by measures of precaution and vigilance. In order, therefore, to defeat the views of Monopolists, and at same time give full effect to the intentions of Government, we would beg leave to recommend the adoption of the following Regulations, the Spirit of which is specifically sanctioned by His Majesty's Instructions, Vizt.

Regulations
proposed
re sale of
crown lands.

1st. That no Sale whatever of selected portions of Land should be permitted, until they shall have been previously surveyed and valued, and afterwards advertised for Public Sale in the manner, prescribed in the Instructions under the Sign Manual.

2nd. That no Individual should be allowed to purchase Crown Lands, without having previously obtained permission in writing from His Excellency, with the advice of the Executive Council, specifying the number of Acres for which such Individual is allowed to Tender.

3rd. That the Regulation laid down in His Majesty's Instructions, which prohibits any Individual from purchasing more than 9,600 Acres, shall be rigidly enforced, and that no proprietor among the present Landholders in the Colony, who is already possessed of more than 20,000 Acres, shall be allowed, under any pretence whatever, to make a further purchase of Crown Lands.

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Regulations
proposed
re sale of
crown lands.

4th. That, whenever the Commissioners and Surveyor General shall have completed the Survey and valuation of a Parish, and shall have transmitted to Your Excellency their Official Report, along with the Public Chart of such Parish, divided into lots of a square mile each, and with the prescribed Schedule annexed for reference, a Proclamation should be inserted in the Official Gazette notifying the number of Allotments *for Sale*, and annexing the Schedule to shew the extent and boundaries of the Parish, and of each lot, as well as the average price of the Land for sale, the Chart and Schedule being at same time publicly exhibited at the Office of the Surveyor General, and in duplicate at the Colonial Secretary's Office.

5th. That as the most impartial and least unexceptionable mode of receiving offers for the purchase of Land, thus advertised for Sale, *sealed Tenders from such Persons only, as had previously obtained Your Excellency's permission to purchase*, should be addressed under Cover to the Colonial Secretary, and marked "Tender for Land"; which should be opened on the first monday of every Month in his presence, and that of the Land Board, whose duty it would be in such case to make out a List of all such Tenders and submit the same for Your Excellency's decision.

29. The foregoing Regulations, we presume to be well calculated for securing an impartial and regular sale of the Crown Lands (an object of unquestionable importance), while at same time they will be found in perfect accordance with His Majesty's Instructions.

30. With respect to the condition, however, which by these Instructions limits the term for payment of the purchase Money of Crown Lands to twelve Months, we fully concur with the Surveyor General in Opinion that both the interests of the Crown and of the Settler obviously require a modification of this provision.

Provision for
payment of
purchase
money.

The payment of the purchase Money within so short a period of time cannot be an object of any importance to Government; but it would materially injure the interests of the Settler, and

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Provision for
payment of
purchase
money.

impede the general improvement of the Country, it being self evident that the advance of too large a proportion of Capital for the purchase of Land would in an equal ratio diminish the means of improving and stocking it.

31. The extension, therefore, of the period for receiving payment of the purchased Money would prove an important benefit to Settlers of moderate capital.

It would enable a class of people, whose industrious habits, practical knowledge and personal superintendence of their Farms render by far the most eligible and profitable occupants, to enter into competition with the opulent capitalists, and would thus bring them forward as a powerful check to the monopolies of Speculators and Land jobbers, so justly deprecated as injurious to the regular settlement of the Colony.

Proposed
alterations
in method of
payment.

32. We would, therefore, strongly recommend an extension of the period for paying up the purchase Money of Crown Lands, as a measure which would materially benefit the Settler and accelerate the settlement of the Country, without trenching upon the just rights of the Crown; various modes will readily present themselves, by which payment of the price might be rendered easy to the purchaser.

1st. He might be required to pay down a deposit of one fifth of the purchase Money, and furnish satisfactory notes of hand for the remaining four fifths, payable by equal Instalments at intervals of one year each, the last Instalment being thus made payable at the end of the fourth year, with an additional sum for Interest on the Instalments of 10 per Cent. on the amount.

2nd. The purchaser might be called upon to pay down a deposit of one fifth part of the price, and to furnish satisfactory notes of hand for the remaining eight tenths, payable by equal Instalments of 10 per Cent. each, at intervals of one year: the last Instalment being thus made payable at the expiration of the eighth year, with an additional sum for Interest on the Instalments of 20 per Cent. on the Amount.

33. But, as the foregoing plan of paying up the purchase Money by Instalments might be considered too complicated in its details, we are induced to recommend the following modifications of His Majesty's Instructions, as in our opinion the most simple and the best calculated to encourage the purchaser, and at same time to secure the interests of the Crown, vizt:—

3rd. That, instead of paying down the whole purchase price of Land within twelve months from the date of the Grant,

it should be optional with the purchaser *only* to pay down, at the period of purchase or within twelve months thereafter, *one half of the purchase Money*, upon which he should receive the Title Deeds of his Land, made out in the same form, and holding of the Crown in fee simple by the annual payment of a pepper-corn, as quit rent, in the same manner, as if he had paid down the whole purchase price at once: on his lodging with the Public Officer, appointed for that purpose, *a maiden Mortgage on the Land so purchased* as a security to Government for the payment of *the other half*, and bearing an Annual Interest of 5 per Cent. on the amount: such Mortgage to be at any time redeemable at the option of the Mortgagee by payment of the principal and interest remaining due, and to be also transferable after ten years, in order to give Government the power to dispose of its interest in such Mortgage, if not redeemed within that period.

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Proposed alterations in method of payment.

34. The great advantage to the purchaser of Land by this mode of payment would be the extension of the period for the ultimate payment of *half the price*, until such time as he found it convenient: subject *only* to the Annual payment of 5 per Cent., as Interest on the amount of his Mortgage: whereas, if he borrowed an equal sum from the Money lenders of the Colony, he would have to pay them an enormous interest, which would soon sink the value of his Land: and while a numerous Body of respectable persons with moderate means would by this plan be induced to compete for the purchase of Land, the maiden mortgages, granted to them by Government, could be immediately registered: and the registration, according to the existing Law* in the Colony, would give to it a preference over all other debts, which might thereafter affect the Land, thereby affording the best possible security for the amount, while at same time the Government would at any period, after the lapse of ten years, have the power of realizing the whole amount by the public sale of such transferable Mortgages to Capitalists, who would soon find it their interest to purchase up securities of so unexceptionable a nature.

Advantages of proposed new practice.

35. Before closing our remarks on this very important subject, we consider it our duty to bring under Your Excellency's Notice the Instructions, issued by Your Predecessor (the late Governor) to the Surveyor General, marked DD† in the Appendix to his Report; and by which it will be seen that the duty of receiving and collecting the Quit Rents, and all other monies paid by the various purchasers as the price of Crown Lands, has been devolved on that Public Officer, to be paid over by him every

Collection of quit rents by surveyor-general.

* Note 101. † Note 102.

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Collection
of quit rents
by surveyor-
general.

Proposed
appointment
of collector of
land revenue.

Return of
land revenue.

Separation of
commissariat
department in
Tasmania from
government
of N.S.W.

quarter to the Colonial Treasurer. Entertaining as we do the most flattering opinion of the strict honor and probity of that respectable Officer, we would most willingly forbear offering any remarks on the subject; but, with so many other Official and highly responsible duties to perform, and which so incessantly press upon his attention, we would consider it a dereliction of Public Duty on our part, if we omitted to bring under Your Excellency's Notice that this mode of collecting the Land Revenue of the Colony is in direct opposition to the established practice throughout every part of the British Empire.

The Officer holding the situation of Surveyor General, instead of being the Collector himself, is almost *the only*, and ought to be *the most efficient check* on the Collector of the Land Revenue; and, from its increasing extent in all its branches by the sale of Crown Lands and yearly receipt of Quit Rents, we respectfully suggest that it will be found expedient to appoint a Public Officer for the special purpose of collecting the Land Revenue.

And, in such event, it will fall to be the duty of the Surveyor General to make out in triplicate, and to send in a Quarterly Return or Account of the produce of the Sales and of the Quit Rents of all the Crown Lands, payable during each Quarter, One Copy to be sent in to Your Excellency, a Duplicate to the Colonial Treasurer, and a Triplicate to the Collector of the Land Revenue for his guidance.

We have, &c.,

WILLIAM STEWART. J. T. CAMPBELL.
WM. LITHGOW.

GOVERNOR DARLING TO SECRETARY HARRISON.

(Per ship Lady Rowena.)

Sir, Government House, Sydney, 22d July, 1826.

It being necessary, in consequence of the separation of Van Diemen's Land from this Government, that the Commissariat Establishment of that Colony should be distinct and independent of this, I have taken upon me to make an Arrangement to that effect, of which I hope my Lords Commissioners will be pleased to approve.

The measure appeared highly expedient as tending to the simplification and early settlement of the Public Accompts, and in fact became necessary as the Colonies were no longer connected.

You will perceive by the enclosed order, which I issued on the occasion, that I have provided for the duties of the Account Branch by removing Dep'y Ass't Comm'y General Boyce to Van

Diemen's Land, who had been employed here under Mr. Lithgow. I beg leave also to transmit the Copy of the Report of a Board, which I appointed with a view of ascertaining whether the measure, I had in contemplation and have adopted, appeared in any respect objectionable.

I have, &c.,

RA. DARLING.

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22 July.

Separation of
commissariat
department in
Tasmania from
government
of N.S.W.

[Enclosure No. 1.]

GENERAL ORDER, No. 51.

1st July, 1826.

1st. It appearing that the simplification and speedy settlement of the Public Accounts would be materially promoted by rendering the Commissariat of Van Diemen's Land a distinct Establishment, that Island being no longer dependent on this Government, the Lieut. General has in consequence been pleased to direct that, from the 25th of September next, the Commissariat Establishment at Van Diemen's Land shall be considered as separate and distinct from the Commissariat of New South Wales.

General orders
re separation of
commissariat
department in
Tasmania.

2d. Colonel Arthur will, therefore, be pleased to order the necessary Boards of Survey to enable Assistant Commissary General Moodie to make up his Accompts at the close of the above period, which he will forward, as soon as they are prepared, to Dep'y Com's'y General Wemyss; and he will assume the charge of the Commissariat of Van Diemen's Land from the above date, as a distinct Establishment. Mr. Moodie will, thereafter, correspond with the Lords Commissioners of the Treasury under the direction of Lieut. Governor Arthur, instead of addressing himself to the Dep'y Com's'y General in this Colony as Head of the Department, as hitherto.

3d. In order to enable Mr. Moodie to conform to the Regulations of the Treasury, Dep'y Com's'y General Wemyss will furnish him with Copies of all orders and instructions, which may be necessary for his guidance.

4th. It will be necessary under the above arrangement that the Account Branch also form a distinct Establishment, the same as the Stores and Provisions.

5th. The L't General desires in consequence that Dep'y Ass't Commissary General Boyce will prepare to take charge of that Branch of the Service in Van Diemen's Land, and Ass't Com's'y General Lithgow will furnish him with the necessary Instructions.

[Enclosure No. 2.]

REPORT of Board in reference to the Commissariat Department in Van Diemen's Land.

Report re
commissariat
department in
Tasmania.

WE, the undersigned, having assembled in pursuance of Instructions, contained in a Minute of His Excellency The Governor, to consider the expediency, now that Van Diemen's Land forms a separate Government, of rendering the Commissariat of that Colony independent of the Government of New South Wales, whether there appears any objection to the proposed arrangement

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Report *re*
commissariat
department in
Tasmania.

that the accounts and the Commissariat Establishments of the two Colonies should in future be kept totally distinct from each other, and whether, under the circumstances of the case, it would not tend to the convenience of the Public Service, beg leave to report that, after considering the subject, the following are the principal objections to the measure, which occur to us:—
Vizt.

1. The Commissariat of the two Colonies being no longer superintended by one Officer, information as to the wants of both, the best means of supplying them most advantageously, and of bringing the surplus produce of any one district to supply deficiency in any other of either of the Colonies, cannot be so readily and fully obtained nor so promptly acted upon, as may now be done by the Officer at the Head of the Commissariat in both Colonies.

2. If Uniformity in the management of the Department in both Colonies is of importance, we conceive the present is better calculated to produce it than the proposed arrangement.

3. By the separation of the Department in the two Colonies, the Public must lose the benefit, which results from the Administration and accounts of the Department at Van Diemen's Land being subjected, as hitherto, to the revision and control of the Governor of New South Wales and the Officer at the Head of the Commissariat there, which, when the distance from the Mother Country is considered, is an object of some consideration.

In other respects, we are of opinion that the rendering the Commissariat of the two Colonies distinct and independent would be in every way expedient for the following, among other reasons:—

This measure would greatly relieve the Officer in charge of the Department at Sydney, as well as the Officer in charge of the Account Branch, of a portion of their weighty and extensive duties; Simplify the accounts of both Stations; and render it practicable to dispatch them at earlier periods to England; and, as the different periodical returns and accounts would then be transmitted direct from Van Diemen's Land to England, whenever an opportunity offered, as well as those of New South Wales from Sydney, without the delay of previously forwarding the former circuitously to Head Quarters, or delaying to transmit those of New South Wales, till those for Van Diemen's Land have been received, by which means the authorities at home would be more promptly put in possession of every necessary information in regard to the Commissariat Expenditure and arrangements of both settlements.

In this view, the measure would be obviously beneficial, particularly when it is considered that the communication between the two Colonies is at times uncertain and irregular, intervals of two to three Months sometimes occurring without an opportunity for conveyance from one to the other.

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commissariat
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Tasmania.

The productions of New South Wales and Van Diemen's Land being more dissimilar than might be supposed from their Geographical distance, and the local Regulations for the Government of Convicts, as well as others, connected with the supplying of Rations to those and other Individuals in the two Colonies, differing in many particulars, it not unfrequently happens, under the present arrangement, that general Regulations decided upon at Sydney, by the time they reach Van Diemen's Land, are found to be little adapted to the circumstances of the Colony, at the time they are received, and sometimes totally impracticable.

This would be remedied by the proposed measure, as it would leave the Commissariat Officer in charge at Van Diemen's Land to adopt, under the sanction of the Governor there, the Arrangements best suited to the actual circumstances of the Colony, and to vary them, as occasion might require, without waiting for Instructions from Sydney, which, when received, in consequence of a new change of circumstances, might sometimes be found to interfere or clash with new measures, which such change might have rendered highly expedient to adopt.

By the Commissariat at Van Diemen's Land being rendered distinct and independent, a system of management, better adapted to the circumstances and resources of each Colony, and more satisfactory and complete in every respect, could be introduced; the want of which system has been most seriously and pressingly felt by almost every Commissariat Officer, who has served in these Colonies, and which has been the occasion of the greatest embarrassment being experienced in making up the Provision and Store Accounts of the Department.

We are the more inclined to recommend the separation referred to from the Officer in immediate charge of the Commissariat at Van Diemen's Land having, since the date of Deputy Commissary General Wemyss's recommendation to that effect on the 1st of June, 1821, confirmed by the Right Honorable the Lords Commissioners of His Majesty's Treasury, as signified in Mr. Harrison's Letter of the 19th January following, drawn Bills on His Majesty's Treasury, and communicated directly with their Lordships respecting them with much public advantage, and from understanding the Commissariat of Canada and Nova Scotia, Colonies similarly circumstanced in respect of the relative

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Report *re*
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authority of the Governor of each, as New South Wales and Van Diemen's Land, are distinct and independent, the one from the other.

We have thus briefly and candidly stated what has occurred to us as objections to, and reasons in favor of the proposed arrangement, and beg to leave the decision as to whether the one or the other preponderates to the better judgement of His Excellency The Governor.

In stating these, we have assumed that, in case of the separation being directed, a Branch of the Commissariat of Accounts, independent of that Department in New South Wales, will also be sent to Van Diemen's Land, as notified in His Excellency's Minute, which we consider to be in every way desirable and expedient; and we have only further to submit that, should His Excellency decide on the Separation alluded to, it might be desirable that it should not have effect 'till the 25th April next, to allow sufficient time for carrying the various instructions, with which it would be necessary to furnish the Officer in charge of the Commissariat at Van Diemen's Land, on his being instructed to correspond direct with His Majesty's Treasury, as well as the Officer, who may be appointed to the charge of the Account Branch.

W. WEMYSS, D.C.G.

A. MOODIE, A.C.G.

WM. LITHGOW, A.C.G. of Acs.

Sydney, 31st January, 1826.

GOVERNOR DARLING TO EARL BATHURST.
(Despatch No. 44. per ship Lady Rowena.)

23 July.

Issue of small
notes by banks
and payment
in dollars.

My Lord, Government House, 23rd July, 1826.

1st. Having understood that the Colonial Banks had issued Notes* of a small amount (of five and ten shillings), and considering that this measure would defeat the object proposed by His Majesty's Government in sending out British Silver Coin, and prove otherwise injurious by extending the circulation of paper, I judged it advisable to submit the matter to the Executive Council, as likewise the circumstance of the Customs Dues and Debts to Government being payable in Dollars, in order that I might be assisted by the opinion of the Council as to the expediency of a legislative enactment to give more complete effect to the Instructions of Government.

2nd. The enclosed Copy of a Minute, which I submitted to the Council, will explain the view I took of the matter; And the measures proposed being considered highly expedient, a Bill was laid before the Legislative Council and an Act, of which the enclosed is a Copy, has in consequence been passed.

Statute passed.

* Note 103.

3rd. I have much satisfaction in stating that the measure has been approved by all parties, and that the Directors of both the Banks, and the Merchants generally, have evinced every desire to co-operate with the Government in establishing a Sterling Circulation in the Colony, which it is expected will be completely effected in the course of a Couple of Months.

1826.
23 July.

Popular
approval
of measure.

4th. In bringing this Act under Your Lordship's Notice, I am bound to point out that it is not altogether conformable to the Instructions, under the Sign Manual, the 11th Clause* of which concluding as follows:—

Deviation
from royal
instructions.

“nor propose the enactment of any law, repealing any law passed by the said legislative Council, whether the same has or has not received our Royal Approbation, unless you take care that there be a clause inserted therein, suspending and deferring the execution thereof until our pleasure shall be known concerning the same.”

5th. If the Instructions had, in this case, been strictly attended to, the measure, which is considered of importance, could not have been carried into effect; Whereas the deviation cannot possibly be injurious. I am therefore induced to hope that Your Lordship will be pleased to sanction the proceeding under the circumstances stated.

6th. I avail myself of this opportunity of informing Your Lordship, in reference to my Despatch No. 32, that the New South Wales Bank has not had occasion for any pecuniary assistance from the Government; and I am happy to think that the measures, which were adopted, will probably render it unnecessary.

Pecuniary
assistance not
required by
bank of N.S.W.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

MINUTE BY GOVERNOR DARLING.

It appears necessary, in order to carry into effect the Instructions of His Majesty's Government relative to the circulation of the British Coin, that all Dues and Debts to Government should be paid in Monies of a Sterling Denomination.

Necessity for
circulation of
British coin.

It has been notified, in obedience to those orders, that all contracts and engagements, entered into by Government, will be paid in British Coin, tho' it is to be observed that Government receives only Dollars.

If Government continue to pay all contracts in British Money, and take Dollars, it will soon be without British Money, as the Banks will collect it in order to encrease the circulation of their own Notes. It may be said in answer to this that such persons, as want Bills, will insist upon the Banks exchanging the Coin for their own Notes. Be it so. But this will not promote the

* Note 104.

1826.
23 July.

circulation of the Coin, when paid to the Commissary for Bills; it will be locked up in his Chest, until he has occasion to pay it away, when it will again be immediately collected by the Bankers.

Measures
proposed.

The best and indeed only means, that I can discover of insuring its being kept in constant circulation, is to prevent, by an Act of the Legislative Council, the Colonial Banks from issuing Notes under (20s.) Twenty Shillings Sterling; and this restriction is desirable on every account. The necessity, which every one will feel, when Dollars are considered only as Bullion, to possess Change, will keep the British Coin in circulation. Those, who have Bank Notes in their possession and have occasion for smaller sums or Change, will demand from the Bank Coin in exchange for their Notes, so that the Banks will find it impossible to hoard or retain the Coin.

It, therefore, appears necessary, in furtherance of the views of Government, that an Act should be passed to restrict the Colonial Banks from issuing Notes for a smaller sum than (20s.) Twenty Shillings Sterling, and that Government should require the payment of all Dues and Debts to the Public being made in Money of Sterling Denomination.

RA. DARLING.

3d July, 1826.

[Enclosure No. 2.]

[*This was a copy of the statute, 7 George IV, No. III, as published in the "Public General Statutes of New South Wales," with the prefix and endorsements noted on page 454.*]

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 45, per ship Lady Rowena; acknowledged by Earl Bathurst, 3rd December, 1826.)

My Lord,

Government House, 23rd July, 1826.

1st. I have the honor to report to Your Lordship that the first Division of the Royal Veteran Companys has arrived under Captain D'Arcy, and that I am preparing to send that Officer with his Company to Van Diemen's Land, where I propose it shall be stationed. The two other Companies will be retained for the service of this Government.

Arrival of
division of
veteran
company.

2nd. I take this opportunity of stating, for Your Lordship's information, that the Services of the Mounted Police are very important. The Detachment at Bathurst has lately apprehended Seven more Bushrangers with a Number of Horses, Cattle and other Property, which they had stolen and were carrying off to the interior.

Services of
mounted police.

The Military Districts are now pretty well arranged, and, as soon as the Second Division arrives of the Veteran Companies, I shall distribute the Men so as to complete the arrangement, which I trust will prove effectual. Generally speaking, the Men, who abscond, are apprehended in the course of four or five Days, except in the Bathurst District where, from local circumstances, their Apprehension is more difficult. I have little doubt that the activity of the Troops and the Police and the examples, which from time to time are made (two more Bushrangers having been executed lately), that the disposition, which has hitherto existed to a predatory life, will be essentially Checked, if not completely put down.

1826.
23 July.

Military
districts.

Suppression of
bushranging.

I have, &c.,

RA. DARLING.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Speke; acknowledged by Governor Darling,
29th January, 1827.)

Sir,

Downing Street, 24th July, 1826.

24 July.

In transmitting to you the Copy of the enclosed letter from Mr. Guilding, who intends to proceed to New South Wales for the purpose of encouraging the growth of Indigo, Cotton and other Tropical Plants, I am desired by Earl Bathurst to request your protection to Mr. Guilding and that you will afford to him every reasonable facility in the execution of his undertaking.

Recommend-
ation of
J. Guilding.

I am, &c.,

R. W. HAY.

[Enclosure.]

THE MEMORIAL OF JOHN GUILDING.

Memorial of
John Guilding.

To The Right Honble. Earl Bathurst, K.G., Secretary of State
for the Colonies, etc., etc., etc.

My Lord,

From the well known Zeal with which Your Lordship takes so particular an interest in the welfare and prosperity of His Majesty's Colonies under your authority, I have taken the liberty of addressing you on the subject of my intended settlement in the temperate climate of N. S. Wales.

I have for the last twelve years followed the profession of a Planter and Cultivator of Tropical productions in the West Indies, to the perfect satisfaction of every one, who has employed me on their Properties, as I can prove by letters in my possession. The encreasing colonization of N. S. Wales has induced me to make many personal sacrifices for the purpose of repairing to England, and soliciting from Your Lordship

1826.
24 July.
Memorial of
John Guilding.

permission to extend my cultures to that Colony; the only favor I have to ask is the countenance and protection of the local Government. I have brought to England with me a choice collection of seeds, preserved in waxed papers, consisting of every variety of valuable plants that are cultivated within the Tropics: those, however, I wish chiefly to propagate are Indigo, Coffee and Cotton, in which I have the most sanguine expectations of success; and, provided I meet with the encouragement I flatter myself I deserve, my best exertions shall be used to render N. S. Wales (before long) one of the most valuable Colonies under the British Crown.

I have, &c.,
JNO. GUILDING.

4 Little Charles Street, Westminster,
21st July, 1826.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 46, per ship Lady Rowena; acknowledged by Earl Bathurst, 20th December, 1826.)

My Lord, Government House, 24th July, 1826.

Commutation
of death
sentences.

I have the honor to Report that Thomas Watkins, William Bateman, William Hathaway, John Boyd and Henry Drummond, who had been Capitally Convicted at the late Trials by the Criminal Court and Sentenced to suffer Death, have, with the advice of the Executive Council, been reprieved, and their Sentences commuted for Transportation to Norfolk Island and hard labour in chains during their natural lives, which I beg leave humbly to recommend to His Majesty.

I have the honor to enclose, for Your Lordship's information, an Extract from the Minutes of the Proceedings of the Executive Council in the above cases.

I beg to state that it did not appear that the Acts, committed by these Individuals, were attended with any circumstances of an aggravated nature; and, Boyd and Drummond being Young, they were considered by the Council more particularly as fit objects of His Majesty's Clemency.

These considerations and the example of their death being less necessary at this Moment from the circumstance of four Criminals, who were tried at the same time, having been executed on this occasion, induced me to concur in the recommendation of the Council, and to reprieve them until His Majesty's pleasure shall be known.

I have, &c.,
RA. DARLING.

[Enclosure.]

1826.
24 July.Minutes of
executive
council *re*
commutation
of death
sentences.

EXTRACT from the Minute of the Executive Council in the Case of the Undermentioned prisoners.

Thomas Watkins, William Bateman, William Hathaway.

THE Prisoners were tried and Convicted of High Way Robbery on the Parramatta Road on the 14th of May last.

It appeared in Evidence that one Boyce was going to his Master's House on the Road to Parramatta, where he was stopped by the Prisoners, who robbed him of his Hat, Jacket, Waistcoat, and Handkerchief.

On the 19th of June, Sentence of Death was passed on the Three Prisoners.

His Honour The Chief Justice read the Notes of the Evidence, he took on the Trial; and, under all the circumstances of the Case, it appeared to the Governor in Council that the Sentence of Death should be Commuted to Transportation to Norfolk Island, and Hard Labour in Chains for the period of their natural lives.

EXTRACT from the Minute of the Executive Council in the Case of John Boyd and Henry Drummond.

THE Prisoners were convicted of stealing Sheep and Pigs, belonging to the King, from the Penal Settlement at Moreton Bay on the 13th of last December.

It appeared in Evidence that, on the 13th of December, the two Prisoners, who were entrusted with the Charge of the Stock at Moreton Bay, absconded from the Settlement, and drove away the Pigs and Sheep along with them. They were afterwards traced, but not Apprehended.

On the 18th of January, the Prisoners were found hovering about the Settlement, where they had returned, as appeared from Circumstances, as well as their own Confession afterwards, for another Supply of Stock.

At the trial, the Prisoners stated that their Confession had been excited by the hope of Clemency.

The Jury however found them Guilty, and,

On the 19th of June, Sentence of Death was passed upon both of the Prisoners.

The decision of the Council in the above case was deferred, until it should be ascertained for what Crimes the Prisoners had been Transported to the Penal Settlement at Moreton Bay.

On reviewing the circumstances of the case of John Boyd and Henry Drummond, the Council, finding there was no remarkable

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atrocities in the Conduct of these Young Men, recommended that their Sentence should be commuted to Transportation to Norfolk Island and Hard Labour in Chains for life.

A true Extract:—H. DUMARESQ, Clerk of the Council.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 47, per ship Lady Rowena; acknowledged by Earl Bathurst, 12th December, 1826.)

My Lord, Government House, 24th July, 1826.

Payments of
superintendents
by percentage
on produce.

1st. Considerable difficulty and embarrassment having been experienced from the System of paying the Superintendents and Persons, employed at the Agricultural Stock and other Establishments, by means of a per Centage on the Produce, I have been induced to discontinue that System, and do myself the honor to enclose, for Your Lordship's information, a Copy of a Government Notice, which I have issued to that effect.

Agreement
made with
commandant at
Wellington
valley.

2nd. It will be proper in this place to instance the claim of Lieut't Simpson, on the retired List of the Army, who was sent about three Years since to Wellington Valley with a few Convicts for the purpose of establishing a Farm. His Instructions stated that he would be remunerated by an allowance of (£4) Four Pound a head for every Man he might be "able" to maintain out of the Wheat produce of the Farm. He has in consequence made a Claim to the Amount of nearly (£4,000) Four Thousand Pounds as the Balance due to him, and which, as he persisted in his demand, I was under the necessity of submitting to the Executive Council. The Council were unanimously of opinion that the intention must have been to grant the allowance for such Convicts only, as he might actually maintain, and which is borne out by various facts, notwithstanding the wording of the Instructions. Mr. Simpson has shewn much dissatisfaction at the decision. He employed Mr. Wentworth and has threatened to prosecute the Government, and I have little doubt will appeal to Your Lordship. It may, therefore, be proper to inform You that the question was not hastily disposed of, but has been twice brought under the consideration of the Executive Council, the Proceedings on which will be seen by a reference to the Minutes,* which are forwarded by this opportunity.

Claim made
by P. Simpson.

3rd. There are a few other claims of a similar nature, the Settlement of which will be attended with difficulty.

Claim made by
J. Maxwell.

I allude particularly to the case of Mr. Maxwell, who has had charge of the Stock Establishment at Bathurst.

I understand his own possessions are considerable, and his Stock, as appears by his Instructions (an Extract from which is

* Note 105.

enclosed), has been allowed to run with the Government Cattle. It is evident by the Instructions (though the mode of remuneration is pointed out) that there will be much difficulty in ascertaining the Amount of his Claim; and I must beg to be honored with Your Lordship's pleasure as to the payment of the Pension, which it appears to have been the intention to grant to him on his retiring from his Situation.

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Claim made by
J. Maxwell.

It was notified to Mr. Maxwell, some time since, that the present arrangements did not permit of his being continued under the conditions of his original Engagement, and that he would henceforth receive a Salary, it being my intention to place the Establishment on a different footing. I am in fact very desirous to reduce it, and such of the other public Establishments of this nature, as can be dispensed with, as they are expensive and troublesome. and render it necessary to keep a large number of Convicts in the employ of Government, who are urgently required at this time by the Settlers.

J. Maxwell to
be paid by
salary.

4th. The enclosed Extracts from the Instructions to the Commandant at Bathurst and the Superintendent at Rooty Hill furnish other instances of the System of Remuneration, which has prevailed here; and I think point out the expediency, if only for the sake of simplifying the Public Accounts and preventing exorbitant claims, of discontinuing the practice and paying those employed by fixed Salaries.

Instructions *re*
remuneration.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

GOVERNMENT NOTICE.

Colonial Secretary's Office, 31st June, 1826.

CIRCUMSTANCES having rendered it necessary to discontinue the System, which has been in practice of remunerating Persons employed under Government by a per Centage on the produce raised, or on the Work performed under their Superintendence, Notice is hereby given that, from the 1st of the ensuing Month, all Persons, employed as above alluded to, will receive a Salary or daily Pay according to the Nature of their Employment, the Amount of which will be fixed and notified with as little delay as possible.

Abolition of
payment by
percentage
on produce.

By His Excellency's Command,

ALEXANDER MCLEAY.

[Enclosure No. 2.]

EXTRACT from a Letter addressed to Mr. John Maxwell, Superintendent, Government Stock, Bathurst. Dated 20th May, 1823.

DAVID JOHNSTONE, ESQR., having expressed for some time an earnest desire to be relieved from the duties of his present Situation, the Governor is pleased to confer upon you the appointment of Superintendent over the Crown Stock at Bathurst. On its increase, deducting Casualties, you will be allowed five per Cent. payable in Kind. Until this income arises, you will be permitted

Terms of
appointment of
John Maxwell.

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Terms of
appointment of
John Maxwell.

to draw moderately on the Police Fund, for which loan, until repaid, you will be debitted with the Interest of 8 per Cent. For whatever Rations of Flour and Meat you may require for Yourself during the first Year, you will be charged the Current price. Any of the very few Public Requisitions, you can possibly find it necessary to make, must be forwarded to this office, from whence you will receive all Your Orders; and, without written permission from hence, you will never be absent from Bathurst. A convenient scite will be allotted to you, whereon you will be permitted to build. You will pay according to the Government regulations for any Mechanics that may be lent to you. And on your retirement from the Situation, you are about to enjoy, you will be allowed a fair Valuation for the dwelling you may have erected, and one tenth part of your last year's income as a pension for the remainder of your life.

The Cottages of the Principal Overseers are erected on the most centrick point of every division. In each of these, a Room is expressly reserved for your Cot, and I cannot too strongly impress upon you the necessity of your frequently visiting and minutely inspecting the Government Station at *uncertain* Intervals. The dates of your doing this, together with the number and position of each Herd you have visited, are to be inserted *on the back of your Monthly returns.*

All the Stock, you at present possess and its encrease, will be allowed during your continuance as Superintendent to run with the Government Animals, on your taking the precaution to keep those constantly branded with your own Initials, and forwarding to this a Monthly Statement of their distribution, together with a Certificate upon Honor that they are all bona fide your own property.

But you are faithfully and honestly to discharge the public duty, now reposed in you, without suffering your mind to be Abstracted by Private Affairs; and you are not to carry on or be concerned in any trade or speculation whatever, or directly or indirectly derive the smallest advantage from your Situation, beyond the allowances stipulated at the commencement of these Instructions; and you are to adopt every possible precaution to ensure an adherence to the same principle on the part of the Overseers, Stockmen and all others, employed under your direction. Any application, therefore, that you may make while in Government employ for either a reserve of land, a Ticket of occupation, or a Grant, will be considered the same as the resignation of your Situation of Superintendent over Crown Stock at Bathurst.

I am, &c.,

F. GOULBOURNE.

[Enclosure No. 3.]

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EXTRACT from the Instructions to the Commandant at Bathurst.

“FOR your Salary, you are to be allowed a gratuity of Twenty per Cent. on any balance that may arise after the Establishment has been charged with every item of expence, together with a Twentieth of all Grain or productions raised under your Superintendence: provided that the sum total of these two allowances does not exceed Fifteen hundred Spanish Dollars annually. Another twentieth is to be divided at your discretion among the Overseers, whose number is to vary, as your wants may require their Services.”

Allowances
in lieu of salary
to commandant
at Bathurst:

[Enclosure No. 4.]

EXTRACT from a Letter to Mr. George Blackett, Sup't. Rooty Hill, Dated 2d of October, 1823.

and to
superintendent
at Rooty Hill.

“YOU will be rationed from the Store. The rest of your income will be derived from the following sources: One tenth of the value estimated at the price current of the labor, performed in Clearing or Fencing Rooty Hill, will fall to your share; and, for every five Animals supported thereon for a year, you will be allowed a Spanish Dollar.”

GOVERNOR DARLING TO EARL BATHURST.

(Despatch marked “Separate.” per ship Lady Rowena.)

Government House, Parramatta,

My Lord,

24th July, 1826.

I beg leave to enclose for Your Lordship's Consideration a Correspondence, which has passed between Mr. Bannister, the Attorney General, and myself, and which has arisen out of some objections, which Mr. Bannister appears to have taken to my Public Conduct.

Correspondence
with
S. Bannister.

It may be proper to premise that, on the return of the Chief Justice to his duty after his late illness, I invited the Law Officers and the Gentlemen of the Bar to meet him at dinner at the Government House.

Dinner to
chief justice.

Mr. Bannister accepted the invitation; but, afterwards understanding that Dr. Wardle,* who practices as a Barrister, was invited, He desired to be excused.

Refusal of
S. Bannister
to meet
R. Wardell.

I saw Mr. Bannister on this occasion, and pointed out to him that the Dinner was a Public one, to which all the Gentlemen of his profession were invited, and that it did not appear to me that any objection, which he might have to meet Doctor Wardle in private Society, should prevent his dining in Company with him on a Public occasion. He, however, persisted in his refusal,

* Note 81.

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and did not attend. My Conduct towards Mr. Bannister was in no respect altered in Consequence of this Circumstance, though the rebuke, which it was intended to convey, was not to be misunderstood.

Not satisfied, however, with absenting himself from the Dinner, he soon after addressed a Letter to me, of which the Enclosure No. 1 is a Copy; and the subsequent Correspondence took place, on which it is unnecessary for me to enlarge.

Criticism of
S. Bannister.

I have no desire to urge any thing injurious to Mr. Bannister, who is a zealous, honorable Man; but I am compelled to say that I have neither that opinion of his talents or his judgement, which would justify me in adopting implicitly the Counsel or Advice, which, unsought for, He appears to Consider it his duty to offer; and I must protest against the right, he would assume, of pointing out to me the line of conduct I am to pursue in the Administration of this Government, however deferential and respectful the language he may use in Conveying that Advice. No one can be more willing than I am to do justice to Mr. Bannister; but his zeal is not always judicious, and I am satisfied, had I attended to his suggestions, that the tranquillity, which exists at this moment, would not have been preserved.

Objections of
S. Bannister to
R. Wardell.

I should have stated that Mr. Bannister's objection to Dr. Wardle is founded on the Conduct of the "Australian" Newspaper, of which he is the Editor.

Without being influenced by the circumstances of this Paper having, since my arrival, discontinued its opposition to Government, I am by no means satisfied that its strictures, in some Cases highly intemperate, have been always unfounded or unprovoked; and, whatever Mr. Bannister's objection to Dr. Wardle may be at present, if I am rightly informed, and my authority is, I think, indisputable, He has not always seen Dr. Wardle's conduct in the same objectionable point of view though, at the time alluded to, the "Australian" did not treat the Government with any marked deference or respect.

I hope Your Lordship will be assured that I have felt much reluctance in making this Communication. It was impossible I could, with any regard to my Public Character, submit without Complaint to the unprovoked strictures of an Officer of the Government; and, though I have no apprehension of his example being followed, I consider it of importance that the erroneous notions, which he entertains of his Public situation, should be corrected, and that he should be informed of the true nature of his duties.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

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ATTORNEY-GENERAL BANNISTER TO GOVERNOR DARLING.

Sir,

Sydney, 17th June, 1826.

In pursuance of what I consider to be my duty, I have to submit to Your Excellency's consideration a passage from the proceedings of the Privy Council of last Year, in as much as it appears to me applicable, in principle, to what is now passing in this Colony:

Advice given by
S. Bannister
re libels in
public press.

"Their Lordships stated that they saw cause to regret the remissness of Lieutenant Governor Murray in not sufficiently maintaining the respect due from the Inhabitants of the Colony to the Judicial Character and Authority of Sergeant Rough, and the Court over which he presided, And in not endeavouring to protect them from a series of libellous Calumnies, to which they were exposed."

Report of the Committee of the Lords of Council on the Appeal of Sergeant Rough against Lieut't Governor Murray, 1825.

I have not been found to be a forward adviser of Prosecutions for Political Libels; the practice of the greatest Men, in antient and modern times, seems to establish that slander can be better lived down than crushed by Law; nor does the experience of Two Years change the opinion, I gave Sir Thomas Brisbane in 1824, that the Public Safety does not seem to be endangered by a Free Press.

Altho', however, the extreme methods of coercion may perhaps not be fit to be employed, Yet the recurrence of libellous calumnies renders such Acts necessary, as it appears to me, on the part of Your Excellency as will indicate a decided disapproval of them.

The Press is in the hands of a Party,* the rectitude of whose views is immaterial to be examined for the present purpose. If its libels on the Persons, supposed to resist those views, be not discountenanced by the head of the Government, the Public cannot avoid the conclusion that the Libels are not disapproved; these supposed opponents, being thus exposed to unchecked abuse, will consider themselves not to be treated with equal Justice.

They will be unable to appreciate the motives, which may influence Your Excellency; they may exercise great forbearance in the Commencement of an Administration; but I fear that, in such a state of things, the affairs of the Colony must be distracted.

* Marginal note by Governor Darling.—It will be seen by any one, who reads the Papers, that there is no Connection between them. R.D.

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Advice given by
S. Bannister
re libels in
public press.

Not being aware of having myself been the object of calumny since Your Excellency's arrival, and feeling conscious that a sense of duty alone urges me to make this statement, I trust to its being received, as I intend it, not as a Complaint, but as such a Caution as the times seems to me to require.

If I am in error, it will be in Your Excellency's judgement to reject my advise.

I have, &c.,
S. BANNISTER.

[Enclosure No. 2.]

GOVERNOR DARLING TO ATTORNEY-GENERAL BANNISTER.

Sir, Government House, 17th June, 1826.

Request for
specific
statement.

I am favoured with your Letter of this date, and request You will point out the particular occurrences, which induce you to consider the Extracts from the Proceedings of the Privy Council, inserted in Your Letter, Applicable to me with reference to what is now passing in this Colony.

I shall always feel disposed to support every Individual of the Government in the discharge of his duty, as I am to do justice to Your Motives and the Zeal, with which you discharge Yours.

I have, &c.,
RA. DARLING.

[Enclosure No. 3.]

ATTORNEY-GENERAL BANNISTER TO GOVERNOR DARLING.

Sir, Woolamooloo, 19th June, 1826.

Your Excellency is pleased, in reference to my Letter of Saturday on the Press, to require me to point out the particular occurrences, which have induced me to enclose the Extract, I took the liberty to make from the Proceedings of the Privy Council.

Alleged
support given
to R. Wardell
by governor.

In Compliance with that requisition, I have to state that the principal occurrence is the continued countenance, given by Your Excellency to the Proprietor and Editor* of a Newspaper, the Australian, in which unjust attacks have been unceasingly made, since the beginning of the year, on many Persons of known worth, and possessing in various degrees the Confidence of the King's Government.

Suggested
action by
governor.

As these Honorable Persons are unquestionably entitled to the support of the Governor of this Colony, when, within his Cognizance, it appears to be due to them that he should not receive at his table any Persons, who attempt to degrade them; and that, if such defamers, when fully known, continue to be admitted there, either an opinion must arise unfavourable to the objects of the Slander, to which he thus becomes a Party, or he will be thought himself to be deficient in circumspection and firmness.

* Note 81.

A regard for the reputation of absent Persons (which some are, who are attacked by the Newswriter) is of much importance; but it is of infinitely greater moment that a practice of slandering Public Men should be seen to be plainly unacceptable to the head of the Government.

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Suggested
action by
governor.

The slander is not new here, nor was it properly put down by the Civil Officers before Your Excellency's arrival; but the decided favour, now shewn to the Slanderer, is very recent.

Some examples of the libellous Calumnies, to which I allude, may be found I think in the Australian Newspaper* of the 26th January, 9th and 16th Feby., 15th April, 31st May, and the 17th inst't. Of these Papers, some affect the Clergy, and several the Archdeacon, in regard to whom I can with confidence refer Your Excellency to the Chief Justice for the proof of the utter groundlessness of the insulting passages in the Papers of the 26th January and the 16th February, having received the facts from his own lips.

Alleged libels in
Australian
newspaper.

Those* of the 9th March, 6th May, and 10th inst't are, I apprehend, in the same bad spirit in reference to Lieut't Governor Arthur, Chief Justice Pedder, and the Judges of the Cape of Good Hope.

The imputations on the McArthurs (a Member of the Legislative Council), on the Australian Agricultural Company, formed of the most eminent Men of all Parties in England, on the Magistracy of this Colony, in others of the Australian Newspaper, and the ordinary style of its Police Reports are, as it appears to me, no less reprehensible.

For the first time, I have this morning looked over these Newspapers except that of the 26th of January; and I have unavoidably done so in haste. I find, however, a singular imposture is relied on in that of the 10th inst't as to Chief Justice Pedder.

An exactly similar imposture is practised on the Public in the Paper of the 26th January, in which the same principle is applied to different facts from those which are professed to be illustrated by it on the 10th instant. By my own accidental acquaintance with the subject of the principal part of the former Paper, I am enabled to expose the fraud to Your Excellency, if necessary. I dare not to abstain from applying that severe term to the Act Committed.

I am not aware that the other Newspapers have received the Countenance, which the Australian is enjoying in the person of its Proprietor. One of them, the Monitor, is but in its Commencement. I may not, therefore, be required to enter into a

Status of other
newspapers.

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further detail of the reasons, which compel me reluctantly to urge to Your Excellency that a liberal toleration is all that can safely be allowed to the Newswriters by this Govern't.

Publication of
government
orders.

I take the liberty of repeating, on this occasion, what I have practically suggested some months ago, namely, that the Government Orders* ought to be published separately from ordinary news.

Necessity to
exert influence
on press.

It seems to be probable that, in such a Society as for many Years this must be, the Public Press will be on a level with the low state of Public and general private moral and religious feeling; so that, with a Free Press (and I am humbly of opinion at present that even here it ought to be free) it is the more strongly the duty of Government to counteract the evils, which its tendency to licentiousness must produce on a depraved Population.

Proposal
for separate
publication by
government.

One important means of doing this is, I submit, to disconnect the Government from the Papers as much as possible. A great moral separation will be effected, if the foregoing opinions be thought sound. In machinery of a less subtle kind, the Publication of the Orders and various announcements, except mere advertisements, in an independent form is another step to this end.

Authentic Reports of Law Cases, taken by a Government Reporter, and many Colonial and British Laws would be introduced conveniently into such a Publication, which, if Public Affairs are conducted with wisdom, could not fail to assist materially in the improvement of the People, who will thus have an unblemished standard for their guidance.

Such are the views, which I state without hesitation to be in my opinion of a nature not to be disregarded without the risk of incurring grave reproof.

The best apology for my seeming bluntness is to avow my Conviction that Your Excellency requires no apology. It is a conviction, which takes, from this endeavour to perform my duty, the pain it would otherwise give me.

Alleged abuse
of freedom
of press.

I am sure that a great right of Englishmen and the greatest temporal blessing to mankind has been endangered in New South Wales for a time by being grossly abused; but, with firmness and entire good faith, there is no reason to apprehend that the great inconveniences, to which the Colony is exposed, in the probable licentiousness of the Press will outweigh the many advantages it is calculated to bestow.

* *Marginal note by Governor Darling.*—This Suggestion is like many others. I spoke to the Editor of the Gazette on the subject, soon after I arrived, and it was referred to a Committee on the 11th of April last. R.D.

It is to the evil principle, which happens to govern that Individual, to which I object, and every one, who becomes imbued with the principles of a Common Slanderer, will be equally with him unfit in my apprehension to receive Your Excellency's favourable regards.

I have, &c.,

S. BANNISTER.

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[Enclosure No. 4.]

GOVERNOR DARLING TO ATTORNEY-GENERAL BANNISTER.

Sir, Government House, 21st June, 1826.

I cannot refrain from observing, in reference to Your Letter of the 19th, that You appear to me to have exceeded the bounds of your duty, if not to have mistaken the nature of it, in Commenting in Your Official Situation on the impropriety, as you Consider it, of my admitting a certain Member of this Community to my Table. Neither His Majesty nor his Ministers appear to have thought it necessary to prescribe to me, as Governor of this Colony, the line of conduct I was to pursue in this respect; and, without meaning any personal offence to you, I cannot persuade myself it could have been intended to vest the Attorney General with any such Authority. I shall, however, submit the matter to the Secretary of State, though it is impossible to suppose it could have been the intention of the King's Ministers that the office, which I have the honor to fill, should in any degree be under the Controul or subject to the animadversion of any Member of this Government. In the mean time, whenever I may require Your Advice on any *Legal* matter, I shall not fail to apply to You as the Legal Adviser of the Crown, as I have hitherto done.

Criticism by
S. Bannister
unwarranted.

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.

I have, &c.,

RA. DARLING.

[Enclosure No. 5.]

ATTORNEY-GENERAL BANNISTER TO GOVERNOR DARLING.

Sir, Macquarie Place, 22nd June, 1826.

I regret that Your Excellency considers my Letter of the 19th inst't, relative to the abuses of the Press, to be inconsistent with the trust reposed in me by the King.

S. Bannister's
reasons for
criticism.

From my Law Books and from the practice of my Predecessors, I have formed opinions, which guide me in my Conduct.

I have Convinced myself that an Attorney General, altho' not a Minister of State and Politics, yet, under the Governor, is the peculiar Minister of the Law and the Constitution in the Colony;

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S. Bannister's
reasons for
criticism.

and that, if the Governor is doing what seems to the Attorney General to tend to bring its peace and welfare into danger, he is bound to state his opinions to the Governor.

I apprehend that, by our Law, no Individual, not even the King on his Throne, is raised beyond a Constitutional Control, which, in particular Cases in England, the Ministers are to declare to His Majesty; and I have persuaded myself that, in a Colony, the Governor is peculiarly entitled to the respectful vigilance of the Attorney General, even if His Excellency's own Conduct call this delicate duty into exercise.

I am aware of its delicacy; but I have long learned never to shrink from any difficulty, which reflexion tells me that I am bound to meet.

As Your Excellency has done me the justice to disclaim attributing to me any personal assumption, I can lay my Commission at the foot of the Throne with entire satisfaction in the intended reference to England.

If I am under mistake, I shall not incur disgrace, since the mistake will be an honest one; and, if what I have said in the Letters of the 17th and 19th inst't on the Countenance, given to a depraved Press, be not allowed to an Attorney General, I shall find myself too little acquainted with the Constitution of my Country to hold my office any longer with honor.

Therefore, that His Majesty in such an event may not have an unfit instrument in me, and that I may be placed out of danger, I have to request that this Letter may accompany Your Excellency's statement with the others, and that my Successor may be sent out next Year, if it be His Majesty's pleasure that I be relieved.

I have, &c.,

S. BANNISTER.

[Enclosure No. 6.]

GOVERNOR DARLING TO ATTORNEY-GENERAL BANNISTER.

Sir,

Government House, 23rd June, 1826.

I have received Your Letter of Yesterday, and shall forward it, as you desire, to the Secretary of State with the rest of the Correspondence.

I must not, however, be misunderstood. I have never questioned your right to offer your opinions on the subject of the Press. In proof of which, it is only necessary to refer to my Letter of the 20th inst't, in which, so far from expressing any doubt as to your right, I have explained in detail my reason for not acquiescing in the Prosecution, which you had proposed. The Letters speak for themselves, and the object cannot be mistaken.

I have, &c.,

RA. DARLING.

Qualified
resignation of
S. Bannister.

Reply by
governor.

MR. E. BARNARD TO GOVERNOR DARLING.

1826.
25 July.

25th July, 1826.

[A copy of this despatch, acknowledged by Governor Darling, 3rd February, 1827, is not available.]

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 48, per ship Lady Rowena; acknowledged by Earl Bathurst, 21st January, 1827.)

My Lord, Government House, 25th July, 1826.

I have the honor to forward herewith, in obedience to the 8th clause of His Majesty's Instructions* to me, dated the 17th of July, 1825, a full transcript of the Minutes of the Proceedings of the Executive Council of this Government for the half Year ending the 30th of last Month.

Transmission of minutes of executive council.

I have, &c.,

RA. DARLING.

[Enclosure.]

[These minutes were for meetings, numbered 1 to 14, held on the 19th December, 1824; 3rd, 11th, 19th, 21st January; 17th February; 4th and 17th March; 4th and 29th April; 11th May; 3rd, 13th, and 29th June, 1825; and for two adjourned meetings on 5th March and 15th May. Copies will be found in a volume in series II.]

GOVERNOR DARLING TO UNDER SECRETARY HAY.

(Despatch marked "Private and Confidential," per ship Lady Rowena.)

My dear Sir, Paramatta, 25th July, 1826.

I am under the necessity of troubling You with a few lines in reference to my Letter of this date, marked "Separate," respecting Mr. Bannister. I stated my opinion of his Character in my Confidential Letter of the 1st of May last; but I must now more explicitly declare, than I was at that time willing to do, that his public Services are by no means important. I shall mention to you, Confidentially, what Sir Thomas Brisbane Communicated to me in a Letter, which I found here on my arrival. He says, "the Attorney General, I have always Considered a well meaning Man, but extremely Weak and easily led astray. He has given some opinions, which, when they reach Home, will not I think stamp him favourably with His Majesty's Ministers. I have much pity for him, as he had an illness, when staying with me at Paramatta, and was confined for more than a Month, during great part of which his mind was most completely under delusion." I must acknowledge he has always appeared*to me

Character of
S. Bannister.

Opinion of
Sir T. Brisbane.

* Note 107.

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Character and
conduct of
S. Bannister.

as eccentric and enthusiastic; and I cannot perhaps furnish a better proof of this than by sending You the enclosed Copy of a Letter, which he addressed to me, some time since, on an unfounded Report being circulated that the Natives were assembling. You will observe that he proposed taking the field in Person, and pointed out the Military Arrangements necessary on the occasion. Conceiving from his Letter that his mind was suffering at the moment from some recent excitement, I merely informed him that the arrangements, which had been made, would render it unnecessary for him to leave Sydney. In matters of business, he acts so hastily that no dependence can be placed on the soundness of his opinions, or the expediency of the measures, he proposes; and in fact it has been necessary to remodel and arrange the Draft of every Bill he has prepared before it could be passed by the Legislative Council. Instead of relieving the Government, he adds unnecessarily to its labors by his projects and suggestions. His friend, Mr. Tooke, seems to have known him pretty well, when he recommends him (in a Letter which Mr. Horton communicated privately to me that I might be informed of his case) "not to moot any abstract propositions, as to supposed improvements," etc. The Attorney General here must, for some time to come, have necessarily much business; but Mr. Baunister, not satisfied with this, adds unnecessarily to what his duty requires of him. It appears to me at the same time that this is not altogether without an object. He seems desirous of making as great a show of Business as possible, to induce a belief that he has no time for private Practice; tho' I believe the fact is that he is perfectly aware he has no chance with the Lawyers here, and would not succeed though his time were wholly at his disposal. He has been very importunate of late on the score of Income; and I have felt exceedingly for him, as I am satisfied, although as prudent as possible, that he is exposed to much inconvenience and embarrassment. I had understood his removal was likely, and I think, from the anxiety he evinced some short time back on occasion of arrivals from England, that he expected it. But he now mentions that he has heard from his friends that his Salary has been increased. If he is to remain, as this seems to imply, You will I am satisfied see the necessity of his being put in his proper place, and not being allowed to suppose that he possesses a Control, which it never could have been intended to vest in him as Attorney General.

I remain, &c.,

RA. DARLING.

[Enclosure.]

• [A copy of this letter* is not available.]

* Note 108.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 51. per ship Australia; acknowledged by Governor Darling. 19th March. 1828.)

1826.
26 July.

Sir, Downing Street, 26th July, 1826.

My Under Secretary of State has laid before me your letter of the 3rd of February last upon the subject of the agreement, which is stated to have been entered into with a Mr. Winder for securing to that individual a monopoly of the Coals obtained from Newcastle; and I shall take an early opportunity of conveying to you my sentiments respecting this agreement, so soon as I can learn from Sir Thos. Brisbane the precise nature of the circumstances and conditions, under which he may have been induced to sanction this arrangement.

Coal monopoly
granted to
T. W. M. Winder.

It is necessary, however, that I should apprise you that, although it is not intended, as you seem to imagine, that the Australian Company should have the Monopoly of these Coal Mines, yet that I have no objection to your allowing their Agent to take possession of a tract of Land not exceeding 500 Acres in such situation as you, with the advice of your Council, may select, and you will consider yourself empowered to grant, at the same time, to the Agent of the Company such reasonable facilities, as they may require for the purposes of occupation.

Concessions to
A.A. company.Coal lands for
A.A. company.

You will also take measures for having the Lands most accurately surveyed and valued; and you will transmit to me a copy of such Survey, together with the Surveyor's Report, which I desire may embrace a deliberate opinion as to the value of the Lands for the working of Coals, or for other purposes than those of mere cultivation, in order that I may be prepared to give you such further Instructions as may be necessary for the final Grant of the Lands to the Company.

I have, &c.,

BATHURST.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch marked "Separate." per ship Australia; acknowledged by Governor Darling. 19th March, 1828.)

Sir, Downing Street, 26th July, 1826.

With reference to the Instruction, which I have this day addressed to you with respect to the selection of a Tract of Land to be assigned to the Australian Company at or in the vicinity of the Coal River, I think it necessary to inform you that, if the Company should already have been placed in possession of the Lands, which your Predecessor was authorized by my Dispatch of

Instructions
re assignment
of lands to
A.A. company
at Newcastle.

1826.
26 July.

Instructions
re assignment
of lands to
A.A. company
at Newcastle.

the 18th of May, 1825, to assign to them, you are not to grant to the Company the additional Lands, which form the subject of my separate Instruction of this day.

But, if the Company should not already have been placed in possession of the Lands, which your predecessor was directed to assign to them on the Banks of the Coal River, I have only to desire that in the measures which you will take for deciding on the situation of the land, which you have, by my Dispatch of this Day, been authorized to assign to the Company, care may be had that the Public Interests be not prejudiced by allowing the Company to take possession of more than a fair proportion of the most valuable Land.

I have, &c.,
BATHURST.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(A private letter per ship Australia.)

My Dear Sir, Downing Street, 26 July, 1826.

In a public letter from Lord Bathurst of this day's date, You will receive instructions respecting a tract of 500 Acres of Land, of which you are empowered to put the Australian Company in possession, should they desire it; and you are directed, with the advice of your Council, to select the portion of land which the Company shall be allowed to occupy. It is perhaps unnecessary to point out to you that it is not intended, by this Instruction, to preclude you from conferring with the Company's Agent as to the spot of ground most fitting for the purpose of the Employer, or from paying such reasonable attention to his representations on this subject, as may be compatible with the interests of the Public.

Yrs. very faithfully,
R. W. HAY.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 49, per ship Lady Rowena.)

My Lord, Government House, 26th July, 1826.

I have the honor to forward for His Majesty's approbation, as directed by the 30th clause of the 5th Geo. 4, Chap. 96, Copies of two Acts, which have been passed with the advice of the Legislative Council, Vizt.

1st. An Act for the regulation of the Hulk or Floating Prison in Sydney Harbour, dated the 17th day of February, 1826.

2nd. An Act for repealing the Laws now in force relative to the Licensing and regulating of Public Houses, and for the better

Further
instructions
re lands for
A.A. company.

Transmission of
acts of council.

regulating the granting of Licenses for the Sale of Ale, Beer, Wine, Spirits, and other Liquors, in New South Wales in future, dated the 20th of Feby., 1826.

I have, &c.,

RA. DARLING.

1826.
26 July.

Transmission of
acts of council.

[Enclosure.]

[*This enclosure contained copies of the first two statutes, passed in the seventh year of the reign of George IV, as published in the "Public General Statutes of New South Wales." To each statute there was prefixed the following:—"By His Excellency Lieutenant General Darling, Governor of the Colony of New South Wales, etc., etc., etc., with the advice of the Legislative Council." The first statute was endorsed, "Passed the Council, this Seventeenth day of February, 1826, Six:—Henry Grattan Douglass, Clerk of the Council." The second statute was endorsed in similar manner, with the alteration of the date to the twentieth.*]

GOVERNOR DARLING TO UNDER SECRETARY HAY.

(Per ship Lady Rowena: acknowledged by under secretary Hay, 14th December, 1826.)

Sir,

Government House, 26th July, 1826.

I have the honor to forward herewith the "Blue Book" for the last Year. I am sorry it has not been in my power to send it at an earlier period; but it could not on this occasion be completed sooner. Every pains has been taken to render it as perfect as possible, and I hope it may be found to answer the purpose required.

I have, &c.,

RA. DARLING.

Transmission of
"Blue Book."

[Enclosure.]

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

GOVERNOR DARLING TO UNDER SECRETARY HAY.

(Per ship Lady Rowena.)

New South Wales, 26th July, 1826.

LIEUT. GENERAL DARLING presents his compliments to Mr. Hay, and begs to inform him that he has forwarded, by this opportunity, the Sydney Gazette and the Australian and Monitor Newspaper,* the two former from the 14th of June to the 26th of July, and the latter paper from the Second Number to the 21st of the present Month.

Transmission
of files of
newspapers.

GOVERNOR DARLING TO UNDER SECRETARY HAY.

1826.
26 July.

(Despatch marked "Private," per ship Lady Rowena; acknowledged by under secretary Hay, 24th December, 1826.)

My dear Sir,

Paramatta, 26th July, 1826.

Instructions *re*
correspondence.

In the Concluding Paragraph of your Circular Letter, dated this day twelvemonths, You refer to the Instructions, which have been given for the separate Headings of the different subjects of the Colonial Correspondence. I beg, in Consequence, to observe that I cannot find any such Instructions here, and shall be obliged to you to favour me with a Copy of them.

Request for
copies of
statutes.

2nd. I beg to remind You that it is extremely desirable we should receive here, without delay, Copies of such Acts of Parliament as are passed and relate to this Colony.

Demand for
assigned
servants.

3rd. I have already mentioned that the demands for Convict Servants are very urgent and numerous. I have withdrawn Five Hundred from Port Macquarie, and am distributing them amongst the Settlers; but they still Continue very pressing. The Women in general are so thoroughly abandoned that their disposal is attended with much difficulty. I have framed some Regulations with a view of encouraging Matrimony, and relieving the Factory, which are important objects, the disproportion of the Sexes being so great; and I am glad to think they have already had some effect. The object may fail in many instances, but, if it succeeds in some, it is worth the experiment. I shall report by and bye on the subject.

Encouragement
of matrimony.Request for
shipment of
sovereigns.

4th. I expressed a desire, in one of my late Letters, that a few thousand Pounds in *Sovereigns* might be sent out, and I beg to repeat my request, if it can be done without inconvenience. It is expected that Dollars will not continue much longer in Circulation. The British Coin in that case may not be sufficient. If not, I should probably supply the deficiency by issuing Notes of the Value of twenty Shillings, giving those Notes the same advantage as the British Coin by rendering them immediately convertible into Bills on His Majesty's Treasury. I can see no objection to this measure, And it would save the trouble of sending out Specie.

I remain, &c.,

RA. DARLING.

Proposed issue
of government
notes.Rumours
current in
colony.

P.S.—We have had many rumours of the Appointment of Assistant Judges and other Officers, but I have heard nothing on the subject, though the *Henry*, which is just arrived, left England the end of March. I need not point out that my having some intimation of any important measure, which may be in Contemplation, would not only be desirable on my own Account, but would be of some importance in the Public Arrangements. It is not pleasant to hear that Public Measures are discussing,

Request for
private
information.

of which the Governor is totally ignorant. In making this observation, I am aware how much you are occupied, and that it may not be convenient to give any previous intimation of the Measures in progress; but I would beg, when any Appointment has been determined on, that I may be immediately informed. It would prevent embarrassment, inasmuch as I should be prepared when People make Applications, in Consequence of what they have heard has taken place at Home.

R.D.

1826.
26 July.Request for
private
information.

GOVERNOR DARLING TO THE COMMISSIONERS OF THE NAVY.

(Per ship Lady Rowena.)

Gentlemen,

26th July, 1826.

I have the honor to transmit, for Your information, the accompanying Copy of a Report, which the Quarter Master of the 57th Regiment has made of the highly improper and indecorous conduct of Mr. Burnside, Surgeon Superintendent of the Female Convict Ship the Providence, on his arrival here from Van Diemen's Land.

Report on
mis-conduct
of transport
surgeon.

I have been informed by the Lieutenant Governor of that Colony that the Behaviour of Mr. Burnside on the Passage out was so extremely unbecoming his character, as a Married Man. and inconsistent with his duty, that he had felt himself called on to represent it to You.

I have, &c.,

RA. DARLING.

[Enclosure.]

[A copy of this report is not available.]

GOVERNOR DARLING TO MR. E. BARNARD.

(Per ship Lady Rowena.)

Sir,

26th July, 1826.

I have the honor to acknowledge the receipt of your Letter of the 8th of Decr. last, and to acquaint You that the Instruments for the Surveyor General of Lands and for the Surveyor of Distilleries have been received by the Providence, agreeably to the Lists which accompanied your letter.

Despatch
acknowledged.

I have, &c.,

RA. DARLING.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 52, per ship Speke; acknowledged by Governor Darling. 4th December, 1826.)

Sir,

Downing Street, 27th July, 1826.

27 July.

Certain papers, which were transmitted to me by the Lieut. Governor of Van Diemen's Land relative to the arrangements to be introduced into the Naval Officer's Department at that Colony, having been brought under the consideration of the

Papers re
naval officer's
department in
Tasmania.

1826.
27 July.

Commissioners of Customs, I do myself the honor of forwarding to you, for your information and guidance, the enclosed Report which has been addressed by them to the Lords of the Treasury, in order that you may instruct the Officers employed in collecting the Customs Revenue under your Government to act in conformity thereto.

I have, &c.,

BATHURST.

[Enclosure.]

COMMISSIONERS OF CUSTOMS TO LORDS COMMISSIONERS OF
TREASURY.

May it please Your Lordships,

Report by
commissioners
of customs.

Your Lordships having referred to us the annexed Letter from Mr. Hay, transmitting Copies of two Dispatches, received from the Lieut. Governor of Van Dieman's Land, reporting the arrangements, which he had introduced into the Naval Officer's Department with a view both to the greater efficiency of that Branch of the Public Service, by placing it on a footing, as far as circumstances would allow, similar to that of the Custom Houses in England, and requesting to be favored with an opinion on the arrangements adopted by the Lieut. Governor with reference to their conformity with english practice.

We report:—

Statutory
powers of
governor re levy
and collection
of duties.

That the Act, 3rd Geo. 4, Chap. 96, Sect. 2, authorizes the Governor of New South Wales to impose by Proclamation or Order the following Duties upon all Goods, imported into that Colony and its Dependencies; Vizt. "Upon all Spirits, the Produce of the United Kingdom, or Rum the Produce of the British West Indies, imported direct from the united Kingdom, a duty not exceeding 10s. per Gallon."

Upon all other Spirits 15s. per Do.

Upon all Tobacco 4s. per lb.

Upon all Goods Wares and merchandize not being the produce of the United Kingdom, imported directly from thence 15 pr. Cent. upon the Value.

By Section 3rd, "The Governor may reduce or discontinue any such duties, as occasion may require, and afterwards revive any Duties so discontinued or reduced; but he must not levy a higher rate of Duty than above mentioned."

By Section 4, "The Governor is to make such Rules and Regulations, as he may deem proper for the effectual collection of the said Duties."

And by Section 5, "He is accountable for such Duties to the Commissioners of His Majesty's Treasury in the United Kingdom."

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27 July.

Under the two latter Sections of the Act, "the Governor is responsible for the due collection of any Duties, which may be imposed by his proclamation or Order under the Authority of the said Act. He may, therefore, appoint whom he pleases as his Deputy, and the 7th Section of the Act recognizes the Naval Officer as a proper person to collect the Duties."

Statutory powers of governor *re* levy and collection of duties.

That the principal grounds of complaint made by the Merchants against the proceedings of Mr. Hamilton, the Naval Officer, and who succeeded Dr. Bromley, are:—

Complaints against naval officer in Tasmania.

1st. That a Duty of £15 per Cent. ad valorem has been exacted upon all Wines imported from England.

2nd. That 10 per Cent. has been added to the invoiced Price before levying the Duty.

3rd. That the Duty of 15 per Cent. has not been charged at Sydney, New South Wales.

4th. That the Duties are exacted previously to the Goods being landed.

In answer to the 1st, We have to state that the Duty of 15 per Cent. is clearly due upon all Wines imported from England, unless they are of the British Produce. To exempt Wines or any other Goods from this duty, they must not only be imported from the United Kingdom, but must be the growth or produce thereof.

Criticism by commissioners of customs.

As to the 2nd. The addition of 10 per Cent. upon the invoiced price, before charging the ad valorem Duty, is only to be made when the Officer of Customs conceives that the Goods have been undervalued, agreeably to the 7th Section of 3d Geo. 4 Cap. 96. If, therefore, Mr. Hamilton has invariably made this addition without first viewing the Goods, and objecting to the value put upon them by the Proprietor or Importer, such a proceeding would not be in accordance with the Section abovementioned.

With respect to the third, We are not aware upon what ground this Duty has not been levied upon Wines and other Goods imported into Sydney.

And as to the fourth, The Duties are imposed upon the importation of the Goods, and, therefore, we are of opinion that Mr. Hamilton was fully justified in demanding the Duty upon the Entry of the Goods and before landing, or of securing the same by deposit or otherwise.

That the other matters of complaint appear to be fully answered in the enclosed papers; and the principles, adopted by Mr.

1826.
27 July.

Hamilton in the regulation of the Customs and for the security of the Duties, are in our opinion in unison with the practice in British America and in the United Kingdom.

R. B. DEAN. W. BOOTHBY.
G. W. F. VILIMS. S. G. LUSHINGTON.

Custom House,
4 July, 1826.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 50, per ship Lady Rowena; acknowledged by Viscount Goderich, 23rd August, 1827.)

My Lord, Government House, 27th July, 1826.

Transmission
of copy of act
of council.

I have the honor to forward, for His Majesty's Approbation, as directed by the 30th Clause of the 5th Geo. 4, chap. 96, Copy of an act, which has been passed with the advice of the legislative Council, vizt.

"An Act to repeal an Act, intituled, "An Act to make Promissory Notes and Bills of Exchange, payable in Spanish Dollars, available, as if such Notes and Bills had been drawn payable in Sterling money of the Realm," and to promote the circulation of Sterling Money of Great Britain in New South Wales," dated the 12th day of July, 1826.

I have, &c.,

RA. DARLING.

[Enclosure.]

[*This was a copy of the statute, 7 George IV, No. III, as published in the "Public General Statutes of New South Wales." The following was prefixed:—"By His Excellency Lieutenant General Ralph Darling, Captain General and Governor in Chief of the Territory of New South Wales and its Dependencies, and Vice Admiral of the same, by and with the Advice of the legislative Council." The endorsement was:—"Passed the Council, this 12th day of July, 1826, Henry Grattan Douglass, Clerk of the Council." It was also signed, "Ra. Darling."*]

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 51, per ship Lady Rowena; acknowledged by Earl Bathurst, 4th December, 1826.)

My Lord, Government House, 27th July, 1826.

Survey and
valuation of
lands.

Having signified to the Surveyor General my desire that he and the Commissioners would make the necessary arrangements for immediately commencing the Survey and Valuation of the lands of the Territory, as directed by His Majesty's Instructions, Mr. Oxley has, in consequence, addressed a Letter to me, of which I beg leave to enclose a Copy for Your Lordship's information.

It appears that Mr. Oxley is totally unprepared to proceed with the general Survey, as directed, and that, in the present State of his Department, it will not be in his power to bring up the Arrear of business, which I apprehend has accumulated to a considerable amount, within any reasonable period. Under this circumstance, I can have no idea of permitting Mr. Hoddle, who is one of the most competent Men in the Department, to attend Mr. Rumker,* the Survey appearing to me in the present instance of primary importance. His individual Services, however, cannot be very considerable, where so much is to be done; and I understand Mr. Oxley has endeavoured in vain to procure the aid of competent persons on the spot. The fact is the pittance, allowed by Government, is not a sufficient inducement to Men of character and ability, where both are highly estimated, to confine themselves to the Service of the Government; and the small amount of the Salaries in general has induced the Clerks and others to acquire land, the advantages of which have soon occasioned their being indifferent as to continuing in office.

If half a dozen respectable men, good practical Surveyors, could be sent out immediately, it would be of the greatest importance to the regular Settlement of the Colony.

The extent of actual Survey is extremely limited in proportion to the lands occupied, and the confusion, which is likely to be occasioned in consequence of this, is incalculable.

The remissness in this branch of the Service appears highly culpable, it being about fourteen Months since the Commissioners were appointed, and nothing has in fact been done. This, however, is only one proof of the relaxation, which has prevailed generally. I might add that the Labour, which is required in establishing regularity and order, and attending to the due Administration of the Government, involving, as it does, interests of deep and Serious importance, would be sufficient, did not a sense of Duty prevent it, to induce an abandonment of the attempt from the almost hopelessness of succeeding.

I think it necessary to observe, in addition to what the Surveyor General has said respecting Messrs. Rodd and Harper, that there is no reasonable ground to expect that either of these Gentlemen will ever be fit for Field Service. The former is advanced in Years, and appears to be worn out. He had been long in India, and came here with a large family. He brought out letters from Your Lordship, which, it was supposed, had been given under an erroneous impression, as they mentioned him, I am informed, as a Young Man, instead of which he is an Invalid, and unless removed will remain a Pensioner for Life.

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27 July.

Inability of
J. Oxley to
cope with work.

Employment of
R. Hoddle.

Salaries
insufficient
to procure
competent
officers.

Request for
surveyors.

Arrears
of survey.

Disorganisation
in departments.

Incapacity of
Rodd and
Harper.

* Note 109.

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27 July.
Incapacity of
Rodd and
Harper.
Assistants
required.

The other person, Mr. Harper, has unfortunately been afflicted with paralysis, and has been deprived of the use of his right Arm. It would, therefore, lead to disappointment to calculate on either Mr. Rodd or Mr. Harper as efficient Members of the Survey Department, and I consequently trust Six Assistants may be sent out. I beg respectfully to submit that two of them should be Men of Superior Acquirements, and be paid at a higher rate than the others. This appears particularly desirable, should Mr. Oxley's health fail, and he is by no means a man of a Robust constitution. The Surveyor General also requires the assistance of two Draftsmen, who I beg may be sent out with the Surveyors; and I would take the liberty of recommending that reference be made to the Ordnance Department as the best means of obtaining information where competent Surveyors and Draftsmen are likely to be found.

When these arrive, no pains shall be spared in proceeding with the Survey and Valuation of the Lands; but, until then, it will, I fear, be impossible that any thing of importance can be done.

I have, &c.,

RA. DARLING.

[Enclosure.]

SURVEYOR-GENERAL OXLEY TO GOVERNOR DARLING.

Sir, Surveyor General's Office, 24th July, 1826.

Difficulty in
commencing
general survey.

The extensive and important Surveys, directed to be executed within the Territory, obliges me to submit to Your Excellency my humble opinion that it is impossible the present assistants in my Department can perform them within any reasonable time, or even before the arrear of business in any considerable degree, as I do not consider the present number of Assistant Surveyors more than equal to the current duty, as it arises. There are at present five efficient Field Surveyors, viz. Messrs. Dangar, Hoddle, Finch, Ralfe and Richards. There are two others, attached to the Department, Messrs. Rodd and Harper; but they have long been, from Illness and Infirmary, incapable of active Field duty, or even of assisting in the construction of the required Maps; and I regret to state to Your Excellency that I entertain little expectation of the Public Service being forwarded by their early return to duty. Of the first five efficient Assistants, one of the most active and competent is about to proceed to assist Mr. Rumker in the preparatory Measures, requisite for the Measurement of An Arc of the Meridian,* and his services will consequently be lost to the Survey Department for a considerable period. Messrs. Dangar and Finch are employed in the Counties of Northumberland and

Field surveyors
on the staff.

Employment of
R. Hoddle.

* Note 109.

Durham, and considerable progress is making in the Survey of those parts, especially as respects the Setting out of farms of free Settlers.

1826.
27 July.

The Survey of the Lands of the Australian Agricultural Company will require two Surveyors for at least a Year; and, as Mr. Dangar and Mr. Ralfe will be employed on that Service, Your Excellency will perceive there is only one Assistant Surveyor (Mr. Richards) disposable for duty for the remaining settled parts of the Colony, Vizt. Bathurst, Camden, Argyle and Jervis Bay, thus leaving the County of Cumberland, where there is constant employment for two, without one Field Surveyor.

Proposed duties
of surveyors
available.

I respectfully submit to Your Excellency that I have not, with the present assistants, any means afforded me to set out and Survey such lands, as may be required by free Settlers in the Counties beforementioned; and, on the Departure of Mr. Dangar for Port Stephens, they will be equally at a loss in the County of Durham.

Deficiency
of officers.

In the Map Department, the deficiency is still more serious. It is entirely out of my power to furnish the required Maps, and the constant references, which are made to my Office, in most cases require plans to elucidate the several Reports. The County Maps and the district Maps of parishes, drawn under the Superintendance of the Commissioners of Survey, require, independent of the original construction, great care in Drawing, as they are Maps of Record, and will be the best evidence in cases relating to landed property and the true boundaries thereof. Mr. Jackson is the only person at present so employed, and, although sufficiently zealous, he has not the experience requisite for the construction of Maps from Notes and Rough plans of the Field Surveyors. In this branch of the Service, two experienced and able Draftsmen are required, who understand Plotting and the connection of remote Surveys, besides being of course well practised in the more Mechanical parts of their duty. I have been induced to trouble Your Excellency with this detailed Statement of the exclusive duties, required to be executed in the Survey Department, in order to shew the total inadequacy of the means at my disposal to effect, with correctness and dispatch, the orders and Instructions of Government. Having stated the deficiency in Assistants, I most respectfully submit, for Your Excellency's consideration, the necessity of appointing at least four additional Assistants and two Draftsmen. The four Assistants can be appointed with a very trifling increase of expense, as there are at present four Vacancies in my Department under the Parliamentary Estimates; and I respectfully suggest that these Assistants, besides being well acquainted with the practice of land

Difficulties in
preparation
of maps.

Request for
increased staff.

1826.
27 July.

surveying and the drawing of Field plans, should also be acquainted with the manner of taking the more common Astronomical observations. The great extent of Country to be surveyed, and the necessity of taking numerous observations of the variation of the Compass, render these latter acquirements of important Utility in the execution of their duties.

Prospective
additional
assistants.

In representing to Your Excellency that four additional Field Surveyors on the Establishment will for the present be sufficient, I have considered Mr. Harper and Mr. Rodd to be effective though at present incapable of duty. But, in the event of their continued inefficiency, it will be necessary to make arrangements to give such further real Strength to the Department, as Your Excellency, under the circumstances of the case, may consider best for the public service.

I have, &c.,

J. OXLEY, Surveyor-General.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch marked "Separate," per ship Woodman; acknowledged by Earl Bathurst, 20th February, 1827.)

My Lord,

Government House, 27th July, 1826.

I have the honor to transmit, for Your Lordship's information, the accompanying Copy of a Letter and Enclosures, which I have addressed to the Lords Commissioners of His Majesty's Treasury, relative to the separation of the Commissariat of Van Dieman's Land from the Commissariat of this Government. As this measure will materially tend to the Simplification of the Public Accompts and their early adjustment, objects of much importance, I trust it will be sanctioned by Your Lordship.

I have, &c.,

RA. DARLING.

[Enclosure.]

[*This was a copy of the letter to Mr. George Harrison, dated 22nd July, 1826; see page 424.*]

GOVERNOR DARLING TO UNDER SECRETARY HAY.

(Per ship Lady Rowena.)

Sir,

Government House, 27th July, 1826.

Astronomical
observations.

I beg leave to forward herewith the results of some Astronomical Observations, which have been made by Mr. Rumker, who, at the recommendation of the Executive Council, has been placed in charge of the Observatory at Parramatta, and is proposed to be immediately employed in measuring an Arc of the

Meridian.* A Communication will be made to the Royal Society to apprise the Society that these Statements have been forwarded to Your Office.

1826.
27 July.

I have, &c.,
RA. DARLING.

[Enclosures Nos. 1 to 8.]

[Copies of these papers are not available.]

GOVERNOR DARLING TO SIR HERBERT TAYLOR.

(Despatch per ship Lady Rowena.)

Sir, Government House, 27th July, 1826.

I hope I shall not be considered importunate in again bringing under the Notice of His Royal Highness The Commander in Chief, the very serious inconvenience, which is experienced from the want of Medical Officers in this command, and more especially of a competent Officer of the General Hospital Staff to take charge of that branch of the Service.

Deficiency
of army
medical officers.

In reference to my Letter No. 4 of this Year, I beg to state that, when the arrangements now in progress, are completed the Corps will be stationed as follows Vizt:—

New South Wales:—3rd Foot; 57th Foot. Detachments.—Royal Veterans, Two Companies; Royal Staff Corps; 39th Regiment; 40th Regiment.

Van Diemen's Land:—40th Regiment. Detach'ts.—Royal Veterans, One Company; Royal Staff Corps.

For the Medical Duties of these Corps, there are one Surgeon and four Assistant Surgeons, while the Corps are necessarily much dispersed, and the Island of Van Diemen's Land is at some distance from Head Quarters.

The ill health of Assistant Surgeon Doyle of the 57th Regiment having rendered it necessary for him immediately to return to England, I have appointed Dr. Wood, Staff Assistant, to take the Medical charge of that Regiment; and I request that the Surgeon may be ordered to join forthwith. I beg to point out, in the event of an Officer of the General Hospital Staff being appointed as proposed, that it will be necessary to send out an Apothecary, who, I presume, on a communication with the Secretary of State for the Colonial Department, might be paid from the Colonial Funds, an Apothecary† being in fact indispensable to the Establishment of the Civil Hospital.

Medical
appointments.

I have, &c.,
RA. DARLING.

1826.
28 July.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 53, per ship Speke; acknowledged by Governor Darling, 6th January, 1827.)

Sir,

Downing Street, 28th July, 1826.

Free pardon for
R. Gunn.

I have the honor to transmit to you herewith the copy of a Letter, which has been written by the direction of Mr. Secretary Peel requesting that a free Pardon may be granted to Robert Gunn, who was transported from this country to New South Wales in the Ship "Fortune" in March, 1812, and I have to desire that, on the receipt of this Dispatch, you will grant unto the said Robert Gunn a Free Pardon with permission to return to this Country, provided he has conducted himself with propriety during his residence in New South Wales.

I have, &c.,

BATHURST.

[Enclosure.]

UNDER SECRETARY HOBHOUSE TO UNDER SECRETARY HAY.

Sir,

Whitehall, 26 July, 1826.

Application having been made to Mr. Secretary Peel in favour of Robert Gunn, who was convicted and received Sentence of Transportation for Life at the High Court of Justiciary at Edinburgh on the 31st March, 1812, and was sent to New South Wales in the Ship Fortune 2nd, I am to desire that you will move Lord Bathurst to issue his Instructions to the Governor of New South Wales to grant to the said Robert Gunn a Free Pardon provided that his behaviour has been such as to merit that Indulgence.

I am, &c.,

H. HOBHOUSE.

GOVERNOR DARLING TO UNDER SECRETARY HAY.

(Despatch per ship Lady Rowena; acknowledged by under secretary Hay, 22nd January, 1827.)

Sir,

Government House, Parramatta, 28th July, 1826.

I beg leave to enclose, for the information of the Earl Bathurst, Copy of a Letter,* which I have written to Sir H. Taylor on the Subject of the Medical Arrangements of this Command; and I request Your Attention to the Concluding Paragraph of that letter, which relates to the employment of an Apothecary,† who is perhaps more essentially necessary in the Establishment of the Civil Hospital than the Military, But who might, by a proper arrangement, be rendered without inconvenience applicable to both Services.

I have not yet had time to attend to the Affairs of the Civil Hospital, but, when I have, I am satisfied that a thorough reform

Proposed
employment of
apothecary.

* Note 111. † Note 110.

will be necessary. No system of Check appears to have been established in this or any of the Departments, and Supplies of all kinds have been issued, when asked for, without any Account of the Expenditure being required or appearing to have been thought necessary. At present, the Medicines and Stores are in possession of the Surgeon, and, without meaning to impute any improper conduct to him, it is evidently desirable it should be otherwise; and I am satisfied that Mr. Bowman is anxious to be rid of the charge.

1826.
28 July.
Administration
of civil
hospital.

If an Apothecary be sent out, as I now propose, I will take care that a proper arrangement is made to render him applicable to both Services, which cannot be attended with any inconvenience, and will be a saving of Expence.

I have, &c.,
RA. DARLING.

GOVERNOR DARLING TO MR. E. BARNARD.
(Per ship Lady Rowena.)

Sir, 28th July, 1826.

I have the honor to acknowledge the receipt of your Letter of the 18th of Feby. last, which arrived by the John Barry, with the 1st Division of Royal Veterans, conveying information with respect to the Pay, Clothing and Appointments of this Corps.

Division of
royal veteran
company.

Captain D'Arcy's Company being under orders to proceed to Van Diemen's Land, I shall make the necessary communication to Lieutenant Governor Arthur, respecting the Sum of Six Hundred Pounds, which that Officer had lodged in your hands.

I have, &c.,
RA. DARLING.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 54, per ship Speke; acknowledged by Governor Darling, 14th February, 1827.)

Sir, Downing Street, 30th July, 1826.

30 July.

With reference to my Dispatch to Sir Thomas Brisbane of the 1st of January, 1825, conveying the result of the deliberations of His Majesty's Government on the granting and Settlement of the waste Lands of the Crown in New South Wales and Van Diemen's Land, and accompanied by a copy of the Paper delivered to persons in this country applying for information on that subject, I do myself the honor to transmit to you herewith a Memorandum lately drawn up for distribution, in which some alterations have been made from the Terms of the former Paper; and I have to desire that you will follow as nearly as possible the

Memorandum
re land grants
to free settlers.

1826.
30 July.

Regulations laid down in this Memorandum, any departure from the Provisions of which must lead to great disappointment among those, who may be induced by it to proceed as Free Settlers to either Colony.

I have, &c.,

BATHURST.

[Enclosure.]

Regulations re
land grants to
free settlers.

TERMS upon which Land is granted to Settlers in New South Wales and Van Diemen's Land.

For the information of persons proceeding to New South Wales and Van Diemen's Land as Settlers, it has been deemed expedient to prepare the following summary of the Rules, which His Majesty's Government have thought fit to lay down for regulating the Grants of Land in those Colonies.

[*Clauses 1 to 9 and 20 were identical with clauses 1 to 9 and 20 in the paper forwarded as enclosure No. 2 to the despatch, dated 1st January, 1825 (see page 454, volume XI).*

Clause 10 was amended by the insertion of "immediate" before "purchase"; clause 11 by the insertion of "to any fresh Settler" before "without purchase"; clause 12 by the insertion of "without immediate purchase" after "person," by the omission of "both" and "and the intention" in the second line, and by the alteration of the last line to "half their estimated value." Clauses 15 and 18 were identical with clauses 17 and 19 in the former rules. The following new clauses were added:—]

13. A Quit rent of 5 pr. Cent. pr. annum upon the value of each Grant of Land, as estimated in the survey, will be levied on all such Grants; but such Quit Rent will not commence to be levied, until the expiration of the first seven years next succeeding the issue of such Grant; at the expiration of the above mentioned seven years, the Grantee will become possessed in fee simple of the Grant, subject to the payment of the Quit rent, or he will be entitled to redeem such quit rent, if he prefer that alternative.

14. The Quit Rent will always be redeemable at 20 years purchase, the power of such redemption commencing at the termination of the first seven years, when such Quit rent is first levied.

16. In the redemption of his Quit Rent, the Grantee will have credit for one fifth part of the Sums, which he may have saved to His Majesty's Government by the employment and maintenance of Convicts; and, for the purpose of making this allowance, it will be calculated that the Government has saved £16 for each Convict, employed by the Grantee and wholly maintained at his expense on his Land for one whole year. In the case of such Grantees, as may not have an opportunity of obtaining Convicts and thereby reducing the amount of their Quit Rent in the

manner laid down in this clause, every such Grantee, upon shewing an expenditure of Capital on his Land to the amount of five times the estimated value of that Land at time of its being granted to him, will be entitled, at the expiration of seven years from the time of such Grant, to claim a reduction of one half of his annual Quit Rent, whether for the purpose of annual payment or redemption.

1826.
30 July.

Regulations re
land grants to
free settlers.

17. No additional Grant of Land will be made to any person, who has not proved, as last mentioned, the necessary expenditure of Capital on the Lands already granted to him, and that he has sufficient Capital in hand to enable him to cultivate to advantage the additional Grant for which he applies.

19. The same regulation will apply to purchasers of Land, who may make application for a second purchase, and who can shew that they have laid out Capital upon such Land to five times the amount of its value. In such a case, half the estimated value of the new Land will be remitted.

Colonial Office, Downing Street, April, 1826.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Speke; acknowledged by Governor Darling,
29th January, 1827.)

Sir,

Downing Street, 1st August, 1826.

1 Aug.

In acknowledging the receipt of your letter of the 4th of February last, I am directed by Earl Bathurst to inform you that his Lordship approves of the decision of the Commissioners, who were appointed to enquire into the case of Dr. Douglas, and that you are accordingly to confirm him* in the situation of Commissioner of the Court of Requests, which you had selected for him in preference to that of Clerk of the Council.

Appointment of
H. G. Douglass.

I have, &c.,

R. W. HAY.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Speke; acknowledged by Governor Darling,
29th January, 1827.)

Sir,

Downing Street, 3rd August, 1826.

3 Aug.

In forwarding the enclosed Papers from Mr. Robert Howe, Government Printer at New South Wales, I am directed by Earl Bathurst to beg that you will acquaint him that his Lordship cannot authorize a compliance with his request, but that you have received Instructions to advance Mr. Howe's interests, whenever a favorable opportunity may occur.

Refusal of
R. Howe's
request.

I have, &c.,

R. W. HAY.

* Note 112.

1826.
3 Aug.

Memorial of
R. Howe
soliciting
payment of
expenses of
law suit.

[Enclosure.]

THE MEMORIAL OF ROBERT HOWE, GOVERNMENT PRINTER.

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

Most respectfully sheweth,

That Memorialist was appointed to this Office after the demise of his lamented Father, who commenced the Sydney Gazette as the Official Organ of Communication for the Colonial Government, and that Memorialist and his Father have conducted this paper for Twenty three Years.

Memorialist begs leave to assure Your Lordship that both the former and present conductors of this paper have invariably endeavoured to support the Measures of the Administration, and from no other Motive than a principle of unshaken attachment to the interests of the Crown.

For confirmation of this statement, Memorialist begs leave to refer to the papers themselves; and, for the result of his well intentioned labours, he solicits from Your Lordship a reference to His Excellency Sir Thomas Brisbane's letter of recommendation to General Darling herewith appended.

Your Lordship's Memorialist, on the 3rd March, in his capacity as Editor, made use of expressions, which, on the 8th October, were adjudged to be libellous, and a Verdict of £50* and Costs was awarded against him.

Memorialist at the time had no doubt that the statement, which he published, were strictly true, on account of the source whence he derived his information, which was, through the Chief Engineer, communicated by His Majesty's Attorney General.

Memorialist begs leave to state to Your Lordship that so fully was the Attorney General assured of his having led Memorialist into a serious error, that he very handsomely sent him a Check in liquidation of the expences to indemnify Memorialist from loss, in his attempt to defend the Officers and measures of His Majesty's Government; but which Sum Memorialist could not prevail on himself to accept from any other fund than the Colonial Treasury, and with the full sanction of His Majesty's Ministers. Altogether the expences, attending the Criminal and Civil process, will not be less than £300 0s. 0d.

Memorialist presumes that Your Lordship is already put in possession of all the Documents, connected with the seizure of the Almorah, on which account the Action in question was

* Note 113.

brought against Memorialist, and he, therefore, refrains from troubling Your Lordship with a lengthy and tedious detail of circumstances.

1826.
3 Aug.

Memorial of
R. Howe
soliciting
payment of
expenses of
law suit.

Memorialist most respectfully lays before Your Lordship the appended information, to shew the feelings of His Majesty's Attorney General, and humbly solicits from Your Lordship, as Principal Secretary of State for the Colonies, that the Colonial Government may receive Your Lordship's commands to refund the amount of the Verdict and expences, which has been obtained against him.

Memorialist begs to subscribe himself, With the highest affection for His Majesty's Government and the most profound esteem for Your Lordship,

Your Lordship's, &c.,
ROBT. HOWE, Govt. Printer.

[Sub-enclosure No. 1.]

SIR THOMAS BRISBANE TO MR. HOWE.

Government House, Parramatta,

24th October, 1825.

Sir,

I have to acknowledge your Letter to me of the 18th Instant; and it affords me a very peculiar satisfaction to convey to you my sentiments of entire approbation of your zeal and fidelity in supporting the Government upon all occasions. I have no hesitation in expressing it as my opinion, that the support of your paper has under many trying circumstances been of great assistance, and that the Government has an obligation to discharge to you; and it would have afforded me an additional gratification to have complied with the request, contained in your letter of being permitted to take the title of "King's Printer." But there are circumstances, which induce me to think that the present moment would be a little inauspicious to confer that distinction. I will not disguise from you that representations have been made against the free manner, in which certain subjects have been treated in your paper, with the view of withdrawing from you the distinction you at present enjoy.

Testimony of
Sir T. Brisbane
in favour of
R. Howe.

Satisfied myself with your conduct as Government Printer, I did not feel called upon to interfere, especially as the other paper had taken the opposite side in the discussion of the subjects alluded to. However, therefore, I may feel disposed to serve you, I do not think this a proper time, as the motive would be misrepresented, and might be mistaken. I feel it, however, a duty to recommend you to my successor in the Government; and, with that view, I authorize you to communicate this Letter to him at a convenient opportunity after His arrival.

1826.
3 Aug.

I shall have the satisfaction of stating my opinion to His Majesty's Government in England, and I will endeavour to procure for you the sanction of Government to your assuming the title of "King's Printer."

I am, &c.,

THOS. BRISBANE.

[Sub-enclosure No. 2.]

ATTORNEY-GENERAL BANNISTER TO MR. HOWE.

Sir,

Macquarie Street, 10th October, 1825.

Refusal by
R. Howe of
S. Bannister's
offer.

I should do you great injustice, if I did not fully appreciate the motives, which induce you to decline the contribution, I felt it right to offer, in the payment of the damages awarded against you on Saturday.

If the Verdict stand, I shall be ready to state to His Excellency the Governor my impressions on the whole subject; they are precisely similar to yours; but as I have never seen my letter to Major Ovens, since it was written, I shall be glad to have a Copy of it in order that my views on the subject may be correct.

I am, &c.,

S. BANNISTER.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 55, per ship Speke; acknowledged by Governor Darling, 4th December, 1826.)

4 Aug.

Sir,

Downing Street, 4th August, 1826.

Reports *re*
charges against
H. G. Douglass.

I have received a Dispatch* from Sir Thomas Brisbane communicating the result of the Enquiry, which I directed to be instituted into the case of Dr. Douglas, as connected with his conduct in the affair of the Convict Ring, as well as into the truth of the charges, brought against him by the Revd. Mr. Marsden, of having flogged another Convict, named Henry Bayne, on suspicion of theft.

Criticism of
conduct of Rev.
S. Marsden.

I have observed, with considerable concern, the prominent part, which has been taken in the proceedings against Dr. Douglas by the Revd. Mr. Marsden; and that his name is introduced in a manner, so little becoming the character which he ought to maintain in the Colony. The letter, which was addressed to Mr. Peel, by Mr. Marsden, and that which he subsequently transmitted to this Department, too plainly evince that feelings of kindness and Interest for Convict Ring were not the only sentiments, by which he was actuated; and although I am not disposed to deny that a wish to serve one, who as it proved, and as Mr. Marsden must have known was a very worthless object, formed the original motive, which induced him to write home, yet, on examining the case in detail, it is impossible not to discover misstatements and omissions in the relation of facts,

* Note 114.

against which he ought carefully to have guarded in a statement, by which the character of another Individual was so materially affected.

1826.
4 Aug.

I should be unwilling, by directing any public censure to be passed upon Mr. Marsden, to run the risk of lowering the clerical character, or of prolonging the dissensions, which prevail in the Colony; but, at the same time, so much of party spirit (to use no stronger term) and intemperance has been manifested in his conduct during the whole of the proceedings, to which I have referred, that I feel it incumbent upon me to direct that you send for Mr. Marsden, and express to him my surprise and regret that he should have been betrayed into such a departure from his duty, as the result of the late enquiry too clearly indicates; and you will intimate to him my expectation that he will for the future repress that vehemence of temper, which has too frequently marked his conduct of late, and which is as little suited to his Age, as it is to the profession to which he belongs.

Adverse criticism to be communicated to Rev. S. Marsden.

In regard to Mr. Hannibal McArthur, I cannot refrain from remarking that he would have better consulted the respectability of his own character, if he had more scrupulously considered the oath, which he had taken as Juror, before he had, as Foreman of the Jury, promoted the prosecution of one, with whom he had long been in avowed hostility, for doing that of which he himself had been one of the first to set the example. I trust that, as the benefits of the Trial by Jury are more known and appreciated in the Colony, the duties of a Juror will be better understood, and more carefully observed than appears to have been the case on this occasion.

Misconduct of H. Macarthur.

I have, &c.,
BATHURST.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 56. per ship Speke; acknowledged by Governor Darling, 15th February, 1827.)

Sir,

Downing Street, 5th August, 1826.

5 Aug.

With reference to my Dispatch of the 17th August, 1825, in which I had the honor to acquaint you that, in the event of your not having, previously to the receipt of that Dispatch, made any arrangements for the appointment of Captain Rossi to the situation of Commandant of Norfolk Island, I would strongly recommend Major Morriset to fill that situation; and, as it appears by your last Dispatches, that you have confirmed Captain Rossi in the office of Superintendent of Police, I am to desire

J. T. Morriset to be commandant at Norfolk island.

1826.
5 Aug.

that you will appoint Major Morriset to the situation of Com-
mandant of Norfolk Island, with a Salary of £600 a year to
commence from the date of his arrival in the Colony.

I have, &c.,
BATHURST.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Speke; acknowledged by Governor Darling,
29th January, 1827.)

Sir, Downing Street, 5th Augt., 1826.

Inquiry ordered
re charges
against
G. Druitt.

Herewith, by Earl Bathurst's directions, I enclose a copy
of the statement, addressed by Major Druitt to Mr. Horton; and
I am to direct that you will, in the event of the Chief Justice
being prevented by ill health, make an investigation into the
truth of the charges, which Major Druitt states to have been
preferred against him; and that you will be guided by the
result, in deciding on the propriety of giving Major Druitt the
Grant of Land he prays for.

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

[Enclosure No. 1.]

MAJOR DRUITT TO UNDER SECRETARY HORTON.

Sir, Mount Druitt, New South Wales, 12th Novr., 1825.

Conspiracy
alleged by
G. Druitt.

The late Colonel Erskine of the 48th Regiment informed
me by letter, a short time prior to his embarkation for India,
that you had honored him with an audience, and that an ex-
planation of a part of the unjust treatment, I have received in
New South Wales, was made by him. Col. Erskine was fully
acquainted with all the Circumstances of the Conspiracy, formed
against me; and he assured me of your promise that every jus-
tice should be shewn me; to this fact, no greater proof was
requisite after Earl Bathurst's order that The Chief Justice
should examine into and report upon the Proceedings, that were
adopted in this Colony against me. Under the impression, Sir,
that your humanity would induce you to render that assistance, so
much in your power, to an Old Servant of His Majesty, who is
now far gone in the decline of life, with a Wife and 3 Children
to provide for, I make bold to enclose you a letter for Earl
Bathurst, with several documents relating to part of the injus-
tice I have been visited with; and I most respectfully request
you will take the trouble to read and afterwards forward them
to His Lordship.

From an entire Stranger to you, Sir, I fear you will consider
my request unreasonable; but were it possible for me to make
you acquainted with the One Hundredth part of the refined

Cruelties, that have been heaped upon me during the Administration of Sir Thomas Brisbane, I think you would be inclined to excuse me and acknowledge that blame could not be attached to any individual under such oppression, to make use of every effort that might tend to obtain Justice and redress from His Majesty's Ministers.

1826.
5 Aug.

In the early part of Sir Thos. Brisbane's Administration, I did myself the honor to refer Earl Bathurst to some of the most distinguished General Officers in the Service, respecting my Conduct as an Officer and a Gentleman for a Series of Years; and I hope His Lordship has made the Enquiry, I respectfully solicited, and that He will be of opinion I was entitled to trial either Civil or Military; that my remonstrances to the Head of the Government in this Colony ought not to have been treated with silent Contempt; and that the disrespect, shewn to his Lordship's order directing the Chief Justice to examine and report upon my Case, has been most unjust towards me.

Testimony
re conduct.

I believe it to be the wish and desire of Earl Bathurst that every reasonable encouragement should be given to Gentlemen, who have the Command of Capital, that may determine upon settling for life in this distant Colony. I commenced with a large sum of money, and purchased the lands of Mount Druitt, fenced the farm round, and subdivided it into Paddocks of a Convenient Size, totally cleared 417 Acres of timber, and, at a very heavy expence, made large reservoirs for Water, and cut drains to lead into them, erected a large dwelling house and other Buildings to the amount of £3,000. I can with safety say that I have done more, in the way of improvements in my 4 Years residence, than any other Individual has accomplished for 12; for the first 3 Years I supported 46 Convicts; and for the Current Year 64. Sir Thos. Brisbane promised land to all Settlers (by a Public General order) that maintained Prisoners free of expence to the Crown. I complied with every instruction and order, respecting the application for Land under this Head; and, after 3 Months deliberation, I was answered that My Memorial would be taken into consideration; this I received 12 months back, and my Claim is *still under Consideration*; and I am the only person in the Country, who has been refused land as a remuneration for the great expence incurred in maintaining Convicts; but I have every reliance in Earl Bathurst's Justice to direct that I shall have at least an equal share of the Government Bounty, as those Settlers who have partook of it, and Commenced farming with a Sum not exceeding £50.

Property
purchased and
improved by
G. Druitt.

Claims to
additional
land grant.

I have, &c.,

GEO. DRUITT.

1826.
5 Aug.

[Enclosure No. 2.]

MAJOR DRUITT TO EARL BATHURST.

Mount Drutt, New South Wales,

12th Novr., 1825.

My Lord,

Grievances
alleged by
G. Drutt.

As my last and only effort to obtain that Justice every British Subject has a right to look for, I made the application, No. 1, which I have the honor to enclose, but no answer was returned. Your Lordship is aware that I have been refused trial, either Civil or Military; and the investigation, Your Lordship was pleased to order (so far back as the 23d August, 1823) Should be made on my Case before Chief Justice Forbes, is also denied me; my enemies, as I on a former occasion stated to Your Lordship, were both afraid and ashamed of the exposure, I have it in my power to make of their illiberality, injustice and oppression. Such Conduct I have full Confidence will receive the Censure, it so well merits from His Majesty's Secretary of State for the Colonies; and after the explanation and documents, I have now the honor to submit for Your Lordship's Consideration, I trust I shall at length receive all my Civil rights as a Settler in this distant Colony, and that Your Lordship will acknowledge that I have a strong Claim upon the Government for a reasonable remuneration in land, from my Grant and Cattle being for 4 Years with held from me, driven to the necessity of paying £200 per annum for the grazing of a part of my herds and flocks, altho' a sufficient quantity of ground, for the depasturing of my entire Stock of Cattle and Sheep, was ordered in writing to be reserved for me by the late Governor Macquarie.

Claim to arrears
of salary.

I most respectfully beg leave to appeal to Your Lordship for the payment of my arrears of pay, as Chief Engineer, during the 4 Years of Sir Thomas Brisbane's Administration; the appointment of Major Ovens to this situation appeared in the Sydney Gazette, as follows:—"Major Ovens is appointed to act as Chief Engineer, pending an Investigation into the Engineer Department." The Committee of Enquiry commenced its Proceedings on the 1st of February, 1822, and is pending to this day. Sir Thomas Brisbane officially informed me that I had his leave of absence from the duties of my Office, until further orders. Your Lordship is aware, when Public Officers, holding the Situation I did, are indulged with a leave of absence by the Head of the Government pending an Investigation or even trial, that it is the Custom of the Service that such Officer on leave should receive the full Salary of the Situation until the investigation or trial had determined his fate. Under the above equitable Consideration, I trust Your Lordship will not think it improper of me to claim the amount of my pay; and, more particularly, when

I explain to Your Lordship that, during the sittings of the Committee of Enquiry for nearly 3 Months in Sydney, a distance of 27 Miles from my home, and having to maintain and pay traveling expences to a number of Witnesses without any allowance from the Crown, a very serious expence was imposed upon me. I should not trouble Your Lordship on this subject, but that, in compliance with a General order directing all Claims upon the Government to be sent into the Colonial Secretary's Office, I applied for the Sum of £675, being the amount due to me for pay as Chief Engineer; to this, as in all other applications from me, no answer was returned.

1826.
5 Aug.

Claim to arrears of salary.

Having waited a month in the hope of an acknowledgement and favorable reply to my letter marked No. 1, I addressed the Chief Justice, as Marked No. 2, and received the answer No. 3; upon which I refrain from making any observation or comment. The injustice of such a Proceeding will, I have no doubt, be received by Your Lordship in the way it merits.

Correspondence enclosed.

The paper, marked No. 4, is a letter written by my accuser, Charles Ellis; and this letter I most respectfully entreat Your Lordship's attentive perusal of; in it will be discovered that Compunction of Conscience alone urged that Villain to furnish me with full acknowledgements of the base attempt, made on my Character under the influence of false Conspirators. This letter will prove to Your Lordship the certain means, I am possessed of, to punish, as far as the Law permits, all those who were concerned in this disgraceful transaction.

Statement by C. Ellis.

In Conclusion, I have in my possession an Official document, in the hand writing of Charles Ellis, Countersigned by an Officer, high in Office in the Colony. In this document, Charges are preferred against 3 Individuals with myself, one of them High in rank; and that I should be the only Selection, made for Investigation amongst this number, is the strongest proof of Malice I can offer. The Case also of Captain Allman, whilst Commandant at Port Macquarie, as explained in Charles Ellis's letter marked No. 4, serves as an additional proof that the Malice was most vindictive.

Charges made by C. Ellis.

I have, &c.,

GEO. DRUITT.

[Sub-enclosure No. 1.]

MAJOR DRUITT TO SIR THOMAS BRISBANE.

Sir,

Mount Druitt, 6 October, 1825.

In the hope that Your Excell'y will pardon the liberty I take, I beg leave to enclose for Your indulgent Consideration a letter, I received from my Accuser, Chas. Ellis, dated in the month of February last. On this man having obtained his Certificate of freedom, He Called upon me and placed in my

Withdrawal of accusations by C. Ellis.

1826.
5 Aug.
Withdrawal
of accusations
by C. Ellis.

hands such documents in explanation of the unjust Proceedings, so disgracefully followed up by my Enemies, as are Sufficient to Shock the most hardened of the Convicts, that joined in this horrible Conspiracy. Ellis and all his Convict Supporters are now ready to declare upon Oath that the testimonies, they gave before the Committee of Enquiry ordered to investigate into my Conduct as Chief Engineer, acting under the orders of The late Govr. Macquarie, are false and Malicious; and, from the disappointments they have met with in not receiving the Pardons, tickets of leave, Grants of Land, Government Cattle, etc., etc., etc., so faithfully promised them for their Services by men, who have proved themselves to be unworthy of Your Excell'y's Confidence, and are now as determined Enemies of yours as they ever were of mine, The Convicts, in question, are anxious to expose these Characters to The Public, if Your Excell'y will give me the opportunity.

Request for
land grants and
compensation.

Under all the Circumstances of my hard fate, I trust Your Excell'y will, in Your Justice, determine upon either placing me in possession of the land, promised me by Your Predecessor in writing (Viz.), 2,000 Acres, my Grant as a Settler. 1,000 Acres as a reward for extra Services in Superintending a line of road to the extent of 96 Miles with 200 Bridges, and make such remuneration for the heavy loss, I have sustained from my Land and Cattle having been kept from me for so long a period, as may appear to Your Excell'y reasonable and just. Or that you will be pleased to order that I shall be furnished with a Copy of the Charges, Your Excell'y has for 4 Years held in Contemplation to prefer against me, to afford me an opportunity of preparing myself to meet them prior to Your Excell'y's embarkation for England.

Condemnation
without trial.

I have on Several occasions endeavoured to explain to Your Excell'y the Severity of my being Condemned without trial, either Civil or Military; and I now repeat that I unequivocally disproved by respectable witnesses (all of them Free men) every charge, brought against me with the exception of what I openly and candidly acknowledged, as trifles not deserving of notice, and for these I produced Governor Macquarie's written permission; but that a preference should be given to the Oral Statements without the Solemnity of an Oath of a Mob of the very worst description of Felons, that were ever transported from the British Dominions, many of them delinquents that appeared before the Committee in double irons and from the Gaol gang, when they were Sentenced by The Sydney Magistrates on my Complaint for Crimes of the blackest dye, appears to be most unaccountable.

I have also fully Stated to Your Excell'y that I expended on Mount Druitt (which land I purchased) upwards of £5,000 in Building, fencing, Clearing Ground, and various Agricultural improvements, and that I for 4 Years fed, cloathed, lodged and paid Wages (at the rate of £10 per annum to each Man) 46 Convicts on the Yearly average; the numbers maintained by me for the Current year of free and bond amounts to 72. On my small farm of 1,000 Acres of very indifferent land, I have, by my own Care and attention, Cleared 417 Acres; and I have now under Wheat, Oats, Barley, and potatoes, 354 Acres. Such industry, I Cannot but entertain a flattering hope, will not be passed over by Your Excell'y unrewarded, and that you will extend the same privileges to me, as those granted to so many Settlers under Your Excell'y's General and Government Order on this Head, I feel most certain.

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5 Aug.
Capital and
convicts
employed at
Mount Druitt.

I beg to offer every Apology in my power for the trespass, I have made on Your Excell'y's time, and will anxiously await your decision.

I have, &c.,

GEO. DRUITT.

P.S.—The letter, signed Chas. Ellis, is requested to be returned at Your Excell'y's Convenience.

A true Copy:—GEO. DRUITT.

[Sub-enclosure No. 2.]

MAJOR DRUITT TO CHIEF JUSTICE FORBES.

Sir, Mount Druitt, 8th Novr., 1825.

It is with regret that I feel myself called upon to trouble Your Honor once more upon the Subject of the Investigation, Committed to your charge by The Earl Bathurst, and which You Commenced upon in the month of February last with the examination of Judge Advocate Wylde in the presence of His Majesty's Attorney General. Since this period of 9 Months, I have frequently endeavoured to procure from Your Honor a Copy of the Charges, His Excell'y The Governor, has; during the entire of His administration, held in Contemplation to prefer against me, as also a list of such Witnesses, as His Excell'y might Consider requisite to Call upon in Support of his Charges; but, long disappointed in this my most anxious wish, and feeling Satisfied that nothing was wanting on Your Honor's part to meet my pressing request, I addressed a letter to Sir Thos. Brisbane on the 6th Ultimo, a Copy of which I have the honor to inclose for Your perusal with a letter directed to me and written by my Accuser, Charles Ellis.

Request for
statement of
charges
preferred by
Sir T. Brisbane
and list of
witnesses.

1826.
5 Aug.
Request for
statement of
charges
preferred by
Sir T. Brisbane
and list of
witnesses.

It is of great importance that I should be able to furnish my friends in England, for their future guidance, a Copy of the Proceedings that may be taken on my Case before Your Honor; and I place the most implicit Confidence in Your Justice to procure from His Excell'y The Governor the Charges, he has against me, prior to His embarkation for England.

I entertain a flattering hope that Your Honor has long since informed The Secretary of State for the Colonies of my willingness to meet the Governor's Charges, and abide by Your decision. Your Honor is aware of the serious injuries, I have undergone; kept in a state of horrible Suspense for the long period of 4 Years, My Civil rights most unjustly withheld from me, and, after a Service of 30 Years in the Army with unblemished reputation, every effort is made to Stain my Character under the pretence of the representations of a Host of Convicts, who are now ready to declare, upon Oath, that the attack, they made upon me, was false and Malicious, and never would have taken place, but in the hope of receiving the bribes and rewards promised them for their Services against me. I have, &c.,

GEO. DRUITT.

A true Copy:—GEO. DRUITT.

[Sub-enclosure No. 3.]

CHIEF JUSTICE FORBES TO MAJOR DRUITT.

Sir,

Sydney, 10th Novr., 1825.

No charges
submitted to
chief justice.

In reply to Your letter of the 8th Inst., requiring to be put in possession of the Charges preferred by The Governor against you, and a list of the Witnesses in support of such Charges, I beg leave to state that I had the honor of informing His Excell'y The Governor, in February last, that I was prepared to enter upon the investigation, directed by Earl Bathurst, as soon as the Charges should be brought before me by some person on the part of Government. Since which, I have received no Charges, nor even any information, upon which I could found an enquiry. As my Office I conceived to be that of Judge merely, of Course I have not moved any further; and I presume from not having anything brought before me in a tangible form that it is not the present intention of the Government to proceed any further. The examinations of The Judge Advocate were taken at Your own instance with the view of meeting, as I understood, such Charges as You had reason to expect would be preferred against you; there was in fact no Case before me, at the time the Depositions were taken de bene esse. I am, &c.,

FRANCIS FORBES.

A true Copy:—GEO. DRUITT.

[Sub-enclosure No. 4.]

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5 Aug.

CHARLES ELLIS TO MAJOR DRUITT.

Hon. Sir,

Sydney, 21st Sepr., 1825.

Being now a free subject and consequently released from that oppression and Torture, with which the unhappy men under sentence of the Law in this Colony are so frequently visited, and, in order to make every reparation within my power for the unjust injuries I was innocently the cause of bringing upon you, I beg leave to make the following representations of Facts as they have actually occurred, and for the truth of which I am ready to make oath before any of the Law Officers of the Colony, you may be pleased to name.

C. Ellis' statement re preparation of evidence against G. Drutt.

I addressed a note from the Gaol of Sydney to Major Goulburn, Mr. Campbell and Dr. Bowman. In the course of half an hour Dr. B. came to my cell door. I informed them I was Clerk of the Carter B'ks, and, if they could ensure me of the Governor's protection, I could give them some information respecting some circumstance, which they had been making very minute enquiries about before at that Establishment. Dr. B. pressed me, in the most urgent manner, to make out everything I could against Major Drutt; and Dr. B. furnished me with papers, pens, and Ink, for that purpose, and to make out my statement, and directed my cell door to be kept open. I immediately committed to paper every particular, as far as my knowledge went, respecting some Horned Cattle, which was put into the Govt. Paddock, farming Utensils, Pigs, etc., etc., belonging to Major Drutt, the farming utensils being made in the Lumbar Yard. This statement I gave unto Dr. B., who returned the next day, and stated that he had laid the same before the Governor, and assured me of his protection, and requested me to endeavour to refresh my memory and make out everything I possibly could do to serve the case.

A few days afterwards, I appeared before a Bench of Magistrates, and received sentence of six months hard labour in the Gaol Gang in double Irons. I asked permission, after receiving my sentence to go home to arrange some little affairs, which was granted me to go with a constable. On my return, I prevailed upon the Constable to allow me to call at Dr. B., which he consented. On seeing Dr. B., I informed him I had received the sentence of 6 months Gaol Gang. He told me not to mind that, for he would take care that I should be released next day; and, on the following day, I was released and went up to Major G.'s office. Dr. B. was there, and, in order to give me every encouragement, he informed me that Major Drutt was suspended from

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5 Aug.

C. Ellis' statement re preparation of evidence against G. Druitt.

his Office, and that Wm. Orrell, the Superintendent of Carters' B'ks, was dismissed, and that this arrangement would afford me every facility in bringing forward the Charges, and the Witnesses would not now have anything to fear. Major Goulburn upon this remarked that I was about to attack an Officer of high rank, and that, if I failed in my proofs, I should meet the heaviest punishment, as perhaps I could not depend upon the evidences. Dr. B. said there was nothing to fear on that point, as he had already privately examined several of the men that I had to call upon, and that he had taken their testimonies down in writing during the time of my Confinement. On the same Evening, I received a note from Major Goulburn with Instructions to attend next morning at C. B'ks, in order to see everything delivered up by Wm. Orrell to his Successor, Mr. Ellyard; this I complied with, and some private Letters, public papers and Plans of Buildings, belonging unto Major Druitt, were tied together and left in his desk in his Office. Isaac Wise was present at the time when this took place, he being Constable of the Lumber Yard. And from this period, until the time the Board of Enquiry assembled, I was constantly employed by Dr. B.'s Express Orders in bringing to him such men, as I intended to bring forward before the Committee, as my Witnesses. I procured a great number, and Dr. B. took particular pains to write down himself what these people had to say; the greater part were thus examined in my presence, and he promised them that something handsome should be done for them, as soon as the investigation was closed; he also authorised me to assure them that they would be rewarded by Tickets of Leave, or some other remuneration; and Dr. B. told the men that they had no occasion to fear anything, for that Major Druitt would never be Engineer again. Abundant proof of this can be furnished if required, and, as far as concerns myself, I can safely swear that Dr. B. repeatedly told me that I should have a free pardon, a passage Home, or that Cattle Land, indeed more, he said would be done for me than ever I possibly could expect; and I have rec'd from Dr. B.'s hands at 5 different times various sums of money, and at 3 different times sums of money from his Overseer, Dr. B. authorising me to make use of his name for this express purpose; and I was ordered to make out a List of the different Witnesses, who had come forward against Major Druitt, in order that Tickets of Leave or some other remuneration should be given them, which I did, and gave unto Dr. B. One particular occurrence that I recollect of a Witness, who objected to give the testimony, Dr. B. wished him to do, but, upon being repeatedly

pressed and told to recollect himself, and after being positively promised to be rewarded with a Ticket of Leave for his services, he partly met Dr. B.'s views, but not to the extent he wished him to do; and this Witness when I examined before the Board of Enquiry, he declared he had nothing to say against Major Druitt whatever, as his complaint was against Wm. Orrell and his Overseer Johnson.

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C. Ellis'
statement *re*
preparation
of evidence
against
G. Druitt.

But I beg to assure you, Honored Sir, that, from the miserable prospect that was before me of 6 months Goal Gang to Hard Labour in Double Irons, was one cause of my making the unjust attack, I did, in the hopes of being the means of relieving me from that severe punishment; and afterwards, from the promises made to me and instilled by Dr. B., led me further to exert myself all I could against you; and I candidly acknowledge, had I been aware that you had Governor Macquarie's permission, of what I conceived was wrong, I never would have presumed to have offered myself to Dr. B. the way I did; but, when you produced the many documents before the Committee in Genl. Macquarie's hand writing, I considered the whole business must cease. This I communicated to Dr. B.; he smiled at my folly, but said he would recommend that the proceedings should be stopped until Governor Macquarie had sailed for England. In this proposal he succeeded; and after the departure of Governor Macquarie, Dr. B. informed me that Judge Field had withdrawn himself from the Committee, but that Dr. D. was to sit in his place, and that he was not a friend of Major Druitt's; he would render me every assistance in his power, and I cannot offer a more convincing proof than the following circumstances will clearly shew that the prosecutions, so rigorously followed up against you, was founded in Malice of the very worst description. I preferred charges against other individuals of high rank and holding Public Situations for a breach of the Trust, reposed in them, and had substantial proof to establish the report I made to the highest Authorities in this Colony; but, instead of investigation or public Trial for such conduct, I was ordered on the Tread Mill until further orders; and, at that period, I was in a very bad state of health and not able to go on the Mill, and was exempted by Dr. Anderson to some light employment; and on my stating my inability to perform such hard and laborious Work, I was ordered to be confined in the Cells at Carters B'ks, until such times as I agreed to go on the Mill; in this Confinement, I was kept 5 days and 5 nights in a Cold Cell upon Bread and Water, altho' in such a state of health, and taking medicines by the surgeon's orders; and during which period Dr. Anderson

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C. Ellis' statement re preparation of evidence against G. Drutt.

remonstrated respecting such Usage to the man, who accompanied me to the General Hospital, but without effect, as on my return I was always placed again in the Cells; after being taken out of the Cells, I was placed on the ring, and then afterwards on the Tread Mill, where I was jointly for the space of three months, and I have much more to say on the subject of the charges before specified, which I shall reserve for another opportunity.

And on a recent occasion, Dr. B. sent for me and pressed me to make an affidavit to the following effect: that, in order to secure him from the punishment of the Law, I was to swear that he never offered me any Bribes or rewards for my services against Major Drutt. This I positively refused to do, as, in common justice to you, I sincerely hope that you will ultimately be able to obtain that satisfaction you are much entitled to. I have now only to intreat your forgiveness for all the serious injuries that I have been the cause of heaping upon you, and I trust the day is not far distant, when you and all your friends will triumph over your Contemptible Enemies in this Colony.

I am, Sir, &c.,

CHARLES ELLIS.

MR. E. BARNARD TO GOVERNOR DARLING.

5th August, 1826.

[A copy of this letter, acknowledged by Governor Darling, 9th February, 1827, is not available.]

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Speke.)

Sir,

Downing Street, 7th August, 1826.

7 Aug.
Convicts to be transported to Norfolk island.

I am directed by Earl Bathurst to transmit to you the enclosed List of Prisoners, selected from those Convicts recently embarked in the Ship "Speke," who, in the opinion of His Majesty's Government, are fit objects to be transferred to Norfolk Island; and I am therefore to desire that the Prisoners included in this List may be so disposed of on their arrival at New South Wales.

I have, &c.,

R. W. HAY.

[Enclosure.]

[A copy of this list is not available.]

EARL BATHURST TO GOVERNOR DARLING.

1826.
5 Aug.

(Despatch No. 57, per ship Grenada: acknowledged by Governor Darling, 24th March, 1828.)

Sir, Downing Street, 8th August, 1826.

Having taken into my consideration Sir Thomas Brisbane's despatch of the 10th of October last, respecting the inefficient state of the Finances of the Benevolent Society, I do myself the honor to inform you that, under all the circumstances of the case, I have been induced to approve of that Establishment being for the future supported by an annual grant of Money, to be paid out of the Colonial Revenues; but at the same time it will be highly proper that an Act of Council be passed for the future regulation of this Institution.

Annual grant
for benevolent
society.I have, &c.,
BATHURST.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 58, per ship Grenada; acknowledged by Governor Darling, 28th January, 1827.)

Sir, Downing Street, 8th August, 1826.

I have received from Colonel Stewart, whilst Acting Governor of New South Wales, a Dispatch, dated the 16th December last, in which he transmits the Copy of a Proclamation issued by him for the purpose of regulating the rates of Postage in that Colony.

Despatch
acknowledged.

Having consulted with the Post Master General on the subject, it appears that, according to the Ninth of Queen Anne, the Post Master General alone has the power of establishing Posts in the Colonies, and that an Act of Parliament would be requisite to authorize the rates of Postage in question. As no Packets, however, have yet been established between the Mother Country and New South Wales for the conveyance of the Mails, and it is therefore not the wish or the intention of the General Post Office to interfere with the arrangement (the want of which has been so much felt in the Colony), you will consider yourself authorized to continue in force the measure, which has been established by the Acting Governor, upon the footing on which it has been placed, vizt. as a measure purely Colonial and temporary, until the Post Master General shall, in virtue of the Powers vested in him by Act of Parliament, think proper to establish a regular Post Office within the Colony of New South Wales and its Dependencies.

Approval of
post office and
rates of postage.I have, &c.,
BATHURST.

1826.
5 Aug.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Grenada; acknowledged by Governor Darling,
8th February, 1827.)

My dear Sir,

Downing Street, 8th August, 1826.

Reinforcements
and discharges
from veteran
companies.

I do myself the honor of forwarding to you the enclosed letter from Sir Herbert Taylor, proposing to make an addition to the New South Wales Veteran Companies, upon which point, as well as upon the suggestion in regard to the successive discharge of a portion of these men, his Lordship has desired me to communicate with you, and to request that you will be good enough to favour him with your opinion. The chief objection to a progressive discharge of a portion of the Men, as contemplated by Sir Herbert Taylor, seems to be the loss, which your Police would sustain, if the men, most fitted from their experience and activity for the particular duties for which they have been selected, were removed from the public Employment at a time, when their exertions might be most required, and which the men, sent out to replace them, from want of the necessary local knowledge, would not be so competent to perform.

I am, &c.,

R. W. HAY.

[Enclosure.]

SIR HERBERT TAYLOR TO UNDER SECRETARY HAY.

My dear Hay,

Horse Guards, 31 July, 1826.

Addition
proposed
to veteran
companies.

I forgot to ask you on Friday whether Lord Bathurst has determined upon adding 20 R. and F., a Company to the New South Wales Veteran Companies. My only motive in pressing for a Decision is that he should have some time to look out and might obtain artificers of various description and possibly men discharged from the Staff Corps.

Proposed
discharges
in the colony.

It has occurred to me that those would become very useful Settlers, and that General Darling might be authorized to discharge a certain proportion after two years service with that view who would be replaced by men of the same description from home. I mention two years service as their clothing being on the footing of cavalry is for two years and those sent out to replace others would go as escort to Convicts. By this arrangement no extra expence would be incurred.

The men discharged would revert to their Pensions and might be enrolled for service in the Militia or as special Constables.

Supposing the Companies to consist of 80 R. and f. each or 240 and $\frac{1}{4}$ to be discharged every year there would be a progressive increase in the number of Settlers of a good and useful description

in the class of Artisans and labourers which would keep par with the higher class of Settlers and assist in keeping the de-graded class in check.

You must forgive my offering these suggestions as if they should be considered deserving of attention no Time should be lost in acting upon them. It will rest with you to determine what advantages should be held out to Settlers of their Class and description.

I am, &c.,
H. TAYLOR.

1826.
8 Aug.

UNDER SECRETARY HAY TO GOVERNOR DARLING.
(Despatch per ship Grenada.)

Sir, Downing Street, 8th August, 1826.

I am directed by Earl Bathurst to transmit to you the enclosed Copy of a Letter, which has been addressed to his Lordship by Sir Thomas Brisbane in testimony to the merits of Lieutenant Frederick Bedwell, R.N., late first Lieut't of H.M. Ship "Bathurst"; and, in recommending him to your protection, I am to desire that you will make to him a Grant of Land upon the usual conditions, and afford to him such facilities in the selection of his Land as circumstances may permit.

Land to be
granted to
F. Bedwell.

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

[Enclosure.]

SIR THOMAS BRISBANE TO EARL BATHURST.

My Lord, 4 Bennet Street, St. James', 7 August, 1826.

I beg to transmit herewith to your Lordship the application of Lieutenant Frederick Bedwell, R.N., for a Grant of Land in New South Wales, where he is anxious to return as a Settler; and it is only justice to that Officer to recommend his application to Your Lordship's favorable consideration, as I consider him a fit and eligible person to hold a grant of land in New South Wales, from what I have observed of him when employed in a Survey of New Holland, as the First Lieutenant of H.M. Ship "Bathurst."

Application for
land grant.

I have, &c.,
THOS. M. BRISBANE.

[Sub-enclosure.]

LIEUTENANT BEDWELL TO SIR THOMAS BRISBANE.

Sir, 22 Arundel Street, Strand, 3rd August, 1826.

Having been employed in the Colonial Service, during a part of your Government in New South Wales, as first Lieutenant of His Majesty's Sloop Bathurst, under the command of Capt'n. King, and upon the Survey of the Coasts of Australia for a period of Five Years, Permit me to avail of your return to

1826.
8 Aug.Application for
land grant.

this Country to solicit the honor of your recommendation for a grant of Land in New South Wales, it being my intention to return to that Colony, should a favorable opinion of my Services procure your high sanction to my pretensions.

I have, &c.,

FREDERICK BEDWELL.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Grenada; acknowledged by Governor Darling, 29th July, 1827.)

Dear Sir,

Downing Street, 8th August, 1826.

Recommendation of
A. Beauvais
for colonial
appointment.

I am particularly desirous of recommending to your protection the Bearer of this letter, Mr. Alexander Beauvais, a Gentleman of good Education, though disappointed in his prospects owing to family circumstances, over which he had no controul. He has for some time past been occupied in learning the Trade of a Farmer in Scotland; and, as his integrity and abilities may be relied upon, you may safely employ him either as an Overseer of Land, or as a Clerk in any Office under your Government, or in short in any situation, which may happen to be vacant. I have explained to Mr. Beauvais that I cannot undertake to answer for his obtaining, immediately on his arrival in New South Wales, such a situation, as he may consider himself entitled to look for, but that I am satisfied you will take the earliest opportunity of putting it in his power to make himself useful.

I am, &c.,

R. W. HAY.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Grenada; acknowledged by Governor Darling, 29th January, 1827.)

Sir,

Downing Street, 10th August, 1826.

10 Aug.
Land grant for
C. Macarthur.

With reference to the letter of the 11th of October last, addressed to you by Earl Bathurst, respecting an Allotment of 5,000 Acres to be made to Mr. Charles Macarthur; and, as it appears that some apprehension exists in the mind of that Gentleman that the allotment in question may have been otherwise disposed of, I take the opportunity of Mr. Macarthur's return to New South Wales to communicate to you Lord Bathurst's directions that, on his arrival in the Colony, a Grant of Land, to the same extent as mentioned in his Lordship's former letter, be made to Mr. C. Macarthur, in any of the unlocated parts of the Colony, which may not interfere with the interests of other individuals.

I am, &c.,

R. W. HAY.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 59, per ship Grenada; acknowledged by Governor Darling, 16th February, 1827.)

1826.
11 Aug.

Sir, Downing Street, 11th August, 1826.

With reference to my dispatch No. 6 of the 14th of July, 1825, I do myself the honor to transmit to you the accompanying Instructions for keeping the Accounts of the Revenue and Expenditure of New South Wales, which have been addressed by the Lords Commissioners of His Majesty's Treasury to yourself, the Treasurer, and Auditor of your Govern't; and I have to desire that you will attend strictly to these Instructions, so far as they relate to yourself, and will enforce a due obedience to them from the other Officers for whose guidance they have been issued.

Transmission
of instructions.

I have, &c.,

BATHURST.

[Enclosure No. 1.]

INSTRUCTIONS to the Governor of New South Wales respecting the Revenue and Expenditure of the Colony, and the mode of accounting for the same.

Instructions re
revenue and
expenditure and
public accounts.

1. You are to exercise a vigilant superintendance and control over all Colonial Affairs in any way concerned in the Receipt of the Colonial Revenues, in the care and custody of the Public Money, or in making up and examining the public Accounts; and, in order to the due accounting for the Colonial Revenue and Expenditure, you will observe and cause to be enforced the following Regulations.

2. You will cause all public Revenue, raised in the Colony, and all sums received in aid thereof, or levied for the Public Service, to be paid over without deduction to the Colonial Treasurer, who will disburse the same under your authorities, and who will be held accountable for the proper distribution of the same to us, or the Lords Commissioners of His Majesty's Treasury for the time being.

3. With reference to the directions contained in Earl Bathurst's dispatch to Sir Thomas Brisbane under date 5th June, 1825, and to the order in Council of 23rd March, 1825, and the Instructions to Officers of the Commissariat of 12 February, 1825, accompanying the said Dispatch, you will cause all Public Accounts to be kept in British Currency.

REVENUE.

4. You will direct all persons, concerned in the Collection of the Public Revenue of whatever description, to pay over at least twice in each Month, Vizt. on the 15th and last days of the Months, the whole amount collected by them, without any deduction for Commission or otherwise, to the Colonial Treasurer, whose receipts shall specify the description of Coin or other Medium, in which such payments are actually made. If, however, you should conceive that the amount of any Collection is so large as to make it expedient that it should be paid over to the Treasury oftener than twice in the Month, you will give such directions as may appear to you necessary.

5. The several Officers, charged with the Collection of the public Revenue, are to make up their Accounts Monthly in the form

11. In the event of the exigencies of the Service ever rendering it necessary that you should draw upon this Country in aid of the Colonial Revenues, the Bills are to be drawn by you upon the Lords Commissioners of His Majesty's Treasury, at not less than thirty days sight, in favor of the Treasurer, who will endorse them to the persons to whom they may be negotiated.

12. If any such Bills should be drawn, you will transmit immediate advice thereof, stating particularly the cause which rendered such proceeding necessary, accompanied by a Register specifying the number and amount of each Bill, the name of the person to whom made payable, and, if not disposed of by public Tender or Sale, the particular service to which it has been applied.

13. With reference to the Instructions, conveyed in the Circular of 12th February, 1825, to the Officers of the Commissariat, relative to the negociation of Public Bills, in the event of any Bills drawn either on this Board or on the Agent for the Colony in this Country being negotiated in the Colony, you will direct the same to be disposed of for British Silver Money at the rate of a Bill for £100 for every £103 of such Silver Money; and you will cause due public Notice to be given of your intention to grant Bills at that rate, and will give the necessary directions to the Treasurer or other Officer concerned.

14. If you should find it absolutely necessary to negotiate Bills for Dollars, or any other Coin except British Silver Coin, you will cause the same to be done by public Sale or Tender; and, whenever you may find it necessary to deviate from this rule, you will express in your order to the Treasurer or other Officer concerned your reason for so doing.

You will cause due public notice to be given of such Sales of Bills; and you will direct two of the Civil Officers of your Government to attend with the Treasurer at the place of Sale or at the opening of the Tenders.

15. You will cause Registers to be made of every such public Sale of Bills (not negotiated for British Silver Coin), whether by auction or by tender, in which are to be specified the number and amount of each Bill, the person to whom sold, and also the Coin for and the rate of exchange at which it was disposed of; and the said Registers are to be supported by the certificates of the three Officers, appointed by you to attend at the Sale, that they contain a true and correct List of the Bills *bonâ fide* sold in their presence, and that the rate of exchange, noted against each, is the actual rate at which it was disposed of. These Registers are to be transmitted to you within twenty four hours after the Sale, and you will cause them to be handed over to the Auditor to check the Treasurer's Accounts.

16. You are to take care that the rate of Exchange, at which any such Bills are sold, be noted by the Treasurer upon the Bills themselves, before they are endorsed and paid away by him.

EXPENDITURE.

17. You will receive herewith a Copy of our Instructions to the Colonial Treasurer for his guidance in the receipt and disbursement of Public Money; and, with reference thereto, you will observe the following regulations respecting the public Expenditure.

1826.
11 Aug.

Instructions *re*
revenue and
expenditure and
public accounts.

1826.
11 Aug.
Instructions re
revenue and
expenditure and
public accounts.

18. All disbursements of the Public Money for Colonial purposes are to be made by your Authority, or by authority from the Officer administering the Government in your absence, given in writing in the manner and forms hereafter prescribed; and it is to be distinctly understood that, under the provisions of the acts of 46 G. 3, Cap. 141, and 1 and 2 G. 4, Cap. 121, the Officer, improperly authorizing or directing any Expenditure contrary to these Regulations or to such other Instructions as he may receive, will himself be held personally responsible for the Amount.

19. The Expenditure of your Government will be classed under the heads of Ordinary and Extraordinary or Contingent.

Ordinary.

20. You will, immediately upon the receipt of these Instructions, cause a Schedule to be prepared in the form annexed (B) of all Officers and persons in the receipt of any Salary, personal Allowance or Emolument (other than the Military Pay and Allowances specified in Section 28) from the Revenues or other Colonial Funds, or from fees levied in the Colony; and you will, as far as possible, ascertain and cause to be noted thereon the original authority, under which the several Salaries and Allowances are paid, and more particularly whether they have been especially authorized or sanctioned by the Commissioners of His Majesty's Treasury or by the Secretary of State.

This is to be called the Schedule of the fixed Establishment of the Colony; and you will not consider yourself authorized to make any addition to this Schedule, either as to the number of Appointments or the rates of Salary and Allowance, without express authority from the Lords Commissioners of His Majesty's Treasury and His Majesty's Secretary of State.

21. You will cause Copies of this Schedule to be transmitted to the Treasurer and the Auditor for their guidance under the accompanying Instructions to them.

22. You will direct the Secretary, or other proper Officer of your Government, to make out Monthly, Quarterly, or at such other period as the Salaries have been usually paid, Abstracts of the Salaries and Allowances due to the several Individuals in each public Department, included in the fixed Establishment, in the form annexed (C); and you will issue your Warrant to the Treasurer in the form annexed (D) to pay the said Salaries.

23. If you should find it indispensably necessary for the due carrying on of the public Service to make any new Appointment, or to make any different appropriation of the Established Salaries of any Public Department, without waiting for the sanction of Us, or the Commissioners of His Majesty's Treasury for the time being, or of his Majesty's Secretary of State, you will cause such new or altered Salary to be borne upon a separate Abstract; and you will authorize the issue thereof by a separate supplementary warrant in the form annexed (E).

24. You will, without loss of time, report fully to the Secretary of State, in order to its being communicated to the Lords of the Treasury for the time being, the nature of such Appointment or alteration, with the circumstances which made the measure necessary without awaiting the result of a reference to this Country; and you will cause to be attached to the warrant the original Order

for the Appointment or Alteration, and a specific reference to the Despatch, in which the same is reported to this Board and to the Secretary of State; and it is to be distinctly understood, with reference to the 18th Article of these Instructions, that, if the reasons for granting any new Appointment are deemed insufficient, or if the same shall not have been reported to His Majesty's Government by the earliest opportunity, you will be held personally responsible for the recovery of the Salary granted therewith, or such portion thereof as it may be thought right to disallow.

25. In the event of the confirmation of such new Appointment or Increase, you will cause the same to be inserted in the Schedule of Colonial Establishment; and you will accompany your order for such insertion by a Copy or Extract from the Authority confirming such addition.

26. In the event of any Officer obtaining leave of absence, and his Salary becoming thereby payable elsewhere than in the Colony, or a portion of it being paid to the person acting for him in his absence, such portion only will be included in the Abstracts and Warrants, and not the part which is not actually paid in the Colony; and you will direct a Copy of the Order, granting such leave of absence, to be attached to the abstract in which the alteration of the Salary first appears, and also a Copy of the Authority granting a portion of the Salary to the person officiating. It is to be considered a general rule that no Officer absent from his duty shall receive more than the moiety of the established Salary of his appointment, and that the person by whom the duty is performed shall receive the remaining moiety.

27. Whenever any alteration in the persons filling Appointments on the Establishment takes place from promotion or otherwise, you will cause a Copy of your Order respecting the same to be attached to the first Abstract, in which such alteration appears; and, in such order, you will refer to the date of the despatch reporting such alteration, in conformity with the directions contained in Earl Bathurst's Circular of 26th December, 1823.

28. You will also prepare a list of the persons holding any Staff or other Military Appointments, which have been sanctioned by the Commissioners of the Treasury or Secretary of State to receive pay or allowance out of the Colonial Funds, stating against each the amount of such pay or allowance, and including in such List every description of Colonial pay or Allowance to the various Classes of persons employed in the Military Department.

29. You will cause the amount of these Military Charges to be from time to time paid over from the Colonial Treasury, upon Estimates, to the Commissariat or other Officer in charge of the Military Chest, by whom all Military Pay and Emoluments will be issued in detail and accounted for.

30. You will authorize such issues to the Officer in charge of the Military Chest by your Warrant in the form annexed (F); and you will cause such Officer to transmit Quarterly to the Auditor an Account specifying the sums received from the Colonial Treasury, and the services to which they have been actually applied, in order to its being ascertained that no more money has been issued on this Account from the Colonial Funds than was required for, and duly applied to the Military Disbursements, properly chargeable against the Colony.

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You will not consider yourself at liberty to alter or add to these Colonial Military Allowances without the express sanction of the Lords Commissioners of His Majesty's Treasury and His Majesty's Secretary of State.

31. In the event of any Officer quitting the Colony, on leave of absence or otherwise, he is to be furnished with a Certificate from the Treasurer or other person, by whom his pay or allowances are issued, of the period up to which he may have drawn any Salary and Allowances, to which he may be entitled; such Certificate will be absolutely necessary to enable him to obtain any further payment on Account of his Salary from the Agent for the Colony in this Country or elsewhere.

Upon any Officer resuming his duty in the Colony after absence, you will, previously to authorising any issue of his Salary or allowances, call upon him for a Statement of any Monies he may have received on that account from any Agents of the Colony or otherwise; and, in the case of any Monies having been so received, the statement must be supported by Certificates from the respective Agents of the Amount issued by them, specifying on what account and under what authority the issue was made; and you will cause the respective parties to be furnished with Instructions to this effect; and, till such Certificates are produced, you will withhold his Salary in the Colony.

Extraordinary or Contingent.

32. This head of Expenditure is to be subdivided into Fixed and unfixed Contingent Charges.

Fixed Contingent Charges are such as are of certain recurrence as incidental to the carrying on of the public Service, although the amount of the charge may vary; such for instance as Rent, Stationary, and other regular expences of Public Offices, Commission to Collectors of Revenue, and so forth.

33. You will cause a Schedule to be made out of all charges of this nature, that have heretofore been defrayed from the Colonial Revenues, specifying, as far as can be done, what have been regularly sanctioned by His Majesty's Government, and the period at which the allowance was originally granted.

You are not in future to add to these fixed Contingent Charges without the express sanction of the Lords Commissioners of His Majesty's Treasury and the Secretary of State; upon obtaining which sanction, you will direct the Treasurer and the Auditor to insert the Charge, to which it refers, in the Schedule; and a Copy or Extract of the Despatch conveying such sanction must accompany the order to the Auditor and Treasurer for the insertion.

34. You will cause the Head of each public Department to make out monthly, or at such other stated periods as you may think more expedient, Abstracts (G) of the fixed Contingent Charges of the Department, which you will direct the Auditor to examine; and, upon his report as to their correctness, you will authorize the Treasurer to pay the same by your Warrant in the form annexed (H).

35. In all cases where Commission is allowed to Officers entrusted with the Collection of the Public Revenue, you will cause such Commission to be calculated upon the net Revenue, after deducting

the Salaries of the Collector and his Assistants and Clerks, and all the expences attendant upon the Collection: in order to which, you will require the Officer entitled to Commission to transmit to the Auditor, Monthly or Quarterly as you may deem most expedient, a statement shewing the Revenue collected by him and paid into the Colonial Treasury, the Charges to be deducted therefrom, and the Amount of the Commission accruing to him, which statement the Auditor will examine and will Certify the Correctness of the same and the amount of the Commission due: upon which you will grant your Warrant for the payment thereof.

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36. *Unfixed Contingent Charges*

are such as are uncertain both in recurrence and amount, such as Construction and repair of Public Buildings, etc., etc., etc.

No Expenditure of this description, unless on very pressing emergency, is to be incurred without the previous authority of the Lords Commissioners of His Majesty's Treasury and the Secretary of State, unless the aggregate amount of the whole charge for Repairs for any one service is under £200 Sterling; in which case, you are at liberty to authorize the same upon your own responsibility, explaining at the same time the absolute necessity.

37. If, however, any case should arise, in which, without a previous reference for a regular authority for incurring any Contingent Charge above £200, you should be induced to authorize the same, you will report in the fullest manner to the Lords Commissioners of His Majesty's Treasury and to the Secretary of State, by the first opportunity, the grounds upon which you felt it necessary to incur the Expenditure.

38. No unfixed Contingent Charge is to be incurred without your previous authority in writing to the Department, to which the Charge may relate; before granting which, you will require an Estimate of the Amount to be expended in all cases where such Estimate can be obtained. The Authority is to specify the grounds upon which the expence is incurred, and whether the same has received the sanction of the Commissioners of His Majesty's Treasury or Secretary of State, or has been reported for such sanction.

39. Upon the completion of any Repairs or Work, you will direct some competent persons to survey the same, and to certify that it has been completed according to the terms of the Estimate, and in a proper manner.

40. In the instance of the purchase of Stores by any public Department, you will cause the same to be surveyed by such persons as you may deem competent to that duty, who will certify the quantity and quality of the Stores delivered, and as to the delivery being in conformity with any Contract respecting the same.

41. You will cause Abstracts (I) to be made out of the unfixed Contingent Charges in each Department, and submitted to the Auditor; upon whose report as to their correctness, and their being substantiated by all proper Accounts and Certificates, you will authorize the payment of the amount by your Warrant in the form annexed (K), in the case of minor charges to the head of the Department, in which the expence was incurred, or otherwise to the Contractors or persons by whom the service was performed.

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42. Whenever Stores are purchased for the Public Service, you will cause the person, in whose charge they are placed, to transmit to the Auditor, monthly or quarterly as you may think most advisable, a detailed Account of the receipt and Issue of such Stores, accompanied by such Authorities and Vouchers for the issue, as you may see fit to direct; and you will instruct the Auditor to examine and report to you upon such Store Accounts, and will hold the Storekeepers responsible for the value of all Stores embezzled, or damaged, or lost through negligence.

43. You will cause all surplus or damaged Stores to be disposed of by Public Sale; such sales to be made upon special authorities from you, directing the mode in which they are to be effected, and the proceeds of them to be in all cases paid over to the Treasury without deduction.

44. In the event of your finding it indispensably necessary, for the carrying on of the public service, to make advances of the Public Money to Agents, Contractors, or others upon Account, you are to issue a special Warrant to the Treasurer for such advance, in which you will state the Service for which it is made, and the manner in which it is to be refunded or liquidated.

45. You will direct the Auditor to report to you from time to time upon all outstanding advances, in order to the necessary steps being taken for the recovery of such as may not be duly accounted for.

46. In the case of any Expenditure for the Service of the Colony being made through the hands of Agents in other Countries, with the exception of the Agent in England who will receive Instructions from Us for his guidance, you will cause them to be duly informed as to the nature of the vouchers required in support of their Accounts for the same. You will direct the Accounts of all such Agents to be closed at least once a year, and transmitted to you with the proper vouchers for all Expenditure, Bill Negotiations, or other transactions, with the conduct of which they may have been entrusted. You will cause these Accounts to be duly examined by the Auditor; and you will, upon the production of proper vouchers, authorize the Treasurer by your Warrant to take credit for any disbursements under the proper head of Expenditure, thereby relieving the Agent of his responsibility.

47. In the event of your finding it necessary to issue any Money for secret service, you will grant a special Authority to the Treasurer to pay the same to the Secretary, or other proper Officer of your Government; and you will without loss of time make a full and circumstantial Report to the Secretary of State of the nature and grounds of such Issue, and will transmit as soon as possible to the Secretary of State a detailed Account of the application of the money, supported by such vouchers as the circumstances of the case may admit of being procured.

48. You will authorize all payments for arrears of preceding years, whether of Salaries, or of contingent charges actually incurred and due, by separate Warrants specifying the same to be for arrears.

49. In the event of the charge of the Treasury being on any occasion transferred to fresh hands, you will cause the contents of it to be carefully verified by a Committee of Officers of Your Government; and you will cause a Copy of the Report of such Committee to be delivered to the person giving over the Charge as a necessary

Voucher, together with the Receipt of the person, taking charge, for his being duly relieved from further responsibility for the amount transferred.

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50. With a view to your being fully and accurately informed respecting the state of the Treasury, you are hereby required to cause the Treasurer (in conjunction with some other Officer to be appointed by you) at least four times in the year to examine and count the actual Contents of the Chest, to compare them with the Books, and to report to you the result of their investigation, stating the particulars of the Balances counted by them.

This Regulation is not, however, to be construed as diminishing in any respect the general responsibility of the Treasurer, who is at all times equally answerable for the safe custody of the contents of the Treasury and the accuracy of the Accounts.

51. With the same view, you will once at least in every year, without any previous intimation of your intention in this respect, direct two other Officers of your Government to examine into and compare, in concert with the Treasurer, the state of the Treasury Chest and of the Books, and to report to you the result of their examination; and you will cause Copies of the Reports, required by this and the foregoing Article of these Instructions, to be transmitted with the Accounts of the Year.

52. You will direct the Auditor to report to you Monthly upon the several Accounts of the Treasurer, Collectors, and others, which are periodically to be submitted to him under the foregoing or other Instructions, stating the periods of their being delivered at his Office, and the progress made in their examination, and calling your attention to any irregularities or delays that may occur.

53. With reference to Article 10th of Our Instructions to the Auditor of Accounts, and Article 18th of Our Instructions to the Treasurer, you will, in the case of all surcharges recoverable by the Treasurer, issue such directions for their remission or confirmation, as the circumstances of the case and the explanations offered to you may require and authorize; and, in the case of surcharges against persons from whom it may not be in the Treasurer's power to recover by stoppage, you will without delay order the necessary steps to be taken to enforce the surcharge, unless you shall see good reason to remit the same. You will authorize the remission of each surcharge by a special order in writing, addressed to the Treasurer, and communicated to the Auditor, in which you will state fully the grounds of the remission.

54. You will cause the Auditor to prepare from the Warrants and submit for your information periodical abstracts of the expense incurred in each public Department under the several heads of Establishment and Fixed and Unfixed Contingencies; and you will also instruct the Auditor to prepare and submit to you an Annual Report and Statement, detailing the amount of the Revenue and Expenditure for the year under the several heads of Receipt and Disbursement, noting any Increase or Diminution that may have occurred, as compared with the respective amounts of Receipt or Disbursement for the preceding Year, and what may appear to him to have been the cause of such variation; and subjoining thereto as accurate a statement, as he is enabled to give, of the Debts and Credits of the Colony, as they stood at the end of the year, whether arising from loans due to or from the Government,

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from arrears of Revenue, or from any other cause whatever. This Report, with any further information or observations upon it that may occur to you, you will forward to the Secretary of State in order to its being transmitted to Us, or the Lords Commissioners of His Majesty's Treasury for the time being.

55. You will also cause a statement to be prepared of all Buildings and Cultivated Lands, which are the property of the Crown, specifying by whom, and for what purpose, they are occupied, and what Rent is payable for those portions not occupied for the public Service. You will direct the Auditor to transmit this Statement with the first Accounts to this Colony; and you will cause an Annual Report to be prepared of any alterations in the extent and disposition of such Crown property, and to be transmitted with the future Yearly Accounts.

56. You will transmit annually to the Secretary of State, in order to its being forwarded to the Lords Commissioners of His Majesty's Treasury for the time being, a report of all dues or Tolls, levied for special purposes under the provisions of the Act of 4 Geo. 4. Cap. 96, or otherwise, stating in such report the nature and rate of such Dues, and the object for which they were imposed, the gross amount raised, and the amount actually expended, specifying what portion of the Expenditure was for Salaries or other Charges incident to the Collection and what sum was actually applied to the object for which the money was raised.

57. You will use every exertion to ensure the due collection of the Revenue in all its branches, and to economize the Expenditure; and you will cause any surplus of the Colonial Funds, above the amount of the Authorized Charges defrayed from them, to be from time to time paid over to the Military Chest.

58. It is to be understood that all Warrants for the issue of Public Money are to be signed by you, or the Officer Administering the Government in your absence; but all other authorities and orders under the foregoing Instructions may be issued in your name, and by your Authority, by the Secretary or other proper Officer of your Government.

59. With reference to section 19 of the accompanying Instructions to the Treasurer, you will cause all Documents relating to the Accounts of the Colony, with the exception of Warrants and Authorities under your own Signature, to be made out and taken in Duplicate, in order that one complete set may be transmitted to this Country, and that another may remain for reference in the Colony.

60. These Instructions are not to supersede or interfere with any orders respecting Returns, Accounts, or other Documents, that you may have received or may hereafter receive from His Majesty's Secretary of State.

61. You will deliver Copies of the respective Instructions to the Lieutenant Governor, and to the Treasurer of Van Dieman's Land for their guidance. You will cause the financial transactions of that branch of your Government to be conducted, and the Accounts to be kept, as nearly in conformity with those of New South Wales, as the Establishment of the Public Departments there and other circumstances will admit; and you will issue the necessary directions in order to their being duly examined by the Auditor, and forwarded with the Annual Accounts of New South Wales to this Country.

62. In the event of your quitting the Government of the Colony, or transferring the temporary Administration of it to some other person, you will deliver a Copy of these Instructions to the Officer, who succeeds you, or Acts in your absence.

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LIVERPOOL.
G. C. H. SOMERSET.
FREDERICK JOHN ROBINSON.

Whitehall, Treasury Chambers,
13th June, 1826.

[Copies of forms A to K will be found in a volume in series II.]

[Enclosures Nos. 2 and 3.]

[Copies of the instructions to the treasurer and auditor will be found in a volume in series II.]

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Grenada; acknowledged by Governor Darling,
29th January, 1827.)

Dear Sir, Downing Street, 11th August, 1826.

I send you herewith the Copy of a Dispatch, which was addressed to Sir Thos. Brisbane on the receipt of Captain Bremer's Report of his proceedings at Melville Island, but which appears, by some unaccountable accident, never to have been forwarded.

Delayed
transmission
of despatch.

The Report of Captain Bremer's proceedings has already been communicated to you; and I am directed by Earl Bathurst to request that, should the measures, directed by the Dispatch, which was founded upon it, not have been already adopted, you will lose no time in carrying them into effect by extending to the Officers, whose names are mentioned therein, should they still remain in the Colony, the advantages which it was originally intended to Grant to them.

I am, &c.,

R. W. HAY.

[Enclosure.]

EARL BATHURST TO SIR THOMAS BRISBANE.

Sir, Downing Street, May, 1825.

As it is possible that you may not have received any Communication from Captain Bremer of H.M. Ship Tamar, or from the Officer, whom he has left in command of the Fort and Establishment erected at Melville Island, I do myself the honor of transmitting, for your information, a Copy of Captain Bremer's letter to me, detailing his proceedings, in order that you may be duly informed of the measures, which have been taken for the formation and effectual security of the new settlement, and be able to communicate the necessary particulars respecting it to

Report re
settlement at
Melville island.

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any Individuals, who may wish to avail themselves of the permission, which you were authorized, by my dispatch of the 17th February, 1824, to give to any persons desirous of becoming Settlers in the new Colony.

Increase in
salaries of
M. Barlow and
Williamson.

I take this opportunity of acquainting you that, in consequence of the arduous duties, which have devolved upon the Officers commanding the Military Detachment, which accompanied the expedition, vizt. Captain Barlow of the 3d Regt., who has been left by Captain Bremer in command of the Settlement, and Lieut't Williamson of the Royal Marines, appointed to act as Engineer, I have been induced to recommend that each of these Officers should receive an addition to their regular pay, equal to one step in Rank above that which they bear by their present Commissions, provided they do not already receive any Extra allowance beyond their ordinary pay, in consequence of being employed upon a detached Service.

Additional
pay for
R. Charters.

The additional pay, which I have thus sanctioned, will be chargeable upon the Police Fund; and you will therefore take the necessary steps for issuing the amount to them. Captain Bremer also mentions in most favorable terms the conduct of Mr. Robert Charters, Carpenter of the Tamar, in the construction of the Buildings, and in every other public duty entrusted to him; and, as I consider that such conduct deserves to be remunerated, I have to authorize the payment to him, whilst employed in the capacity of Store Keeper, an allowance at the rate of 2s. 6d. per day; and, as such allowance is intended to be granted to him, exclusive of his other pay as Naval Carpenter, you will, in case his services at the New Settlement should deprive him of the latter, make to him an additional allowance equal to that, which he might lose in consequence of his employment on Shore.

I have, &c.,

BATHURST.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Grenada; acknowledged by Governor Darling, 29th January, 1827.)

13 Aug.

Letter from
H. Dangar.

Dear Sir,

Downing Street, 13th August, 1826.

Lord Bathurst has desired me to send you the accompanying letter from Mr. Dangar, representing the inconvenience occasioned to him by the late arrangements in the Surveyor General's Department.

It appears that, though the general survey of the Colony, which is now in progress, has made it necessary to send out a Class of persons more particularly qualified to assist the

Surveyor General in that undertaking, this arrangement has not affected Mr. Dangar, either with reference to his present Salary, or to that which he would obtain on being advanced to the next step in the Department, to which he belongs. Lord Bathurst cannot, therefore, allow that Mr. Dangar has any right to complain, for it was never intended that promotion according to Seniority should be the rule adopted in the Surveyor General's Department. Should there, however, be any circumstances, in the case of Mr. Dangar, which, although unknown to Lord Bathurst, may in your opinion give him a claim to consideration, I am to request that you will take the first favourable opportunity of advancing him; if not, you will communicate to him the first part of this letter.

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13 Aug.
Status of
H. Dangar
in survey
department.

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

[Enclosure.]

MR. HENRY DANGAR TO EARL BATHURST.

Surveyor General's Office, New South Wales,

My Lord, 12th Decr., 1825.

In soliciting your Lordship's attention to this letter, I must assure you that I am called upon to represent to your Lordship the very deep sense of injury, my feelings have lately experienced in regard to the office, I have the Honour to hold in this Colony; and, with a hope that by your Lordship's enquiry into the Case, I shall no longer labour under the disadvantages, I am about to complain of.

Your Lordship must be informed that I received an appointment as Assistant Surveyor of Lands from the late General Macquarie about the 1st of July, 1821, the Salary, attached to which appointment Your Lordship will be acquainted, was small.

Appointment of
H. Dangar.

From the 1st of Janry., 1823, I was informed by the Surveyor General of this Colony that your Lordship had been pleased to sanction my appointment, as an Assistant Surveyor; and, from which date, Your Lordship will be acquainted that the Assistant Surveyors, on the establishment of this Colony, were placed on the footing, as recommended to your Lordship by the Commissioner of enquiry, Mr. Bigge, viz.

Salaries of
surveyors.

The Senior Assistant	at £250	pr. Annum
The Second Ass't	at £200	Do.
The Third Ass't	at £150	Do.

At the period alluded to, I stood Second in regard to Seniority, and, such being made to appear to the Governor, I was consequently placed in the receipt of the Salary, as provided for in the parliamentary estimates for that office, but without receiving any other allowance whatever.

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The regulation, alluded to, was received satisfactorily, conceiving then, as a Matter of course that should the Service require an Augmentation of Surveyors, that such Augmentation would have reference to those Senior appointments, who come under the regulation, alluded to, and that under the positive Sanction of Your Lordship.

Effect of new
appointments
on status of
H. Dangar.

With a view of increasing the strength of the Land Surveying establishment, Your Lordship has forwarded three Gentlemen to this Colony, who arrived in the early part of the present year, as Assistant Surveyors at a Salary each of £250 pr. Annum, with lodging and forage Allowance; as, in reference to the parliamentary provision for the Civil establishment of New South Wales for the Year ending 31st Decr., 1825, Four Assistant Surveyors at £250 each, and one at a Salary of £200 pr. Annum, who is there Class'd Deputy Assistant Surveyor, is provided for, thereby reducing me from the post of Second Assistant to Deputy Ass't; and, as in all probability as the Service requires further Augmentation, Your Lordship will make more appointments of the same description, therefore, in my present state, I humbly submit to Your Lordship I have every chance of retrograding instead of advancing.

I must further presume to trespass on Your Lordship's time by stating that I am superceded in office; that, after near five years arduous service, I am placed from Second Assistant to Deputy Assistant on the list of Surveyors; that Young Gentlemen have lately joined the Service, and, without serving any period necessary to becoming efficient in the method of Surveying practiced here, are placed above me in designation of Office and pay.

I cannot but Contrast to Your Lordship my present situation with that of the First Assistant, Mr. Harper, whose original appointment is of the same date as my own, and, with whom, I had an equal claim to any preferment, the department might afford. His pay is the same as those Gentlemen receive, Your Lordship has lately appointed. He is first Assistant from Seniority. I am now, since being so superceded, Deputy Assistant or fifth from the top of list, with little chance of ever reaching another Step, rendering my post from its retrograding nature both vexatious and discouraging.

I beg permission to call to Your Lordship's recollection the circumstance of the late Rt. Honble. Earl of St. Germans having, in the year 1822, introduced my case to the notice of your Lordship, then soliciting for me advancement in the department,

when from the very favourable reply given by Mr. Wilmot Horton, the Earl of St. Germans and my friends were induced to expect favourable results.

1826.
13 Aug.

I am happy in being able to state to your Lordship that the grievance, which I complain of, has not wanted attention from Mr. Oxley, the Surveyor General, he having represented by letter to the late Governor, Sir Thos. Brisbane, K.C.B., the propriety of equalizing the Salaries of Assistant Surveyors, but which Sir Thos. Brisbane declined interfering with.

Claims supported by J. Oxley.

My only hope, therefore, is to appeal to Your Lordship to be restored to my former designation of Office; and that Your Lordship, if gradations of salary are continued, will render my post as respectable, as would seem to Your Lordship, I am entitled to from Seniority above those Gentlemen, lately appointed, and from the impossibility of my receiving immediate redress, as a reference to Your Lordship is necessary, that Your Lordship, if pleased to grant my request, will allow Your Act to have a retrospective operation from the time the first of the three appointments, alluded to, arrived in the Colony.

Request for redress.

I have, &c.,
HENRY DANGAR.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 60, per ship Grenada: acknowledged by Governor Darling, 17th February, 1827.)

Sir, Downing Street, 14th August, 1826. 14 Aug.

Sir Thomas Brisbane having upon his return to this Country transmitted to me a Memorial from Mr. Balcombe, the Colonial Treasurer at New South Wales, with his recommendation that he should be allowed the services of a Confidential Clerk, the Expenses of which, as well as of the Hire of a House, he has proposed should be defrayed out of the Colonial Revenues, I do myself the Honour to acquaint you that I have been induced, in consequence of Sir Thos. Brisbane's representation that the Colonial Treasurer could not carry on the Business of his Department (in the manner in which it ought to be conducted) without such assistance, to sanction the charge of £150 per Annum on that account, but that it will be out of my power to authorize any allowance to be made to Mr. Balcombe for House Rent.

Confidential clerk to colonial treasurer.

I have, &c.,
BATHURST.

1826.
14 Aug.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Grenada; acknowledged by Governor Darling,
29th January, 1827.)

Land to be
granted to
Aspinall and
Browne.

Sir, Downing Street, 14th August, 1826.
Messrs. Aspinall and Browne of Sydney, New South
Wales, having addressed a Memorial to Earl Bathurst, in which
they pray that he would confirm to them an allotment of Land,
consisting of 4,000 Acres, which had been reserved in their
favor by Sir Thomas Brisbane, I am directed by his Lordship to
acquaint you that, in consideration of the high Character and
respectability, which these individuals are represented to bear in
the Colony, as well as of their having fully expended Capital
upon and improved, according to the Regulations, the original
Grant of 2,000 Acres, which they are stated to have received,
Lord Bathurst is pleased to confirm to them the Reserve of Land
in question, subject to the usual conditions.

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

UNDER SECRETARY HAY TO GOVERNOR DARLING.*

19 Aug.
Recommend-
ation of
W.A.B. Bennett.

My dear Sir, Downing Street, 19th August, 1826.
This letter will be presented to you by Mr. W. A. B.
Bennett, who has been enabled by his friends to proceed to New
South Wales for the purpose of establishing himself there as a
Settler.

Lord Bathurst is desirous that you should give him such a
Grant of Land, as he may have the means of cultivating; and
that, in case his conduct should be such as to merit it, you
will consider him as one, who may hereafter be selected for any
small situation, to which it may prove in your power to appoint
him.

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

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Grenada; acknowledged by Governor Darling,
29th January, 1827.)

20 Aug.
Land grants for
P. Murdock and
D. Macleod.

Sir, Downing Street, 20th August, 1826.
I am directed by Earl Bathurst to transmit to you the
enclosed Copy of a letter, addressed by Sir Thomas Brisbane,
soliciting, in behalf of Mr. Peter Murdock and Staff Surgeon
Donald Macleod, a confirmation of two additional Grants of
Land, consisting of 2,000 Acres, which he had made to each of

* Note 64.

those Officers respectively, in acknowledgement of their services under the circumstances therein stated; and I do myself the honor of acquainting you that his Lordship is disposed to comply with Sir Thomas Brisbane's recommendation in favor of these Gentlemen; and you will consider yourself authorized to extend their Original Grants accordingly, unless you should be of opinion that the measure would be productive of inconvenience, as a Precedent, owing to the situations, which they respectively hold under the Colonial Government.

I have, &c.,

R. W. HAY.

1826.
20 Aug.

Land grants for
P. Murdock and
D. Macleod.

[Enclosure.]

SIR THOMAS BRISBANE TO EARL BATHURST.

My Lord, 4 Bennet Street, St. James', 11 August, 1826.

Before I quitted the Government of New South Wales, I felt disposed to acknowledge the services, the Colony had received from Peter Murdock, Esq., and Staff Surgeon Donald Macleod, by extending their original grants of land, consisting of 2,000 acres to 2,000 Acres in addition respectively, at the same time annexing a clause, to the condition of their receiving such indulgence, that the extention was only to be confirmed subject to Your Lordship's approbation.

Lands granted
in reward for
services by
Sir T. Brisbane.

This approval I now beg to solicit in their behalf under the following circumstances.

Mr. Murdock, shortly after my arrival in New South Wales, was placed in charge of the Government Agricultural Establishment of Emu Plains upon a Salary of 7s. 6d. per diem. The Official Returns will shew that this Establishment, owing to his constant exertions and ability, was rescued from a heavy pressure of debt, and made so profitable to the Government as to leave a balance in its favour subsequently of many thousands pounds per annum, arising from the produce of grain, tobacco, etc.; the merit of this œconomy is enhanced by the consideration that it was the first Agricultural Establishment, that was made profitable to the Crown in that Colony; an example was at the same time given, which has since been much followed by the Settlers, in the improvement of the general condition and habits of industry among the Convict farming Servants.

Services of
P. Murdock.

Doctor Macleod officiated as Police Magistrate of Parramatta, three years previous to the recommendation of the Council that a Salary should be annexed to the Office. He also was entrusted with the sole superintendance of the Female Factory; in both of these difficult situations, I had many opportunities of witnessing his judicious and zealous services for the good of the Public.

Services of
D. Macleod.

1826.
20 Aug.
Request for
confirmation
of grants.

I have, therefore, much pleasure in bringing the names of these Gentlemen before Your Lordship, requesting Your Lordship will be pleased to confirm the extension of their original Grants, as their Capital is fully adequate to enable them to improve and cultivate such additional quantity of Land, and to comply with the Government Regulations thereon.

I have, &c.,

THOS. M. BRISBANE.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Grenada; acknowledged by Governor Darling, 29th January, 1827.)

21 Aug.
Land to be
granted to
Sir T. Brisbane.

Sir,

Downing Street, 21st August, 1826.

I have received the directions of Earl Bathurst to transmit to you the Copy of a letter, addressed to Lieut't General Sir Thomas Brisbane in answer to an application, which has been received from him, for an extensive Grant of Land in New South Wales, on which he pledges himself to lay out Capital to the amount of the proposed Grant, and, by means of his Agent resident on the Property, to comply with every other condition, prescribed by the late Regulations with reference to the free Grants from the Crown. Your Excellency will perceive by the enclosed letter that Lord Bathurst has acceded to Sir Thomas Brisbane's Request; and I have now the honor of signifying to you his Lordship's desire that a Grant of 10,000 Acres may be made to Sir Thomas Brisbane in any of the unlocated parts of the Country, which may be considered favorable by his Agent, and which may not interfere with the views and intentions of Government; and his Lordship further desires that a Reservation of 10,000 adjoining Acres be granted to Sir Thomas Brisbane, whenever the Original Grant shall have been brought into full and successful cultivation.

I have, &c.,

R. W. HAY.

[Enclosure.]

UNDER SECRETARY HAY TO SIR THOMAS BRISBANE.

Sir,

Downing Street, 14 August, 1826.

Compliance
with request of
Sir T. Brisbane
for land grant.

I have had the honor to receive and lay before Earl Bathurst your letter of the 3rd instant; in reply to which, his Lordship desires me to acquaint you that, in consideration of the expenses to which you have been exposed, he will direct a Grant of 10,000 Acres of Land, in the Colony of New South Wales, to be assigned to you upon the usual conditions, subject to your sending out, at your own expense, resident Agents, and

employing Capital, to the extent that may be required by the Regulations at present in force in that Colony; and his Lordship will also direct that a further Grant of 10,000 Acres, adjoining the other property, may be reserved with a view to your obtaining that addition, so soon as the first Grant shall have been brought into full and successful cultivation.

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

1826.
21 Aug.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Grenada; acknowledged by Governor Darling, 29th January. 1827.)

Sir,

Downing Street, 22nd August, 1826.

22 Aug.

I am directed by Earl Bathurst to transmit to you the Copy of a Memorial, which has been addressed to his Lordship by Mr. James Atkinson, praying that he may receive such a further Grant of Land at New South Wales as, with reference to the enlarged means at his disposal and the expensive improvements, which he has effected on his original Grant, he shall appear to be entitled; and I do myself the honor of acquainting you that, as from the high character which this Gentleman bears, there can be no doubt, on his Lordship's mind, of the truth of the statements, which are contained in the Memorial, he is pleased to direct that such an additional Grant of Land be made to Mr. Atkinson, as may be consistent with the Regulations prescribed by His Majesty's Government.

I have, &c.,

R. W. HAY.

Land to be
granted to
J. Atkinson.

[Enclosure.]

THE MEMORIAL OF JAMES ATKINSON.

To the Right Honorable Earl Bathurst, K.G., His Majesty's Principal Secretary of State for the Colonies, etc., etc., etc.
most humbly Sheweth,

Memorial of
J. Atkinson
soliciting
extension of
land grant.

That Your Memorialist emigrated to New South Wales in the Year 1819 under the sanction of your Lordship.

That the Governors of the Colony were pleased to make to him at different times various Grants of Land, amounting in the whole to 2,000 Acres, upon which he has constantly resided since 1822, until lately called to England by urgent business; and that he is now about to return to resume his operations on his farm, having left his Brother in charge during his absence.

Your Memorialist humbly represents that, by the employment and expenditure of a very considerable Capital, he has erected a House and extensive Buildings upon his Land, has brought 150 Acres into a complete state of cultivation, has enclosed the

1826.
22 Aug.

Memorial of
J. Atkinson
soliciting
extension of
land grant.

principal part of his land, and effected many great and extensive improvements. That in fact he has fulfilled the terms of his Grant to the very Letter, and converted what was before a wild and worthless Wilderness into a cultivated and highly improved Farm, affording constant employment to about 20 Convicts, free of every expense to the Crown. That he is in possession of a very extensive Stock of Cattle, Sheep and Horses, which his Lands have long been insufficient to afford pasturage for, and that he has been compelled to resort to the unoccupied Districts in the Interior for their Support.

Your Memorialist humbly represents that he is the Author of a recent publication* on the Agriculture and Grazing of New South Wales, a Copy of which he has had the honor to send to your Lordship. That he has lately at a great expense travelled through the greater part of Germany for the purpose of making himself acquainted with the System of Sheep management, pursued in that Country; and that it is his intention to publish the result of his enquiries for general information. That in short he has omitted no opportunity of extending his knowledge of Agriculture and Grazing, in which professions he was bred, and he humbly hopes his practical experience and writings have already contributed to the advancement of the good of the Colony in various ways, and will much facilitate the settlement of future emigrants.

Your Memorialist further begs to represent that he is now on the point of returning to the Colony, with very enlarged means of prosecuting further improvements, and therefore humbly hopes Your Lordship, taking into Consideration his public services, and the inadequacy of his present Grant for the employment of his Capital and pasturage of his Stock, will be pleased to make to him such further Grant without purchase, as to Your Lordship shall seem meet, It being his intention to avail himself in addition of the permission now given to purchase Lands.

And Your Memorialist will ever pray,

JAS. ATKINSON.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 61, per ship Grenada; acknowledged by Governor Darling, 24th February, 1827.)

Sir,

Downing Street, 26th August, 1826.

With reference to that part† of the Royal Instructions, dated the 17th July, 1825, which directs your attention to the propriety of reserving certain Tracts of Land for the particular purposes therein mentioned, I am commanded to signify to you

* Note 115. † Note 116.

26 Aug.
Instructions re
land reserves.

His Majesty's further pleasure that you do not permit, under any circumstance, the sale of any portion of Land, so extensive as to be employed as a Grazing Farm, on the Coast, or along the Banks of any Navigable river, unless the Land, so situated, should be ascertained to be unfit for Agricultural purposes, or that it should be in a distant part of the Colony, to which it may be expedient to invite future Settlers. It is understood that, in the more popular districts, the quantity of unappropriated land, to be found under such circumstances, is very limited; and, if engrossed by large proprietors in the way in which several tracts are at present held, namely, for purposes of grazing, a considerable line of Country, capable by its position of great improvement, and which might otherwise be occupied by an industrious and thriving population, would be kept in a wild and uncultivated state.

1826.
26 Aug.

Prohibition of sale of water frontages for grazing farms.

As it has been deemed advisable, with a view to the greater relief and accommodation of the purchasers of Land, that the period of payment, fixed by the Section of the Royal Instructions, before alluded to, should be extended, as well as some variation made in the mode of payment, I am to signify to you the King's Commands that, in all cases where the immediate payment of money may not be preferred by the purchaser, in consideration of the discount of which he would receive the benefit, the price of such Lands should be paid by half yearly, instead of quarterly Instalments; that the parties be required to pay down immediately a Deposit of 10 per Cent. upon the whole value of the Land, which they may have purchased of the Crown, and at the same time to give promissory Notes for the payment, at such intervals of time, as may be agreed upon by the Governor, of the Instalments which may remain due.

Altered system of payment for lands purchased.

But it must be distinctly understood that, if the promissory Notes be not duly paid, the Lands, in consideration of which they have been given, will revert to the Crown, and the Deposits be forfeited.

Provision for non-payment of promissory notes.

I am, &c.,

BATHURST.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 62, per ship Grenada; acknowledged by Governor Darling, 28th January, 1827.)

Sir,

Downing Street, 27th August, 1826.

27 Aug.

I do myself the honor of transmitting to you the accompanying Copy of a letter from Mr. Samuel Cock, together with the Copy of the answer, which I have directed to be returned to him on the question proposed in his letter; and, as it involves a

Correspondence with S. Cock.

1826.
27 Aug.

Introduction
of imperial
weights and
measures in
colony.

subject of much importance to persons, who may make shipments of Spirits to New South Wales and Van Diemen's Land, I deem it necessary to furnish you with an explanation of the circumstances of the case, in order to prevent any inconvenience arising from the existance of a different scale of measure in those Colonies, from that which is now in force in this Country.

The Act of the 5th Geo. 4th, Cap. 74, a Copy of which is enclosed, appears to have been formed without reference to any of the Colonial Possessions; and, as none of them are consequently named therein, the provisions of that Act do not, in point of Law, extend their operation to the Colonies.

The confusion, however, which will arise if a different scale of Weights and Measures exists in England and in the Colony under your Government, requires the adoption of some immediate remedy of the evil; and I am, therefore, to direct that you will issue Instructions to the Naval Officer to adopt the Parliamentary Scale of weights and measures in calculating the amount of duties, which may become payable to the Colony on any Article, to which the provisions of the Act may apply; and, as this method would be a partial and imperfect remedy, so long as the weights and measures used in the Colony in internal transactions differed from those used in England, I am to request that you will bring under the consideration of the Legislative Council the propriety of passing a Colonial Act to introduce throughout the Colony the Provisions of the Act of Parliament, to which I have referred.

I have, &c.,

BATHURST.

[Enclosure No. 1.]

MR. S. COCK TO UNDER SECRETARY HAY.

Sir,

Princes Street, 11 August, 1826.

Gauges used
in shipment
of spirits.

Considerable Shipments of Spirits being on the point of being made to Van Dieman's Land, and which are shipped by the Imperial Guage, it is of great importance to the Shippers to ascertain that the same mode of measurement will be practised by the official authorities on the landing of the Spirits in that Colony; as, in the event of a different Guage being used, great confusion may take place.

I have, therefore, most respectfully to entreat that you will have the goodness to acquaint me, for the information of the parties, whether positive instructions have been sent to the Government for the immediate Introduction of the Imperial Measure into the Colony.

I have, &c.,

S. COCK.

[Enclosure No. 2.]

1826.
27 Aug.

UNDER SECRETARY HAY TO MR. S. COCK.

Sir, Downing Street, 21st August, 1826.

I have received and laid before Earl Bathurst your letter of the 11th Instant, requesting to be informed, whether any instructions have been sent out to the Government of Van Dieman's Land, relative to the introduction of the Imperial Measure into that Colony, founded on the Act of 5 Geo. 4, Cap. 74, as, in the event of a different scale of measurement being observed than from that, which is prescribed in this Country, great confusion may be expected to arise.

Scale of
measurement
for spirits.

In reply to the above question, I have received Earl Bathurst's directions to acquaint you that, as it has not yet been determined in what mode it will be desirable to extend to New South Wales and Van Dieman's Land the provisions of the Act in question, no particular Instructions have been issued to the respective Governors of those Colonies to enforce them. I am directed, however, to add that his Lordship will cause such an explanation of the circumstances to be made to those Officers, as will prevent any inconvenience of the nature of that, alluded to in your letter, from being experienced by the parties, who may be about to make Shipments of Spirits to those Countries. I am, &c.,

R. W. HAY.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 52, per ship Woodman: acknowledged by Earl Bathurst, 31st March, 1827.)

My Lord, Government House, 30th August, 1826.

30 Aug.

1st. I have the honor to acquaint Your Lordship, in reference to my Despatch of the 8th of May last, Marked "Separate," that the Cutter Mermaid and the Schooner Isabella have both proceeded to Melville Island, agreeably to the intention expressed in that Despatch.

Departure of
vessels for
Melville island.

These Vessels have been furnished with every necessary supply, though there is no reason to apprehend, even should the Philip Dundas not have reached the Settlement (of which Ship no account has been yet received), that the Colony could possibly have suffered. It is probable that the Philip Dundas proceeded from Melville Island to the Mauritius, with a view of bringing a Cargo from thence; otherwise, I should apprehend some Accident having prevented her immediate return to this. The Isabella has orders to return without loss of time, and, as she is a fine Vessel, may be expected here by the end of November, when I hope to be enabled to report satisfactorily on the state of the Settlement.

Supplies for
settlement.

1826.
30 Aug.
Relief of
garrison at
Melville island.

Salaries of
commandant
and surgeon.

2nd. I have availed myself of this opportunity of relieving the Garrison, which was composed of the Buffs, as that Regiment will soon proceed to India; and I have sent 1 Subaltern, 2 Serjeants, 2 Drummers and 35 Rank and File of the 57th under the command of Brevet Major Campbell of that Regiment. I have authorised this Officer to draw pay, as Commandant, at the rate of *Three Hundred Pound a Year*; and I found it impossible to procure a competent Surgeon at a lower Pay than a *Guinea a Day*. The want of Communication with Melville Island and the nature of the Climate have created a dislike to the place, and rendered it difficult to find persons willing to serve there. The Surgeon,* who was left on its first Settlement, belongs to the Ordnance, and has long since desired to be relieved. As there was no Surgeon of this Establishment, who could conveniently be spared, or was desirous of being employed at that station, I was under the Necessity of giving a higher rate of Pay than usual to obtain the Services of Mr. Gould, whom I have appointed Assistant Surgeon with the Pay of one Guinea a day as already mentioned. I hope Your Lordship will approve of this, and of the Pay of Three hundred pound a Year to the Commandant.

I have, &c.,
RA. DARLING.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 53. per ship Woodman; acknowledged by Earl Bathurst, 18th April, 1827.)

My Lord, Government House, 30th August, 1826.

Crisis in
money market.

I have the honor to transmit to Your Lordship the enclosed Copy of a Letter from the Chairman of the Chamber of Commerce,† representing the embarrassed State of the Colony from the want of the necessary Circulating Medium and the means of obtaining Bills on England. Previously to acting on this Application, I submitted the Letter for the Consideration of the Executive Council, and the Council concurring with me that it was not a Case in which the Government should interfere, an answer to that effect was returned to the Chairman.

Being desirous, however, of relieving the present embarrassment, as far as it could conveniently be done, I submitted to the Council a Memorandum, which I had prepared to this effect, and which was unanimously approved.

I beg leave to enclose a Copy of that Memorandum as explanatory of my intentions, which will be immediately carried into effect. The Arrangement is simple and not, that I am aware of, contrary to the Regulations of Government.

* Note 117. † Note 118.

Dollars will in fact be put out of circulation, as I have no intention of re-issuing those to be received for the Bills, until a convenient opportunity can be found, and a Sterling Circulation, which is enjoined by the Instructions from His Majesty's Treasury (and which the Directors of the Banks and Merchants here have been exerting themselves to give effect to) shall have been permanently established. I have only to add that the Notes, to be issued by the Deputy Commissary General, will be called in, if necessary, as soon as a sufficient quantity of British Gold Coin shall be received to replace them, which I expressed a wish in my despatch, No. 32, should be sent out.

1826.
30 Aug.

Sterling
circulation
necessary.

Issue of
government
notes.

I beg to observe, before closing my Letter, that the Bills to be drawn for 60,000 Dollars, as mentioned in the Enclosure No. 2, are for the purpose of repaying into the Treasury that Sum, which was lent to the Commissariat by my directions in order to prevent an Accumulation of Dollars in the Treasury, when Arrangements were in progress for establishing a Sterling Circulation.

Transactions
in dollars.

Bills to this Amount were Consequently kept out of the Market at the time; but the inconvenience will now be removed by the present arrangement, and there will be no difficulty in disposing of the Dollars, now about to be raised, after a Sterling Circulation has been established. Their issue at the present moment would have the effect of contravening that object.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

MR. E. WOLLSTONECRAFT TO COLONIAL SECRETARY MCLEAY.

Sir, Sydney, 15th August, 1826.

The Committee of the Chamber of Commerce of New South Wales beg leave to represent to you, for the information of His Excellency The Governor, the present embarrassing situation of all classes of the community by reason of an insufficiency of the circulating medium for the usual traffic of the Colony.

Commercial
difficulties
caused by
change in
money market.

The sudden exportation of the late circulating Currency of Spanish Dollars (principally to China, Bengal and the Brazils) for want of Treasury Bills, the long interval, which has since elapsed without the substitution of any other perceptible currency, and the withdrawing all Dollar engagements, consequent on the expectation of a general return to Sterling payments, are no doubt the proximate causes of the present distressing situation of commercial affairs.

Primary causes.

1826.
30 Aug.

Secondary
causes.

Secondary to these, but still deriving importance from their simultaneous operation, may be reckoned:—

1st. The hesitation of one of our Banks to make use of the assistance proffered by Government to the extent of £20,000, by which such Sum is effectually locked up from circulation; and the ability of that Establishment to afford the usual accommodation to the Public in the way of Discounts is very sensibly diminished.

2d. The unusually heavy Importation from China during the last six months.

3d. The frequent Sales of Government Property during the same period, and the generally diminished expenditure thro'out the Government Establishments.

Trade of
colony under
government of
L. Macquarie.

Without referring to any of the more remote causes of the impending crisis, the Committee of the Chamber of Commerce consider it, by no means irrelevant, to observe the singular contrast between the situation of the Trade of the Colony during the latter period of General Macquarie's administration and the present time, with no other view, however, than to notice an opinion, which has prevailed, that the cause of the present distresses has arisen from the over speculation of Individuals and from the excessive Discounts on the part of the Banks of New South Wales.

Circulating
currency.

At the period alluded to, and when the Colony was in a comparative state of infancy, the circulating remittable currency* of New South Wales was not less than £200,000 Sterling, an Amount which, in the present times, and with double the population, and treble the Importations of Foreign produce, would be considered fully sufficient, but which, at that time, being of an intrinsic value, was productive of the most astonishing and rapid prosperity,* and the influence of which was felt in the remotest points of our national industry. This large sum was formed for the most part of Drafts on the British Treasury, estimated at £150,000

Store Receipts for Wheat, Maize and Beef	20,000
Notes of the Commissary General to bearer on demand	15,000
Notes of the Bank of N. S. Wales	15,000
Notes of respectable private Individuals	10,000

making a total of £210,000 Stg. constantly afloat; but which sometimes it cannot be denied gave rise to a spirit of undue speculation, and especially a mania, as

* Note 119.

it has been called, for building. In the excitement caused by the general success, the production of any profitable articles of Export was almost neglected; and it was not until the arrival of Sir Thomas Brisbane, and the immediate curtailment of the Treasury Drafts to the Sum of £80,000, that the Merchants first saw the necessity of collecting and encouraging such articles of Export, as the Colony afforded as returns for the gradually increasing Imports. The introduction of a Sum of \$400,000 at this period, and the commencement of what has since been called the Dollar System, while it made a very serious alteration in the property and profits of the Bulk of the People, still afforded a sufficient circulating medium for all the purposes of an increasing Trade; and, including the value of our exportable produce, there was still a floating Capital of nearly £200,000. The alleged over speculation of Individuals and the apparent excess of Discounts on the part of the Bank, therefore, would never have been worthy of remark, had the amount of our circulating available and remittable capital remained unaltered; but, on the contrary, such speculations and discounts, supposing the customary average circulation to be afloat, must have reached considerably higher, and the present difficulties of our Money market may fairly be attributable, as much to the cessation of the ordinary and expected expenditure of Government, as to the before mentioned causes.

In proof of the existing pressure on the trading community, and of the necessity of this application on the part of the Chamber of Commerce to the consideration and wisdom of the Executive Government for some mode of assistance, they hasten to state that a Sum, little short of £200,000 Sterling in the shape of Promissory Notes in the hands of the Merchants and Banks of Sydney, is almost immediately beginning to fall due; and the largest estimate, we are enabled to make of the Amount of British Sterling specie at the present moment in the whole Country, would very little exceed £10,000, or One Shilling in the Pound on this impending weight of engagements, falling due, exclusive of about £20,000 in Dollars at 4s. 4d. If this statement be anything approaching to accuracy, as the Committee believe, it will be found it must be chimerical to look for any other result than the almost total suspension of payments on the part of those Persons, who have given such engagements, promising to pay in a description of Money (Sterling), which, for all purposes of large transfers of Cash, has not yet come into existence in this Colony; and, therefore, they are of opinion that, if some money or representative of Money is not put immediately into circulation

1826.
30 Aug.

Alterations in
commercial
economy under
Sir T. Brisbane.

Circulating
currency.

Specie required
to meet
commitments.

Probable
suspension
of payments.

1826.
30 Aug.

to supply the vacuum caused by the disappearance of the Spanish Dollars, and the Dollar Notes of the Bank, the difficulties of the Colony are only commencing, and it may take many years to restore the Public Credit.

Anticipated
financial crisis.

How far the internal consumption and the consequent energies of the industrious Settler may, from these causes, be abridged, and all other channels of our Colonial Wealth obstructed, it is painful for the Committee of the Chamber of Commerce to contemplate; for, however striking and anomalous it might appear in the hitherto prosperous Colony of New South Wales, with large tracts of the finest Soil, and a Climate, and natural resources inferior to no Country on the Globe, to see its active and intelligent Population plunged into difficulties of a pecuniary nature, they are satisfied that such will inevitably be the result, unless some immediate aid be given to the commercial body. Already have several failures been announced amongst one class of dealers to a considerable amount, and already they regret to say have several plans been abandoned by reason of the scarcity of money, particularly for the increase of that important branch of commerce, the Sperm Whale Fishery.

Anxious to promote the commercial prosperity of the Colony, at all times and by every lawful means, the Committee feel themselves more especially called upon at the present moment to endeavour to prevent by timely measures the otherwise approaching crisis, and, satisfied that His Excellency desires nothing so much as the permanent association of his name with the wealth and happiness of the Community, they are the more confident in laying before him their Suggestions for effecting the purposed relief.

Suggestions
for relief.

They submit, first, that a Sum in British Sterling Money, to such an extent as the Government may be enabled to spare, be immediately lent on Interest to the Public thro' the medium and guarantee of the respective Banks; and that, at the same time, a species of negotiable Government Security be prepared, in Sums not less than £100 Sterling each, to be advanced equally to the two Banks, to enable them to issue their Bank Notes as formerly for the convenience of the Public.

The Committee are of opinion that a Sum of £25,000 of such Securities, similar in their nature to exchequer Bills, advanced to each Bank, in addition to such species as might be conveniently afforded by Government, would be sufficient to restore confidence to the trading Community.

I have, &c.,

EDWD. WOLLSTONECRAFT, Chairman.

[Enclosure No. 2.]

1826.
30 Aug.

MEMORANDUM BY GOVERNOR DARLING.

24th August, 1826.

It is proposed, as a means of relieving in some degree the embarrassment, which the Merchants and the public in general experience at the present moment from the difficulty of obtaining Bills for the purpose of making remittances in payment for the Goods, they have received, and the want of the necessary Circulating Medium for internal purposes, to issue Treasury Bills to the Amount of Fifty or Sixty Thousand Dollars, which Sum is due by the Commissariat to the Colonial Treasury.

Measures
proposed to
relieve the
money market.

It is also proposed, as soon as these Dollars have been received, to direct that all payments be made by the Commissariat in British Money.

The money paid out will,

1st. Enable the Merchants to obtain Bills on demand, if more Bills are required, or

2ndly. If not returned to the Commissariat for Bills, it will add to the internal Circulating Medium, or,

3rdly. It will be collected by the Banks, and kept up in order to promote the circulation of their own Notes.

In the latter Case, it will be desirable to adopt such measures as will have the effect of forcing it (the British Coin) into general Circulation.

The Banks must of course be in immediate possession of specie to answer any pressing demand. This Sum cannot be an indefinite Amount; it must be limited. Suppose, for instance, £10,000, I should propose to issue Government Notes to that Amount, giving them the same Character as the British Coin, that of being Convertible into Treasury Bills on demand.

These Notes should be in Sums of £5 and 10 each, as more convenient than smaller notes to Collect for the purpose of obtaining Bills. They should be exchanged, in such proportion, for the British Money in the two Banks, as it might not be necessary for them to retain as *Change*, and by immediately making all payments in this Coin, as soon as the Treasury Bills, above alluded to, should be sold, there would be the less chance of it being required or collected to purchase Bills, and consequently the more of its remaining in circulation.

It is presumed, as has been stated, that the Banks would not retain Specie beyond a limited Amount; the Government Notes would be more convenient than Silver for this purpose. It may be said the Coin would, notwithstanding, be out of Circulation,

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30 Aug.

Measures
proposed to
relieve the
money market.

as it would be returned to the Commissary for Bills. Even in this Case, an important advantage would be obtained by affording those, who might require them, an opportunity of obtaining Bills. Besides, it would remain to be proved, whether those, who have occasion to remit, have also the means of purchasing Bills; if not the Coin would to such extent at least add to the internal Circulation.

If, on the other hand, they do possess the means, but cannot obtain the Coin to purchase Bills, it is evident the measure proposed will afford great facilities in procuring it, inasmuch as it will not be retained by the Banks.

The Act of Council,* restricting the issue of Bank Notes to sums not less than 20s., will be a powerful auxiliary in keeping the British Coin in Circulation, which was my object in proposing it, as persons requiring change will no doubt insist on the Banks giving them Coin for their own Notes. Therefore, without intending to enter into the subject generally of the representation of the Chamber of Commerce, it is presumed that one of the objects, that is increasing the internal Circulating Medium of the Colony, will be promoted.

RA. DARLING.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 63, per ship Grenada: acknowledged by Governor Darling, 11th January, 1827.)

31 Aug.

Appointment
and salary of
J. Holland as
clerk of council.

Sir,

Downing Street, 31st Augt., 1826.

As the appointment of Dr. Douglas to be Commissioner of the Court of Requests will necessarily supersede the arrangement, communicated to your Excellency in my Dispatch of the 2d of April last, and will render it necessary to provide otherwise for Mr. Holland, whom I had, previously to the receipt of your letter of the 4th of February last, intended for that Situation, I am to signify to you His Majesty's pleasure that Mr. Holland be appointed Clerk to the Council with a Salary at the rate of eight hundred pounds per annum. And it is, therefore, with much regret that I shall feel myself unable, from the necessity of providing a suitable situation for Mr. Holland, to sanction the arrangement, which you had made in contemplation of Dr. Douglas' removal from the Clerkship of the Council for discharging the duties of that Office.

I have, &c.,
BATHURST.

* Note 120.

GOVERNOR DARLING TO EARL BATHURST.

1826.
31 Aug.

(Despatch No. 54, per ship Woodman; acknowledged by Viscount Goderich, 23rd August, 1827.)

My Lord,

Government House, 31st August, 1826.

1st. I have the honor to transmit for His Majesty's Approbation, as directed by the 30th Clause of 5th Geo. 4, Chap. 96, Copy of an Act, which has been passed with the Advice of the Legislative Council, Vizt.

Transmission of
act of council.

“An Act for the Transportation of Offenders to Penal Settlements, and for the more effectual Punishment and Security of the same.”

2nd. I beg to state to Your Lordship that my object in proposing this Act was to furnish additional means of supplying the Settlers with Servants and Labourers for their Farms. I found, some time after my arrival here, that there were upwards of Sixteen Hundred Prisoners at Port Macquarie, Five Hundred of whom had been transported under illegal Sentences. I, therefore, issued a Proclamation, of which the enclosed is a Copy, for the removal of these Men; and, in order to their better Security, I have placed them on the public works, in repairing the Roads, etc., and have thus been enabled to assign an equal Number, who had been relieved from this employment.

Objects of the
act.

3rd. There still remains at Port Macquarie about One Thousand Men; and the object of the Bill is to enable me to withdraw such of these, as may have a claim from good conduct during the period of their confinement to a mitigation of punishment, and these will be removed gradually, and will work on the Roads in Chains for a time, relieving others of better character in order to their assignment.

Convicts at
Port Macquarie.

4th. It has been the practice of the Magistrates here to sentence Men for very trivial Offences to be transported to a Penal Settlement, by which their Services have been totally lost; the Government has been burthened with the Expence of their Maintenance; and the Settlers have been deprived of their assistance. There must always be, in an extensive Colony like this, a great number of Men employed in keeping the roads in repair, and making new ones; at present there are not less than Seven Hundred. I, therefore, propose by the enclosed Bill, which enables the Magistrates to sentence Offenders to Work in Chains, to complete the Road Parties with these people, and thus to assign to the Settlers the Men of better character, who have hitherto been kept on the public Works. According to this arrangement, the Penal Settlements will be reserved, as they ought to render them effectual, for the reception of Offenders, who

Sentences of
transportation.Convicts
required for
public works.Offenders to be
confined at
penal
settlements.

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have been guilty of crimes of the gravest character, reserving Norfolk Island in particular for Criminals who have been respited and other special cases.

Proposed
removal of
prisoners from
Port Macquarie.

5th. It is my intention, with Your Lordship's permission, when the Number of Prisoners at Port Macquarie are sufficiently reduced, to remove those who may remain to Moreton Bay, and open the former Settlement to the Inhabitants.

6th. I have now only to express my hope that the arrangements, which I have the honor to submit, will meet with Your Lordship's Approbation. They combine, in a greater degree than any others which have occurred to me, the accommodation of the Settler and the economy of the Public Expenditure; while, at the same time, the punishment of delinquents will be more effectual, and the Services of those, employed on the public works, will be rendered advantageous to the Colony at large.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

[This was a copy of the statute, 7 George IV, No. 5, as printed in the "Public General Statutes of New South Wales," with the usual prefix, and an endorsement, "Passed the Council, this Sixteenth day of August, 1826, Six, Henry Grattan Douglass, Clerk of the Council."]

[Enclosure No. 2.]

PROCLAMATION.

Proclamation
remitting
sentences on
certain convicts
at Port
Macquarie.

By His Excellency Lieutenant General Ralph Darling, Commanding His Majesty's Forces, Captain General and Governor in Chief of the Territory of New South Wales and its Dependencies, and Vice Admiral of the same, etc., etc., etc.

WHEREAS, since the Establishment of a Colony and Civil Government in New South Wales, it hath been found necessary to appoint certain places for the Reception and Punishment of Persons, who have been transported from Great Britain and Ireland, and who have since committed Offences against the Law, or have otherwise been guilty of disorderly conduct within the said Colony; and Whereas the Justices assigned to keep the Peace, as well as Superintendents or other Persons, vested with authority over Prisoners in the Service of the Crown, have from time to time, under the sanction of Government, sentenced Offenders, as aforesaid, to be removed to the said Places, and there kept to hard Labour for the Residue of their original Terms of Transportation, and for other specified periods, according to the nature and degree of their respective Offences; And Whereas, by an Act passed in the fourth Year of the Reign of His present Majesty, "An Act to provide, until the first day of July, One thousand, eight hundred and twenty seven, and until the End of the next Session of Parliament, for the better Administration of Justice in New South Wales and Van Diemen's Land, and for the more effectual Government thereof, and for other Purposes relating thereto," the Power and Authority of the Justices

of the Peace, in such Cases as aforesaid, are defined, and the Time, for which Offenders may be so removed as aforesaid, is limited to Three Years. And it hath been deemed proper, as well with a view to introduce Uniformity in the Punishment of Offences, as in consideration of the favourable Report, which has been made of the conduct of Persons under Sentence, as aforesaid, during the period of their Removal to Port Macquarie, to remit all such Sentences, as aforesaid, and to place all Persons so sentenced at the disposal of Government to be assigned to Service in like manner as other Prisoners transported to the said Colony. Now, therefore, I, the Governor, do, by Virtue of these Presents and in Exercise of the Power in me vested, grant to all Persons, who have been sentenced, or ordered to be removed, or transported to any such Places as aforesaid, by any Justice or Justices of the Peace, or any Superintendent, or other Person, having the Custody or Controul of Transported Prisoners, full Pardon and Remission of all such Sentences, provided the same have been passed before Institution of Courts of Sessions in the said Colony, in pursuance of the said recited Act. And I do order that all such Persons, whose Sentences are hereby remitted as aforesaid, shall be at the Disposal of the Government, and be assigned to the Inhabitants of the said Colony, or retained in the Service of the Crown, agreeably to the ordinary Rules and Regulations applicable to other transported Prisoners. In extending this Act of Clemency towards the Class of Persons, above mentioned, it is not intended to call in Question the Propriety of the Acts of Government in times past, nor, in the remotest Degree, to impute to the Justices of the Peace undue Severity in the execution of the Laws; but, on the contrary, it is declared that to the Justice and Moderation of the Magistracy the Colony is in a great measure indebted for the Peace, Subordination, and Mutual good Feeling between Master and Servants, which happily prevail at the present Day.

And in order that the Clemency, hereby extended, may not fall short of the good Purposes for which it is intended, I, the Governor, do hereby caution all Persons, whose Sentences have been hereby remitted, to exert a wise and virtuous Resolution not to be led away by Temptations, to which diminished Restraint may expose them, but to continue to observe that meritorious Line of Conduct, which has recommended them to the Consideration of the Government.

And I do declare that the past good Conduct of such Persons at Port Macquarie will be considered as laying the Foundation for a future extension of Indulgence, whenever, by their continued Sobriety, Industry and orderly conduct, they shall prove themselves worthy of the further Clemency of the Crown.

Given under my Hand and Seal at Government House, Sydney, this eighth day of June, in the Year of Our Lord, One thousand, eight hundred and twenty six.

[*Unsigned.*]

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 55, per ship Woodman; acknowledged by Earl Bathurst, 31st March, 1827.)

My Lord, Government House, 1st September, 1826.

1st. Your Lordship will perceive, by the measures reported in my Dispatch, No. 54, that the Prisoners of the Crown at the disposal of the Government are totally inadequate to the

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31 Aug.

Proclamation
remitting
sentences on
certain convicts
at Port
Macquarie.

1 Sept.

1826.
1 Sept.

Request for
convicts to be
assigned to
settlers.

wants of the Settlers. This demand is besides likely to increase to a considerable extent, as there are many new Settlers here, and our arrangements for the disposal of the lands, which had been delayed, is just now completed. I, therefore, request that your Lordship will cause a proportion of such Convicts, as may be available, to be immediately forwarded to this Government. A thousand could be immediately disposed of, and Mechanics and farming men are particularly required. The deficiency of the former class is a great check to the progress of the different Towns, and the necessary comfort of the Settlers, many of whom are still living with their families in Huts from the impossibility of obtaining workmen to build more suitable dwellings. I have hitherto been unable to supply the demands of the Australian Agricultural Company, though I have given them much more than an ordinary portion of the gross numbers, which have been assigned.

Advantages
of free
mechanics.

2nd. While on this subject, I may be permitted to advert to the advantage which the Colony would derive, if a number of Free Mechanics and men, brought up to Agriculture, were sent out. The Government is necessarily obliged to retain the greater number of the Convict Mechanics, in consequence of the work it has to perform, and there being no Master Tradesmen in the Colony capable of undertaking a Contract. Feeling that they have no interest in the work, the Convict Mechanics are naturally supine; and I am satisfied that the Calculation, by which the work of a Convict Mechanic or labourer is estimated at one third of that of a free man, who is paid for what he performs, does not under rate it. No stimulus will incite them to even common exertion, when released from the immediate observation of the Overseers, who generally speaking are as little interested in the success of the work as the Individuals they superintend.

Request for
special
tradesmen.

3rd. In speaking of Mechanics, I would particularly point out *Carpenters*, including the different branches of that Trade, as also *Blacksmiths* and *Stone masons*. These are all much required, and would immediately find abundant employment. Competent farming men of respectable position and good character would in like manner be useful as overseers; and, from the confidence which could be placed in them, the more considerable Settlers would be very glad to engage them; or it would perhaps be still more beneficial to the Colony to give them land with small supplies of Cattle in stocking it, which could be done at very little expense.

I have, &c.,
RA. DARLING.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

1826.
2 Sept.

2nd September, 1826.

[A copy of this despatch, acknowledged by Governor Darling, 29th January, 1827, is not available.]

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 56, per ship Woodman.)

My Lord, Government House, 2nd September, 1826.

I have the honor to report, agreeably to the 4th Clause of His Majesty's Instructions, that Commutation of death sentences.

John Jeffery Napper, William Webb, and Sarah Webb, his wife, who had been capitally convicted at the late Trials by the Criminal Court, the former of Burglariously entering a Dwelling House, and the two latter of stealing in a Dwelling House, and sentenced to suffer death, have with the advice of the Executive Council been reprieved, and the sentences of J. J. Napper and W. Webb commuted for transportation to Norfolk Island and hard labour in Chains during their natural lives, which I beg leave humbly to recommend to His Majesty.

The Sentence passed on Sarah Webb was also recommended to be commuted for Transportation for Life, but the Prisoner to be kept in Jail, until a fit place could be found for Female Respites, it being considered that the effect of sending male Convicts to Norfolk Island would be greatly diminished if women were to be associated with them.

As two men were to suffer Death, who were tried at the same time as the above prisoners, and as a woman had been lately executed, I was induced to concur in the opinion of the Council, the more particularly as the Commission of the crime, of which they had been convicted, was not attended with any circumstance of an aggravated nature.

I have, &c.,
RA. DARLING.

[Enclosure No. 1.]

CHIEF JUSTICE FORBES TO GOVERNOR DARLING.

Sir, Supreme Court Office, 1st August, 1826.

I have the honor to lay before Your Excellency a report of the cases of persons, who have been condemned to suffer death by the sentence of the Supreme Court, since the date of my last report of similar cases, and

I have, &c.,
FRANCIS FORBES, C.J.

[Enclosure No. 2.]

1826.
2 Sept.Report on
trials and
convictions of
J. J. Napper,
W. and S. Webb.

Copy of the Chief Justice's Report on the cases of John Jeffery Napper, William Webb and Sarah Webb, his wife.

JOHN JEFFERY NAPPER, the Prisoner, was convicted of Burglariously entering the dwelling house of Rapsey and Mitchell (merchants in Sydney) on the 28th of May last, and stealing therefrom divers articles of Cloth, wearing apparel, etc., the property of the said Rapsey and Mitchell.

It appeared in Evidence that, between the hours of seven and ten o'clock at night, a door leading into a store, in which the Articles stolen were secured, had been forced in, and the Articles in question carried away; it further appeared that, about eight o'clock on the same evening, the prisoner brought three several bundles to the house of one O'Neale in Cumberland Street, under pretence that he had quarrelled with the person with whom he had previously lodged, and that he had brought the Articles to O'Neale's for security; suspicions being excited, the Prisoner was carried before the Police, together with some of the Articles, which had been carried by him to O'Neale's, where certain of the said Articles were identified by Rapsey as having been part of the property, lost by himself and partner Mitchell on the night of the Burglary; and he also identified a pair of trowsers on the person of Napper, which had been stolen at the same time.

The Prisoner attempted to prove an *Alibi*; but it appeared from the testimony of his own witness that he had slept at the house of a poor woman on the night preceding the Burglary, and not on the night of the Burglary; that he had not paid for his lodging, and pleaded poverty as his excuse; he admitted possession of the goods, and stated that he got them from one Rae, but offered no proof of this fact.

Sentence of Death passed 26th July, 1826.

WILLIAM WEBB and SARAH WEBB, his wife, the Prisoners, were convicted of stealing in a dwelling house of Robert Cattrall, a settler in Argyleshire, and putting Rebecca Cattrall, his wife, in bodily fear.

It appeared in Evidence that, between nine and ten o'clock of the morning of the felony, the prisoners went to the house of Robert Cattrall, and, after obtaining some refreshment, went away. They soon after returned. Sarah Webb had a musket in her hand, and stood at the threshold of the door and desired Rebecca Cattrall to remain quiet, while William Webb went into the bed room and possessed himself of some gowns, muslin and other articles of wearing apparel, which he made up into a bundle and passed to the woman out of the window. The prisoners then went away with the Articles, they had thus stolen. About an hour after these transactions, William Bowman, a Settler in Argyleshire, passed the house of Cattrall, and, being informed of the robbery, went in quest of the Prisoners, whom, with the assistance of some Natives, he tracked to a distance of about five miles, and apprehended them with the stolen articles in their possession.

William Webb made no defence, but stated that the part taken by the woman was through his persuasion or command. Sarah Webb stated that what she had done she was obliged to do by command of her husband.

Sentence of Death was, on the 26th Ultimo, passed upon both Prisoners.

GOVERNOR DARLING TO EARL BATHURST.

1826.
2 Sept.

(Despatch No. 57, per ship Woodman.)

My Lord, Government House, 2nd September, 1826.

I took an early opportunity, after I was honoured with Your Lordship's Dispatch of the 12th of December last, No. 29, to submit to the Executive Council, agreeably to your Lordship's Commands, "the expediency of framing the Draft of an Order in Council for the consideration of His Majesty's Government, with a view to modifying the System, under which crime and misdemeanors, cognizable by the Courts of Criminal and Civil Jurisdiction in the Colony, are at present tried."

Proposed
modification
of judicial
procedure.

The Council being assembled for this purpose on the 2nd Ultimo, it appeared to me that the best course would be to put each member in possession of a Copy of your Lordship's Dispatch, in order that a subject of this importance might receive the fullest consideration, which being done the meeting was adjourned. The Council again met on the 9th, and, having deliberated on the subject, as Your Lordship will perceive from the accompanying Extract from the Minutes, the final consideration of the matter was deferred to the 15th, when the opinion of the Council was embodied in a Minute, of which the enclosed No. 3 is a copy.

Consideration
by executive
council.

I am not aware that it is necessary, or that I could add anything to the Minutes of the Council above referred to, which was drawn up after repeated deliberations and contains the unanimous opinion of the whole Body.

I have, &c.,
RA. DARLING.

[Enclosure No. 1.]

EXTRACT from Minute No. 17 of the Proceedings of the Executive Council, 2nd August, 1826.

THE Governor then submitted to the Council Earl Bathurst's Dispatch No. 29, dated the 12th of December last, respecting the introduction of a modified system of Trial by Jury into the Colony, and directing that a Draft of an Order in Council be prepared on the subject to be submitted for the consideration of His Majesty's Government.

Minute of
executive
council re
proposed system
of trial by jury.

His Excellency requested that the Members of the Executive Council would consider the matter, thus referred to them, and the meeting was adjourned until Wednesday, the 9th instant, at 12 o'clock.

A true Copy (Extract):—H. DUMARESQ, Clerk of the Council.

[Enclosure No. 2.]

EXTRACT from Minute No. 17 of the Proceedings of the
Executive Council, 9th August, 1826.

1826.
2 Sept.
Minute of
executive
council re
proposed system
of trial by jury.

THE Council met pursuant to adjournment, and the question referred for the Consideration of the Members was generally discussed. Certain principles, on which the proposed Draft of an Order in Council should be framed, were unanimously agreed on; and it was decided that the following information connected therewith should be called for:

1st. A List of Persons of Twenty one Years of Age and upwards, resident in the Colony, who came Free or were born Free, the extent of their Property, and the quantity of Land in their possession, stumped and cultivated.

2nd. A List of Persons, who have received the King's or a Conditional Pardon, or have become Free by Servitude.

3rd. A List of Persons, who have been summoned to the Quarter Sessions as Grand or Petit Jurors, together with the extent and probable value of their Land.

4th. A List of Cases tried by Juries at the Quarter Sessions.

A true Extract:—H. DUMARESQ, Clerk to the Council.

[Enclosure No. 3.]

EXTRACT from Minute No. 17 of the Proceedings of the
Executive Council, 15th August, 1826.

THE Council resumed the consideration of the subject of the Draft of an Order of Council, directed to be framed in Earl Bathurst's Despatch, No. 29, dated the 12th of December last, and intended to be issued in pursuance of the New South Wales Act.

But, as the Act itself from being limited to four years' duration will come again under the consideration of Parliament in the course of the ensuing year, and before sufficient time would be allowed for any Order in Council, framed upon the suggestions of the Executive Council, could be expected to come into operation, it was deemed more advisable to state the principles, by which the Council will be guided in framing the Draft of the Order, rather than put them into the form required, because it appeared to the Council that it would be more expedient to introduce a Clause in the New Act of Parliament to enable His Majesty to exercise the power, reserved in the said Act, through the medium of the Council in the Colony.

One of the greatest difficulties, which presented itself in regulating trials by jury in this country, arose out of the situation of a considerable number of persons, who had been convicted

of felony or other infamous crimes and transported here, and who had afterwards been pardoned by the Governor of the Colony under the power conveyed to him by Act of Parliament.*

1826.
2 Sept.

Minute of executive council *re* proposed system of trial by jury.

The admissibility of such persons had been questioned by the highest legal authorities. Since the passing, however, of the Act† for regulating Special Juries in England, *declaring* that all Persons, who have received a Free Pardon, are eligible to serve as Jurors, the Council was led to assume that such persons are admissible as Jurors in this Colony.

The Question, being cleared of this difficulty, appeared to resolve itself into one of individual qualification and public convenience; and, under these two points of view simply, the Council was led to submit the following points, as the basis upon which the introduction of Trial by Jury in the Supreme Court should take place, leaving it to the wisdom of His Majesty's Government to determine the most expedient mode of giving them effect, either by an Order of His Majesty in Council in England, or by delegating that power to the Legislative Council in New South Wales.

1st. It was assumed that the point of Law has been settled, viz. that a Person, attainted or convicted of Felony, is restored by a Free Pardon to the legal competency of serving as a Juror.

2nd. It was deemed inexpedient under any view of the case to raise such a question in New South Wales.

3rd. As a security for the personal competency of every Individual in the Colony, who may be called upon to serve as a Juror, the Council deem it advisable that property in land or stock to a considerable amount should become the criterion, and also that the Justices of Sessions for the several Districts should form Jury Lists to be composed of such persons, as by such Justices may be deemed of good character and possessed of the requisite amount of property.

4th. That there should be Grand Juries, composed of the most respectable Inhabitants, in like manner as in England, the power of prosecuting by information being continued in the Attorney General in all cases of felony where Grand Juries cannot conveniently be assembled.

5th. That trial of all crimes and misdemeanours be by a Jury composed of Six Officers or Magistrates, to be nominated as at present, and Six Inhabitants to be returned by the Sheriff, agreeably to the present practice of England as nearly as circumstances will permit.

* *Marginal note.*—30 Geo. 3, ch. 47.

† *Marginal note.*—6 Geo. 4, ch. 50, sect. 3.

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2 Sept.
Minute of
executive
council *re*
proposed system
of trial by jury.

6th. The trial of Civil Issues to be by a Jury of twelve persons at the option of either Plaintiff or Defendant upon mere motion or petition; but, in case neither Party shall desire to have a Jury, then such issues to be tried by two Assessors as at present.

7th. In giving form and effect to these principles, it will be seen that the details will be long and complicated, and that no foresight can effectually guard against defects and inconveniences, which will require some present and superintending power to observe and rectify.

It is under this view principally that the Governor in Council would beg to submit to Earl Bathurst's consideration the expediency of delegating the power to be exercised by His Majesty to the Governor and Council of the Colony.

A true Extract:—H. DUMARESQ, Clerk to the Council.

GOVERNOR DARLING TO UNDER SECRETARY HAY.

(Despatch marked "Private and Confidential," per ship Woodman.)

My dear Sir,

Paramatta, 2nd September, 1826.

Criticism of
S. Bannister.

You will see, by my public Letters by the present opportunity, that Mr. Bannister's proceedings have obliged me to make a more formal representation, than I have hitherto done, of his unfitness for his situation. It is impossible that I can Continue to hold Communications with an officer of the Government, who, under the cloak of what he "believes" to be the opinion of the Public, introduces in his Correspondence the most offensive and indecorous observations. He and his friends know that the Government of this Colony never stood higher than at present in public estimation. The "Australian" of the 26th August, which I enclose (see the leading Article*), affords some proof of this; and this is the Canker, which is the more irritating as they cannot induce me to enter into prosecutions on their behalf. I must repeat, what I believe I have before stated to you, that, had I considerably pinned my faith on this Party and made common cause with them, as seems to have been expected, tumult and disorder would have been the immediate Consequence. The situation of the Archdeacon shews in some degree that this opinion is not unfounded. By embarking at once, as he did, he lost himself in the public opinion, and never will be respected here. I have before given you my opinion of Mr. MacArthur, and experience has Confirmed it. A Man, who embarks in his Cause, must go all lengths. The subject of Lord Bathurst's Despatch, No. 29,† written in December last, is a sufficient illustration of this. I am now proceeding in this matter; and one of the occurrences, which you shall be made

Public
estimation of
government.

Party feeling.

* Note 121. † Note 122.

acquainted with, is not a little Curious. I should apprise you that Mr. MacArthur appears to have seceded from the Council, not having attended any of the late Meetings, though in Sydney at the time and not prevented by indisposition or any apparent cause. He has also discontinued his Visits to Government House, though we still appear, when we meet, to be on the best terms. I need not say I have studiously avoided giving him any ground of Offence. But our views are different, which is sufficient cause of hostility with those, who know no medium between friendship and enmity. In a former Letter, I mentioned some of the thousand projects he had in view for the agrandisement of the Australian Agricultural Company. They *all* seem to have vanished, as the excitement, in which they were engendered, subsided; and he is still here, though having *formally* announced to me his intention of leaving this not less than three times. Once for the purpose of proceeding to China, afterwards to England, having Chartered the Lady Rowena, as he stated for the purpose, and sent a Dr. Wilson before him to make arrangements for his journey through Europe and Asia, meaning to visit the different Countries and return here by way of Bengal and China.

There is no exaggeration in this, however extravagant it may appear; the whole Plan was entered in a Book, from which he read the details to me. These schemes, however, were all abandoned for the more practicable one of going to South America for the purpose of introducing and improving the breed of Asses! Like the others, this project had its day, and is now no longer heard of. I should apologize for thus taking up Your time; but it will not be uselessly spent. You will be enabled to form an opinion of the *soundness*, if I may so term it, of the projector, and whether he is really entitled to that deference, which I cannot help thinking has been too generally and without due Consideration Conceded to him. He is now like a wayward Child, and remains at Home brooding, but I expect is not altogether *idle*. You may be assured from me that neither the safety of the Colony nor the Character of the Government is in danger. As to the public measures, you will be able to judge of them Yourself.

You will see, my dear Sir, by my Public Correspondence, that I have had some weighty matters on hand. The arrangements respecting the disposal of Land have been important and embarrassing from the impossibility of Conforming to the Instructions without ruining the Settlers and injuring the Colony. The pecuniary distress of the Community has also engaged the attention of the Government; and I hope You will be satisfied

1826.
2 Sept.

Absence of
J. Macarthur
from council
meetings and
government
house.

Projects of
J. Macarthur.

Proposed
travels.

Character of
J. Macarthur.

Problems of
government.

1826.

2 Sept.

Problems of
government.

that these questions have been disposed of in a discreet manner. The *Jury* question has, in like manner, received the fullest Consideration, and I trust the proceedings on it will be satisfactory to Lord Bathurst. What is proposed will, I think, meet his Lordship's views. It must be obvious that the details of Measures, which depend on local circumstances, and must more or less be influenced by local Considerations, can only be advantageously determined on the spot. I seek no accession of power by pointing this out. I can have no desire to obtain it. But it is my duty to point out what is most likely to meet the views of His Majesty's Government and benefit the Colony. There are other minor matters; they speak for themselves, and I shall not trouble you further respecting them.

I remain, &c.,

RA. DARLING.

Proposed
acceptance of
resignation of
S. Bannister.

P.S.—Mr. Bannister has more than once informed me that he has repeatedly written Home, to desire the resignation of his Office might be accepted, if the Salary was not to be increased; and, on this ground, he applied not long since for an advance of Money, Considering as his resignation had not been accepted that it must Consequently be the intention of Government to increase his Salary. If this has not been done, the opportunity of relieving the service will be obtained by accepting his resignation.

R.D.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 58, per ship Woodman; acknowledged by Earl Bathurst, 30th March, 1827.)

3 Sept.

My Lord, Government House, 3rd September, 1826.

Board of
inquiry re
management
of female
factory.

I have the honor to acquaint your Lordship that the arrangements for the management of the Female Factory appearing to me to require revision, I appointed a Board some time since to enquire into the conduct of that Establishment, and ascertain what alterations in the existing system would be necessary in order to its being placed on a better footing. The Board reported at some length; but, as the Report enters into details of a local nature, the classification of the Prisoners, the regulations for their assignment, etc., which can only be useful or interesting on the spot, I shall forbear troubling your Lordship with its perusal. I beg leave, however, to enclose the Copy of a Minute, which I drew up, in order that I might have the benefit of the opinion of the Executive Council on certain points of the Report; and I do myself the honor to add an extract from the Minute of proceedings of the Council relative thereto.

The Ration, which was very insufficient, has been increased, as recommended by the Board and the Council, and the Salaries proposed by the Board have been augmented at the recommendation of the Council, agreeably to the Minute of its proceedings, and will I hope be approved by Your Lordship.

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3 Sept.
Increase of
salaries and
rations.

I am sorry to observe that the disposal of the Women in an eligible manner, though most desirable, is extremely perplexing and embarrassing. Crimes, which are the consequences of men of depraved and vicious habits being assembled in bodies and secluded, as it were, from the World, are I apprehend very common; and the difficulty of counteracting the evil with the necessary attention to morality and decorum appears almost insurmountable. While the disproportion of the sexes generally is extreme, there are not less than three hundred Women immured in the Factory, some of whom, from their conduct when at large, are necessarily kept in confinement, and the others have but little, if any opportunity, of being married. It is, I am quite satisfied, desirable on every account that marriage should be encouraged in all cases, when the parties can obtain the means of supporting themselves; the object in a moral point of view may fail in some instances; but, if it tend only to the reformation of a few, it is deserving the experiment. I have with this view held out encouragement to the Mechanics in the employ of Government and others to marry, by granting the married people greater indulgences than the single men, as Your Lordship will perceive by the accompanying Copy of a Public Notice. The mechanics of good character are generally allowed to sleep out of Barracks, as they can afford to hire lodgings; and those, who are married, are permitted to work on their own account on Fridays and Saturdays. This is an essential accommodation to the Inhabitants, as it affords them the means of obtaining workmen which would otherwise be impossible. The unmarried Mechanics are allowed only one day in the week to themselves, and this has always occasioned a number of Marriages. I have considered it the more desirable that these people should marry, as they are able to maintain their families, and their evenings are thus applied to a good purpose, which otherwise would be improperly dissipated; but I would not encourage matrimony generally, where the parties are not likely to possess the means, and their union would be attended with embarrassment and distress.

Difficulties in
management
of female
convicts.

Encouragement
of matrimony.

The arrangements for the management of the Factory, which I have placed in the hands of a Board and are now in progress, will I have no doubt be productive of much benefit in the

Management
of factory.

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3 Sept.

Establishment; and I shall feel great satisfaction, if it be in my power to report to your Lordship, as I trust it will ere long, that the numbers of women maintained in it are much diminished, and the System generally improved.

I have, &c.,
RA. DARLING.

[Enclosure No. 1.]

MINUTE BY GOVERNOR DARLING.

Proposed alterations in administration of female factory.

A BOARD having been appointed to examine into the state of the Female Factory at Parramatta, the following alterations amongst others have been suggested with a view of placing the Establishment generally on a better footing, and are submitted for the consideration of the Executive Council.

Present.	Rations. Proposed. 1st and 2nd Class.	Proposed. 3rd class.
1 lb. Bread	1½ lb. Wheaten Bread	1¼ lb. Bread, ½ Wheaten and ½ Indian Corn
½ lb. Meat	½ lb. Fresh Meat	½ lb. Fresh meat
¼ oz. Tea	1 lb. Green Vegetables, or	½ lb. Green Vegetables, or
1½ oz. Sugar	½ lb. Potatoes.	½ lb. Potatoes
1 oz. Salt	1 oz. Flour to thicken soup	1 oz. Indian Corn Meal to thicken Soup
	½ oz. Tea for morning and evening	3¼ oz. Indian Corn Meal
	1½ oz. Sugar	¼ oz. Tea for evening
	1 oz. Salt	1½ oz. Sugar
	½ Pint of Milk	1 oz. Salt

Hitherto the Matron, the Master manufacturer and the *Store-keeper* (denominated Secretary) have received Salaries, and been allowed a centage in addition on the work performed by the women. The system of remunerating the Servants of the Government by means of a Centage appearing objectionable has been discontinued.

The following is a statement of the Salaries and Centage, hitherto allowed, and the Salaries, now proposed by the Board in lieu, viz.

	Present Salaries and Centage.		Proposed Salaries.
Matron Salary	£126		
Average of Centage for 12 months	90		
	—	£216	£150
Storekeeper or Secy. Salary	none		
Average of Centage for 12 months	180		
	—	180	100
Master Manufacturer. Salary	none		
Average of Centage for 12 months	315		
	—	315	120

It appearing inconsistent with the nature of the Establishment that the Hospital should be open to the reception of women generally, who do not immediately belong to it, the Board has suggested that no Woman, who is not at the time on the Establishment, shall be admitted into the Hospital except under

special circumstances, when the Governor shall give orders to that effect or a Committee of the Board of Management.

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3 Sept.

The Board has further suggested that all Children above four years of age be removed to one of the Orphan Schools.

RA. DARLING.

Government House, 12th August, 1826.

[Enclosure No. 2.]

EXTRACT from Minute No. 17 of the Executive Council

15th August, 1826.

HIS EXCELLENCY then submitted to the Council a Minute, shewing the alterations it was proposed to make in the system of conducting the Female Factory; and, after due consideration, it was proposed as an Amendment on the recommendation of the Board, appointed to examine into the state of the Factory, and on whose proceedings His Excellency's Minute has been framed, that, instead of the Ration for the 3rd or Penitentiary Class, the following be substituted, Vizt.

Recommendations of executive council *re* female factory.

$\frac{3}{4}$ lb. of Bread (half Wheaten and half Indian corn); $\frac{1}{2}$ lb. Fresh Meat; 1 lb. Green Vegetables or $\frac{1}{2}$ lb. Potatoes; 1 oz. Indian Corn Meal to thicken soup; 8 oz. Do. for breakfast and supper; $1\frac{1}{2}$ oz. Sugar; 1 oz. Salt;

and that the following alteration be made in the ration, proposed for the Second Class, vizt. that Corn meal be allowed instead of Flour to thicken their soup and no milk.

The Council further recommend that the Salaries, proposed by the Board, be increased, it appearing of the utmost importance in an Establishment such as the Female Factory, the duties of which are laborious and disagreeable in the extreme, that the remuneration of the persons, employed in the management of it, should be such as to ensure their honest and zealous exertions.

In support of this recommendation, the Council beg to refer to the fact of its having been found impracticable for some time past to obtain a person, properly qualified, to replace the Storekeeper, who has tendered his resignation.

This person has been in the receipt of allowances amounting to £180 a year; and the Board propose giving him a fixed salary of £100, in lieu thereof, for which sum the Council was of opinion it would not be possible to obtain a competent person. It was therefore suggested that the salaries to the several Individuals, employed at the Factory, be as follows, it being understood that no allowances of any kind or description whatever are to be granted, Vizt.

Matron, £200; Storekeeper, £150; Master Manufacturer, £150 a year.

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3 Sept.

Government
notice *re*
encouragement
of matrimony
and manage-
ment of
convicts.

[Enclosure No. 3.]

GOVERNMENT NOTICE.

Colonial Secretary's Office, 27th June, 1826.

As the attention necessary to the due Preparation of the Regulations to be founded on the Reports of the several Committees, which have enquired into the State of the Factory and the conduct of the Prisoners in Sydney, may prevent their immediate promulgation, the Governor has been pleased to direct that, in the meantime, the following measures shall be carried into effect, vizt.

1st. Prisoners, who have behaved well since their arrival, and whose Families come out to join them, will be assigned to their wives,

2nd. Female prisoners marrying Free men will be assigned to their Husbands, should their conduct entitle them to indulgence.

3rd. When both Husband and Wife are prisoners, arrangements will be made, if circumstances permit, to assign them to the same person.

4th. No Woman, being the Wife of a Free man or of a man holding a "Ticket of Leave," is to be kept in the Factory, except under the immediate Sentence of the Law, when she will be confined in the Penitentiary, and, at the expiration of her sentence, will be returned to her Husband.

5th. Unmarried male Prisoners, who are allowed to sleep out of Barracks, will be exempt from working for the Government on Saturdays; but the state of the Public Works does not permit of their services being dispensed with on Fridays.

6th. Persons, who are married and who sleep out of Barracks, will be permitted to work for themselves on Fridays and Saturdays, as a means of enabling them to maintain their Families.

7th. All Prisoners, who are in the immediate service of Government and are allowed to sleep out of Barracks, are to be regularly mustered and proceed to their work with the Gangs to which they belong.

8th. It has become necessary, with a view to the simplification of the Public Accounts, that the Prisoners, who sleep out of Barracks, should receive their Ration in arrear and not in advance, as hitherto, and that they should be issued at the Barracks, from whence the Prisoners generally are victualled and not immediately from the Commissariat.

This is to take effect from the first of the ensuing month.

By His Excellency's Command,

ALEXANDER MCLEAY.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 59, per ship Woodman.)

My Lord,

Government House, 4th September, 1826.

I regret the necessity of recurring to the subject of my Letter of the 24th of July last, marked "Separate," respecting Mr. Bannister; but his perseverance in obtruding offensive observations has constrained me to interdict any further correspondence between us, except on subjects which are strictly official.

4 Sept.

Refusal of
correspondence
with
S. Bannister.

Not satisfied with the termination of the correspondence, which accompanied my Letter to your Lordship above referred to, He urges again, in his Letter of the 19th of August, herewith enclosed, the prosecution of the Editor of the "Australian," rather than the Editor of the "Monitor," not attending to the distinction, which I had repeatedly pointed out, that the observations in the latter Paper were of a seditious tendency, being calculated to disturb the public tranquility, while those in the "Australian," however offensive, were altogether of a personal nature, intended to expose the conduct of Individuals, whose proceedings had rendered them obnoxious to the Community.

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4 Sept.

Prosecution of
R. Wardell
proposed.

Previously to the receipt of his letter of the 19th of August. I had written to inform him that, in consequence of the altered tone of the "Monitor," he was to suspend the prosecution, conceiving, if the object could be attained without resorting to that measure, that it would be infinitely more desirable and consistent with the character of Government than to enter into a contest with a newswriter, the result of which, from recent experience of the conduct of a Public Prosecution, would, I had reason to believe, have been very doubtful.

Suspension of
prosecution of
E. S. Hall.

My letter of the 14th ultimo, however, appears to have miscarried; and Mr. Bannister addressed his letter to me of the 19th. Desirous of getting rid of his importunities, I satisfied myself with enclosing to him in reply a duplicate of my letter of the 14th, though I could not be insensible to the insult, intended by the observation that "it is thought, I believe by unprejudiced parties, that the Government is afraid of the latter Newspaper (the Australian), and that, therefore, its vulgar scurrilities and irreligious tendencies have not Deprived it of a degree of consideration on the part of the Government, of which it is little worthy." I shall abstain from entering further in this place into the subject of that letter, but shall annex to it such remarks as may appear necessary.

Correspondence
with
S. Bannister.

Character
of letter.

On the 25th, only six days after his letter of the 19th, the one just now quoted, Mr. Bannister addressed another letter to me, complaining that he did not hold that Station, which he ought to occupy, and desiring to be informed in what he appeared to have erred. The question was unnecessary, as the answer was obvious; and I only enclosed a copy in order to complete the series of the correspondence.

As Mr. Bannister has desired that his letter of the 25th of last month may be communicated to Your Lordship, I shall take the opportunity of adding a copy of one, which I received from him on the 29th of June. I abstained at that time from a feeling of consideration, I might say compassion, to Mr. Bannister, from

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4 Sept.

forwarding it to Your Lordship; and I have now to apologize for having thus compromised my Public Duty. Any comment on a communication, so completely visionary as that letter, would be impertinent as it is unnecessary.

Incapacity of
S. Bannister
for office.

The infirmity, under which it appears to have been written, affords ample proof that the Author cannot discharge, with advantage to the Service, the duties of Attorney General.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

ATTORNEY-GENERAL BANNISTER TO GOVERNOR DARLING.

Sir,

Sydney, 19th August, 1826.

Prosecution of
E. S. Hall
for libel.

Being prepared for the Trial of the Editor of the "Monitor" Newspaper for the libel,* which appeared in it on the 14th of July, I cannot forbear again submitting the case to Your Excellency in the light, in which I have before taken the liberty to present it.

The labour of a day's pleading will, I am sure, be considered to be altogether out of my thoughts; and I have too clear proofs of personal consideration of any other kind, not influencing my Public Conduct, to be apprehensive that this painful representation will be attributed to any motive but my sense of Duty. If I err in my views, Your Excellency will disregard them, but absolve me from reproach for having brought them forward.

This prosecution of the Monitor can be useful, only as it increases in the minds of the People a vindication of the Law, which has been violated. We shall be able either to diminish libelling terror by the example to be made of the Editor, or to create a general disapprobation of his conduct, and this, by carrying the minds of the people along with the prosecution to counteract the evil effects of his Comments.

In my opinion, as things now stand in regard to the Newspapers, we shall fail to attain either of these objects.

Alleged
consideration of
government for
Australian
newspaper.

I do not doubt the mischievousness of the libel of the 14th of July; but there is an *universal impression*† in the Colony and elsewhere that the Australian Newspaper has been equally open to public prosecution; and it is thought, I believe, by unprejudiced persons, as much as by the adherents of the various Parties, that the Government is afraid of the latter Newspaper, and that, therefore, its vulgar scurrilities and irreligious tendencies have not deprived it of a degree of consideration on the part of the Government, of which it is little worthy.

If such be the public opinion, the effect of prosecuting a new and needy Editor, and of passing by a *Paper in the hands of a person of the Legal profession*,‡ will be attributed at least to motives likely to defeat the purposes of the prosecution.

* Note 123. † See annexed Remarks No. 1. ‡ 2nd (see note 81).

I have no doubt of the Government now standing in *this situation*,* not favourable to the King's Service. I cannot, therefore, forbear again making this submission to Your Excellency that it may be wise to take a new course in regard to the Public Press, and to *confine the Communication of Orders and Advertisements to a Government Instrument*.†

1826.
4 Sept.

Proposed withdrawal of government advertisements from press.

What seems clearly to be due to the Parramatta Magistrates and Peace Officers may be effected by a Public Token of your Excellency's sense of their conduct in a prudently drawn Order, and, in regard to the Chief and other constables, *by the addition of a suitable reward in Land or in money*.‡

Counteraction of mis-statements in newspaper.

If any doubt exist as to the falsehood of the observations in the "Monitor," it may be offered to the Constables to bring actions for them, putting the truth of the matter directly in issue and deferring the reward, till the result appears by a Legal judgement.

At the same time, I take the liberty of suggesting that the increasing insubordination of Prisoners, which the Newspapers have stimulated, may also be met, and the deserving convicts encouraged by *vigorous measures*,§ being accompanied by a speedy promulgation of the new Ticket of Leave rules.

I have, &c.,

S. BANNISTER.

[Annexed to enclosure No. 1.]

REMARKS ON Mr. Bannister's Letter, dated 19th August, 1826.

1st. This "universal impression" is, I apprehend, confined to Mr. Bannister and his immediate friends, who are the objects of the Australian's attacks. Formerly, when this Paper was remarkable for its opposition to the Government, the Attorney General was the Companion and friend of the Editors, Dr. Wardle and Mr. Wentworth, and lived on terms, as I am informed, of unusual intimacy with them! The same Clerk was employed in common with them! The Government was not urged at that time to prosecute the "Australian." The Attorney General would not invade the liberty of the Press. At length, he and the Editors quarrelled. The Australian attacked him, and still continues to write against a Party, of which the poor man was unconsciously the humble instrument. Though that Paper has, during this period, advocated the Measures of Government, and given it its support, it is now to be prosecuted: it has written against Mr. Bannister's friends!! Mr. B. says it is believed by *unprejudiced* persons that the Government is afraid of the Australian.

Relations of S. Bannister with Australian newspaper.

* 3rd. † 4th. ‡ 5th. § See Enclosure No. 5.

1826.

4 Sept.

Refutation of
statements of
S. Bannister.

The above will prove that he at least has no claim to be included in this Class. Those, who take the trouble to read the Paper, will judge whether the Government has any reason to be afraid of it, as they will by these facts of the consistency and public conduct of the Attorney General. As to "vulgar scurrilities," the Press has never, since my arrival, been more fruitful in this respect than when assisted by some of Mr. Bannister's friends. The "irreligious tendency" of the Paper can only apply to the insertion of the Police Cases. In a moral point of view, it may be injurious; but why is it to be expected that the Papers here should be more particular than elsewhere? When the Attorney General sets the example of acting professionally without pay, the Editors will perhaps become indifferent as to the sale of their Papers. But the *Cant* is as contemptible as it appears unfounded.

2nd. This is explained in the remark above.

3rd. I don't comprehend what "this situation" is intended to refer to, the ambiguity of the phrase prevents its being replied to.

Proposed
publication by
government.

4th. The Attorney General ought to know that this is impracticable, and, if practicable, would be highly injudicious. The object of publishing is, I presume, to facilitate and extend circulation. The proposed measure, if successful, would defeat this object; so that, in fact, if adopted, success would depend on the failure of his Plan.

It may be asked would the publication of the Government Orders in a separate "Instrument," as it is termed, prevent their being copied in the Newspapers; and, if not, would not the effect be the same as at present?

Compensation
proposed for
persons
censured.

5th. If *constables* and others, whose conduct is animadverted upon in the Newspapers, are to be rewarded in this manner, the candidates for censure would, I fear, be very numerous. There is something so singularly extravagant and eccentric in the idea that the soundness of the mind, which produced it, must be at least doubtful.

Cause of
S. Bannister's
action.

It is unnecessary to continue this analysis. It is clear that the Attorney General, naturally irascible, is actuated by feelings of personal resentment against the Editor of the Australian, and not by any sense of Public Duty; and that he is urged to persevere by his friends, who are irritated by the strictures of that Paper. That he is inconsistent will be seen on reference to Remark No. 1; that he is not "unprejudiced" is indisputable. As to his advice and opinion, the nature of these may be ascertained by the above remarks Nos. 4 and 5.

[Enclosure No. 2.]

1826.
4 Sept.

GOVERNOR DARLING TO ATTORNEY-GENERAL BANNISTER.

Government House, Paramatta,

14th August, 1826.

Sir,

In consequence of what is stated in your Letter of the 2nd Inst. on the subject of the Paragraphs* in the "Monitor" of the 21st Ultimo, and in the hope that the Editor will not persevere in the publication of such articles, as those alluded to, I am induced to suspend the prosecution, and request you will not proceed in it without further Instructions.

I have, &c.,

RA. DARLING.

Prosecution of
E. S. Hall
suspended.

[Enclosure No. 3.]

ATTORNEY-GENERAL BANNISTER TO GOVERNOR DARLING.

Sir,

Woolamooloo, 25th August, 1826.

The circumstances, in which I find myself under Your Excellency's Administration, induce me to request to be informed, in what I appear to have erred so as to have incurred disapproval.

Protest of
S. Bannister.

I should regret unduly to urge my official pretensions, or unnecessarily to offer my opinions; but I cannot avoid perceiving that I do not hold that station, which very eminent English Crown Lawyers consider that a Colonial Attorney General ought to occupy.

Believing, as I do, after some experience that the Public Service requires all the strength of the King's Officers in New South Wales, I trust to have Your Excellency's Pardon for this appeal. If reasons exist for my removal, I request that this my tender of explanation may be sent Home.

I have witnessed conduct in Public Officers, of which it may be my duty to bear testimony in England; and I may myself be suffering inconvenience by the Agency of others.

It is, therefore, due to the Crown, I may venture to say, not less than to myself and to my friends at Home, to prove that I have expressed my disposition to let my official exertions be measured only by my ability.

I have, &c.,

S. BANNISTER.

[Enclosure No. 4.]

GOVERNOR DARLING TO ATTORNEY-GENERAL BANNISTER.

Government House, Paramatta,

28th August, 1826.

Sir,

Having communicated to you my Sentiments on the subject of your Letter of the 19th of June, I should not have supposed you could now require to be informed, as expressed in your Letter of the 25th inst., in what you appear to have erred so as to have incurred disapproval.

* Note 123.

1826.

4 Sept.

Cessation of
correspondence.

The Letter, above alluded to, appeared to me highly improper and unbecoming your situation; that, which you addressed to me on the 19th of the present month, requires no comment. Respect for the situation I hold forbids my continuing a discussion, which has subjected it to offensive observations; and I shall now close this correspondence. It is not in New South Wales alone that the Public Service should receive all the strength of the King's Officers; but I have yet to learn that it is peculiarly necessary here.

If, however, you have witnessed conduct in any of the Officers of this Government, inconsistent with their duty, it should be immediately checked; and I, therefore, call on you to point out the circumstances and the Individuals that the necessary steps may be taken.

I shall forward your Letter of the 25th to the Secretary of State, as you desire, and shall at the same time transmit that of the 19th inst.

I have, &c.,

RA. DARLING.

[Enclosure No. 5.]

ATTORNEY-GENERAL BANNISTER TO GOVERNOR DARLING.

Sir,

Woolamoola, 29th June, 1826.

If the news be true that 18 Bushrangers are well-armed at Bathurst in a body, of whom 12 are mounted, a great exertion will be necessary to secure the peace of that part of the Colony. I, therefore, venture to offer my services on the spot. My reasons are that the Black People know me well at Bathurst, and they are said to be inclined to favor the Bushrangers; and the Magistrates will the more readily act in the vigorous manner necessary for such an occasion, if they have the sanction which my presence will afford.

The views, which I have always entertained of the duties of my Commission, have convinced me that, where the public peace is threatened, I cannot be out of place.

As the best horses are said to be taken at Bathurst, I recommend that a mounted party be sent thither; that the young men, Mr. Marsden's Son, Mr. Hassall, and others interested over the Mountains, be invited to go out; then ten soldiers be armed with rifles; and that a party of the Black people on this side be taken out as trackers.

At the same time, I take the liberty of recommending that the party of Soldiers at Springwood be strengthened, and that another be sent immediately to Argyle, where the communication is beginning to be frequent from Bathurst, as the robbers will

Offer from
S. Bannister
to serve against
bushrangers.Suggested
campaign.

probably penetrate that way in pursuit. Mr. Hassal's, Mr. McAlister's, and Mr. McArthur's Stock are meeting on both sides there.

An advantage in placing a party there, or nearer Lake George, will be to check the distant natives, whom several well informed persons have told me to be threatening violence in that direction.

I have, &c.,

S. BANNISTER.

GOVERNOR DARLING TO UNDER SECRETARY HAY.

(Despatch marked "Private." per ship Woodman.)

My dear Sir,

Paramatta, 4th September, 1826.

I have written again by this opportunity on the subject of the Survey Department, and have recommended Captain Dumaresq for the Appointment of Deputy Surveyor General. In my former Letter, No. 51, I pointed out the expediency of two of the Surveyors to be sent out being Men of superior Acquirements, and paid at a higher rate than the others. I am convinced on further Consideration that the due performance of the Duties of that Department requires the aid of an officer of more importance than an Assistant. Mr. Oxley is a very clever Man; but he has been too little controlled, and I am satisfied will never submit to the drudgery of carrying on the details of the Department. Besides there are many who doubt his impartiality; and I am, therefore, desirous of having a Person in the Department, who would be some check on the indulgence of any disposition, which might be felt to favour one Party or to oppose another. On Public grounds, Captain Dumaresq has perhaps as fair pretensions to the Appointment as anyone. His education and acquirements qualify him for it. Public Services for a period of Eighteen Years, with credit and reputation, give him a claim to the attention of His Majesty's Government. In addition to this, his Appointment would be particularly satisfactory to me, being assured that he is a Person, in whom I could place more confidence than in any stranger. I need not say that, at the time when the general Survey of the Country is to take place, which will require diligence as well as ability, that the Appointment is the more important; and I am solicitous on that Account that it should be conferred on Captain Dumaresq, who I am satisfied will prove himself deserving of the favour. In the event of Lord Bathurst being pleased to appoint Captain Dumaresq, I shall be obliged to you to inform M. General

Recommendation of W. Dumaresq for appointment as dep. surveyor-general.

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4 Sept.

1826.
4 Sept.

Macdonald, the Deputy Adjutant General at the Horse Guards, in order that the necessary arrangements may be made for his retiring on Half Pay. I remain, &c.,

RA. DARLING.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 60, per ship Woodman; acknowledged by Earl Bathurst, 2nd April, 1827.)

5 Sept.

Deviation from
instructions
re sale of
crown lands.

My Lord, Government House, 5th September, 1826.

1st. I have the honor to report to Your Lordship, in reference to my Despatch No. 43 on the subject of granting Land without purchase, that a similar arrangement for the sale of Land has now been adopted, with the advice of the Executive Council subject to His Majesty's pleasure.

2nd. I beg leave to enclose, for Your Lordship's information, the copy of a Minute, which I laid before the Council, explanatory of the view I had myself taken of the matter. The Council adopted the proposition that, instead of confining the persons desirous to purchase to the Land, which had been surveyed (which would in effect have prevented the Sale), the Land, which they might select, should be immediately surveyed and valued and be disposed of at the end of a month to the highest bidder.

3rd. It is unnecessary for me to trouble Your Lordship with any arguments in favour of this measure. Those, which were urged with respect to the expediency of deviating from the Instructions in the case of Settlers, desirous of obtaining Grants without purchase, apply with equal force to persons wishing to purchase.

In short, if Lands were not to be sold until progressively surveyed and valued, no sale could take place for a very considerable period of time; and, as I have stated in the enclosed Minute, I have not been able to devise any means, which embrace, in the same degree as those now proposed, the views of His Majesty's Government and the convenience of the Settler. On these grounds, I venture to hope the measures will be honored with Your Lordship's approbation.

Additional
regulations.

4th. I beg leave further to transmit to Your Lordship the copy of a second Minute, which I submitted to the Council, containing the propositions as to extending the *Boundaries*, pointed out in my Despatch No. 43, and the regulation to be adopted in the case of persons, applying for "Reserves of Land" (which have hitherto been allowed without any Rent being charged), or for "Grants in Extension." These several propositions were also adopted with the full concurrence of the Council.

5th. In order to prevent any misunderstanding with respect to the Terms, on which Settlers will be allowed to take possession

of land before His Majesty can sanction the deviation from the Instructions, which have been suggested, I have deemed it advisable to prepare some Regulations, which will be immediately published; and I do myself the honor to enclose a copy for Your Lordship's information.

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I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

MINUTE for the Executive Council by His Excellency the Governor, 23rd August, 1826.

As the same difficulties present themselves in carrying the King's Instructions into effect with respect to the *Sale* of the Crown Lands, namely the Survey of the country being in arrear, which induced a deviation from the Instructions in making Grants without purchase, it is submitted whether, under these circumstances, some modification may not be expedient, so as to prevent the Inhabitants and Settlers being subjected to the serious inconvenience and loss, which they must inevitably experience, if not allowed to purchase Lands, until the Survey and Valuation have taken place, as required by the Instructions. In order to prevent the injury, which Settlers, desirous of obtaining land *without purchase*, would sustain in this case, they have at the recommendation of the Council been allowed to choose their Land within certain given Boundaries in the partially Settled Districts, subject to His Majesty's pleasure. The Council, therefore, are requested to consider whether it may not be advisable to allow the same latitude to persons desirous of *purchasing* Land.

Proposed
deviations
from royal
instructions
re sale of
crown lands.

In order to place the matter fully before the Council, the following Abstract of the Instructions is submitted.

1st. It is ordered that the Land be surveyed and valued by the Commissioners.

2nd. It is then to be put up for sale for one month and be sold to the highest bidder, if the offer is not less than the value fixed by the Commissioners.

3rd. Such of those lands as are not sold within six months may, at the expiration of that period, be granted without purchase.

Without waiting this process, which the Council wisely considered would be ruinous to those Persons, who had come out to settle, they have been permitted to select their Land as above pointed out.

It is, therefore, submitted whether, as this part of the Instructions which was consequent on the arrangements for the *sale* of land, has, from a sense of justice to the Parties, been dispensed with, the same necessity does not exist for deviating from the strict letter of the Instructions in the case of persons wishing to purchase land.

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Proposed
deviations
from royal
instructions
re sale of
crown lands.

If the Council be of opinion that the Candidates for purchase should be allowed to select their land the same as the Settlers applying for Grants, it will be necessary to consider in what manner the 34th and 35th Clauses of the Instructions* can be met, which require that the Lands, in order to their being disposed of, shall be first valued and put up to sale. The Council are requested to consider whether the object, proposed by the Instructions, would be answered, if persons desirous of purchasing were called on to point out the particular Lots, then to cause these Lots to be surveyed and valued, and immediately after to be put up to sale.

I am not myself aware that there is any other mode, which combines in the same degree the views of His Majesty's Government and the convenience of the Settlers; the main object, proposed by the former, will be attained, and the latter will have an opportunity without any serious delay of obtaining the Land which he wishes to purchase.

RA. DARLING.

[Enclosure No. 2.]

MINUTE for the Executive Council by His Excellency the Governor, 22nd August, 1826.

* Proposed
extension of
boundaries
of area for
selection.

1st. Since the Boundaries, within which Settlers have been allowed to select their Lands, have been made known, many applications have been received for allotments beyond those Boundaries, that is, to the Westward of the River Macquarie in the neighbourhood of the Settlement of Bathurst. Those Lands appear to have been reserved with a view to the maintenance of large flocks of Sheep and Herds of Cattle for the use of Government; but, as it is no longer desirable to retain the Land in question to the prejudice of Settlers, who prefer establishing themselves in that part of the Country, I beg leave to submit for the consideration of the Council whether it would not be advisable, in order to meet the wishes of Settlers, to extend the boundaries lately fixed, as follows, Vizt:—

From the west bank of the River Macquarie, in the 33rd parallel of Latitude, to the 148½ degrees of East Longitude.†

From thence directly South to the River Lachlan and due East from that point to Campbell's River, being part of the Boundary lately established, Government reserving to itself 10,000 acres of Land in the neighbourhood of Bathurst, within the Boundary now laid down, for the use of such cattle as it may be necessary to retain for the present.

2nd. It is further submitted to the Council whether it may not be advisable, in the case of Settlers applying for "Reserves of

* Note 124. † Note 125.

Land" or "Grants in Extension," to allow them to occupy additional Land in proportion to their increased means, on condition of their paying Rent at the rate of *Twenty Shillings Sterling* per annum for every *hundred Acres*, so occupied, until His Majesty's pleasure shall be received as to the Boundaries within which Grants may be made.

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Conditions proposed for leases of land and grants in extension.

3rd. It being necessary in order to prevent the inconvenience, to which persons, desirous of purchasing Land or obtaining Grants, would be subjected, if not allowed to select Land rented by Individuals for the purpose of grazing, to define the period which persons, so renting Land, should on receiving due notice be obliged to quit the same, it is submitted to the Council that six months would be a fair and reasonable period for this purpose.

RA. DARLING.

[Enclosure No. 3.]

GOVERNMENT ORDER.

Regulations for the Granting and Sale of Land.

Government order announcing regulations for grant and sale of land.

Colonial Secretary's Office, 5th September, 1826.

HIS EXCELLENCY the Governor is pleased to notify that the following Regulations, in furtherance of His Majesty's Instructions for the disposal of Land, have been established until His Majesty's Pleasure shall be known.

1st. Persons, desirous of obtaining Land, will address themselves to the Colonial Secretary, who will furnish them with the established Form of Application. When the Governor shall be satisfied of the character and respectability of the Applicant, the Colonial Secretary will be instructed to furnish him with a Letter to the Land Board, in order that the amount of Capital, which he can command, may be ascertained. Goods of every description, Implements of Husbandry, and other Articles, which may be applicable to agricultural purposes, are to be considered as Capital, as likewise any Half Pay or Pension, which the Applicant may receive from Government.

2nd. The Land Board will carefully investigate the particulars of the Capital, which the respective applicants are stated to possess, it being of importance that Settlers should not receive a greater extent of Land than they are capable of improving, and that Grants should not be made to persons who are desirous only of disposing of them. The Regulations, fixing the period within which the persons receiving Grants without purchase will not be allowed to alienate the Lands (without subjecting themselves to a forfeiture of the Grants), will be hereafter notified.

3rd. When the Governor is satisfied as to the amount of Capital possessed by the Applicant, the latter will be furnished by the Colonial Secretary with a letter to the Surveyor General, who will afford him every necessary information, and will give him a written Authority (for which he will pay a Fee of 2s. 6d.) to proceed in search of Land.

4th. When he has made his Selection, he will apprize the Surveyor General by letter, who will point out in his Report (to be

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Government
order
announcing
regulations for
grant and
sale of land.

transmitted twice a month for the Governor's information) the situation, etc., of such lands as have been selected. If approved by His Excellency, the Colonial Secretary will give the Applicant a written authority to take possession of the Land (in which the conditions will be specified) until His Majesty's Pleasure be known or the Grant be made out.

5th. The following Boundaries* have been fixed within which Persons, who may be allowed to purchase or to receive Grants on paying an annual Quit Rent, will be permitted to make their Selection. The Northern Boundary is to be from Cape Hawke in a line due west to Wellington Valley.

The Western Boundary to be the River Macquarie from Wellington Valley to the 33rd parallel of Latitude; from thence the line to be extended to the 148th Degree of East Longitude; and from that point directly South, until it reaches the River Lachlan; thence due East to Campbell's River, pursuing the line of that River to the Southward, and so on to the latitude of Bateman Bay, which forms the Southern Boundary.

6th. The Government will reserve for its own use 10,000 acres in the immediate neighbourhood of the Settlement at Bathurst, which the Surveyor General will mark out without loss of time, so that Settlers may not be impeded in selecting their land.

7th. Land, granted without purchase to be held in free and common Socage, the Grantee paying a Quit Rent of 5 per cent. per annum on the values to be fixed by the Commissioners.

8th. The payment of the Quit Rent not to commence until the end of seven years, after the Grantee shall have been authorized to settle on the Land. Within that period, however, the Grantee must expend in improvements on the Land, so granted, a sum equal to one fourth of the value, estimated by the Commissioners, under the penalty of forfeiting the Grant.

9th. The Quit Rent to be redeemable at the option of the Grantee on payment into the Colonial Treasury of a sum equal to twenty years purchase, provided such payment be made within twenty years after the date and execution of the Grant.

10th. Lands to be granted in square miles in the proportion of one square mile or 640 acres for every £500 Sterling of Capital, which the Applicant can immediately command to the extent of four square miles or 2,560 acres, which is the utmost that can be granted without purchase. The Crown reserves to itself the right of making and constructing such Roads and Bridges, as may be necessary for public purposes, on Lands to be granted as above, and also to such indigenous Timber, Stone and other Materials, the produce of the land, as may be required for making and keeping the said Roads and Bridges in repair.

11th. The Land selected by Individuals, who have obtained leave to purchase, will be valued by the Commissioners with as little delay as possible, and will be put up to sale for one month (by Proclamation), as directed by His Majesty's Instructions, and will not be sold at a lower rate than the value fixed.

12th. Sealed Tenders for the purchase of the land advertised as above to be addressed under cover to the Colonial Secretary and marked "Tender for Land." At the end of a month from the date of the Proclamation, the Tenders will be opened in the presence of such persons as the Governor may appoint; when the land will

* Note 125.

be disposed of, as directed by His Majesty's Instructions, to the person making the highest Tender, if approved by the Governor. Lands purchased will be held in free and common Socage paying a yearly Quit Rent to the Crown of one Pepper Corn.

13th. The Purchaser will be required to deposit Ten per cent. of the purchase money, previously to his receiving possession of the Land, and the sale will be confirmed by the necessary Instrument, when the present arrangement shall be approved by His Majesty.

14th. No person will be permitted, by any contract or succession of contracts, to become the purchaser of more than 9,600 acres, including the land he may have previously purchased, unless duly authorized by a special order from the Principal Secretary of State for the Colonies.

15th. The personal residence of Individuals on the land, which they may obtain by Grant or Purchase, or the employment on the spot of a free man of approved character and respectability, will be made an indispensable condition.

16th. Persons, desirous of obtaining "Reserves of Land" or "Grants in extension," will make application in the prescribed form through the Colonial Secretary; and, if no objection exists, the Governor will authorize them to occupy the land they make choice of until His Majesty's Pleasure be known, on their engaging to pay rent in the meantime at the rate of One Pound Sterling per annum for every 100 acres.

By His Excellency's Command,

ALEXANDER MCLEAY.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch marked "Separate," per ship Woodman; acknowledged by Earl Bathurst, 15th March, 1827.)

My Lord, Government House, 5th September, 1826.

I beg to mention, in reference to my Dispatch No. 51, that I have consulted Captain Dumaresq of the Staff Corps in order to ascertain whether he would accept the appointment of Deputy Surveyor General. I need not point out to Your Lordship that it is an object of peculiar importance that the Officers of this Department, and more especially the Superiors, should be men of integrity, in whom the Government could repose full confidence. Captain Dumaresq is an Officer of character, and possesses every necessary acquirement. He was educated at the Military College, and is not only a good practical Surveyor, but perfectly qualified to conduct that important service. At present, he is charged with the Superintendence of the Roads and Bridges, and has about seven hundred prisoners under his orders, the men of his own corps being employed as overseers. I am also from necessity obliged to employ him as Civil Engineer, as there is no other person here competent to that important duty. I have been induced to mention this more with a view of satisfying your Lordship of Captain Dumaresq's competency, than for any other

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Government order announcing regulations for grant and sale of land.

Testimony in favour of appointment of W. Dumaresq as dep. surveyor-general.

purpose. If your Lordship should be pleased to appoint him Deputy Surveyor General, I would recommend his being allowed a salary of £500 a year. A man of character, who is fit for the situation, could not possibly be expected to serve for less, House Rent and all the necessaries of life being very expensive.

Without meaning to allude to this appointment, I may with propriety observe that there is no quarter of the world, where it is more necessary to place the servants of Government beyond temptation. Your Lordship may be surprized at my recommending the Salary of the Deputy Surveyor to be £500 a year, when the Surveyor General receives £1 a day. The fees of the latter Office are considerable, and raise his Income to £1,000 a year; last year it exceeded £1,500. This Officer has also a House, so that a just scale of distinction will be preserved between the principal and his deputy by fixing salary of the latter at £500 a year.

Should there be any objection to Captain Dumaresq's appointment, whom I have recommended more on public grounds, being satisfied that it will be beneficial to the service, than with any view of serving him personally, I have only to entreat that a fit person may be selected for the situation, whose character and competency can be relied on.

I have, &c.,

RA. DARLING.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 61, per ship Woodman; acknowledged by Earl Bathurst, 16th March, 1827.)

My Lord, Government House, 6th September, 1826.

Mr. Gray, Government Pilot, having applied to be remunerated for services performed by him in establishing the Penal Settlement at Moreton Bay, I referred his claim to a Committee of the Board for General Purposes, and have the honor to transmit for Your Lordship's information a Copy of their Report. I have in consequence authorized the issue of Two hundred Spanish Dollars to Mr. Gray, and hope Your Lordship will be pleased to approve thereof.

I have, &c.,

RA. DARLING.

[Enclosure.]

REPORT BY BOARD ON SERVICES OF PILOT GRAY.

Board Room, 4th August, 1826.

THE Committee of the Board for General Purposes having taken into consideration a Minute of His Excellency the Governor, No. 68, dated the 27th of March last, requiring of it to ascertain

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Salary
proposed.

Salary and fees
of surveyor-
general.

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Payment for
services of
pilot at
Moreton bay.

Report by
board on claims
of pilot.

the Claim set forth in a petition from Mr. Gray, the Pilot, for services performed by him at Moreton Bay, and to report as to what remuneration he may appear to be entitled, and the Committee, on reference to the letter alluded to by Mr. Gray in his Memorial to the Governor, found that Sir Thomas Brisbane considered that a gratuity of two hundred Dollars would sufficiently remunerate Mr. Gray for his extra services on this occasion; and the Committee, also understanding that he has received the same proportion of Pilotage Fees as the other Pilots during the period of his absence, beg to recommend that the intentions of Sir Thomas Brisbane be carried into effect, and that Mr. Gray be paid Two hundred Dollars accordingly.

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Report by
board on claims
of pilot.

ALEXR. MCLEAY. H. DUMARESQ.
WM. LITHGOW.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch marked "Separate," per ship Woodman; acknowledged by Viscount Goderich, 28th May, 1827.)

My Lord, Government House, 6th September, 1826.

I beg your Lordship's attention to the accompanying letter from Mr. Therry, the Roman Catholic Chaplain. The general tone of it appearing extremely offensive as insulting to the Government, and the subject being of a delicate nature, I thought it advisable to avail myself of the opinion of the Executive Council, before I acted on it; and I have the honor to transmit for your Lordship's information a copy of the Minute of Proceedings, which took place in consequence. Your Lordship will perceive that Mr. Therry is a man of strong feelings and not much discretion. He is evidently disposed to be troublesome, and, constituted as this community is, might be dangerous, a large proportion of the Convicts being of the lowest class of Irish Catholics, ignorant in the extreme, and in proportion bigotted and under the domination of their Priest. He is indefatigable in his endeavours to preserve his influence amongst his countrymen, and is constantly going from place to place with this view. From the similarity of character, he can hardly fail to succeed. With respect to the solemnization of marriage, he has interfered very improperly, having in some instances performed the ceremony in the case of Protestants, who had been previously refused by the clergymen of the Established Church, in consequence of their being already married, or the bad character of the Parties.

Letter from
Rev. J. J.
Therry.

His character
and conduct.

It will be seen by his letter that, in speaking of the Clergy and the School Establishments of the Colony, he indulges in the

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most improper observations and invectives, conceiving that our clergy are actuated by the same motives as he is, and that their object must be to make proselytes of the Catholic children.

Objections to
Catholic clergy.

I must confess to your Lordship that I have no desire to see any more of the Clergy of the Catholic persuasion here. The good they might effect through the medium of Education is counteracted by the subjugation of mind, in which those under their influence are kept.

Erection
of church.

Mr. Therry is anxious for the completion of his Church*; but, though fully disposed to assist in this object, as far as your Lordship has directed, it is not in my power to do so at present without interrupting the progress of some of the Public Buildings. I have informed him that, so soon as I possess the means, I shall afford him the necessary aid.

Support
given to
R.C. church.

Mr. Therry is himself a stipendiary of the Government, and an allowance is made by the Public for the education of the Catholic children. His complaint that a desire exists to exercise an improper influence over them is, therefore, unjust. He is desirous that Government should erect Places of Worship for the Catholics throughout the Colony; and its not doing so furnishes in his mind another proof of what he supposes to be the object of the Orphan Schools.

Request for
removal of Rev.
J. J. Therry.

I understand Mr. Therry is acquiring wealth, and, as his influence will increase with his means, his immediate removal appears the more desirable. I would beg to point out that, in selecting a Catholic Priest for this Colony, it is most important that an Englishman should have the preference, the Catholics here being, I believe, nearly all Irish. I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

REV. J. J. THERRY TO COLONIAL SECRETARY MCLEAY.

Sir,

Sydney, 24th June, 1826.

I had the honor on yesterday evening to receive your letter of the 22nd Inst., informing me of a complaint having been made of my having solemnized a marriage in the Parish of Windsor between a Catholic and a Protestant contrary to the Instructions, I had received from Major General Macquarie, dated the 14th of October, 1820, and calling on me, by the Command of His Excellency the Governor, for an explanation; and, in reply, I beg to state that there have been but two Marriages recently solemnized by me in said Parish, to which this complaint can possibly refer, and that in both of those cases the parties were Natives of the Colony and united by me in marriage with the approbation of their parents.

Marriages
solemnized
by Rev.
J. J. Therry.

* Note 126.

Of these marriages, no person in my opinion has had any sufficient reason to complain, unless it were the Protestant Minister who thereby lost his fees. But it would not be reasonable to believe that a Reverend Gentleman, who, having himself professed the Catholic Faith for many years, must know that a marriage, performed by a Protestant or Dissenting Minister between Catholics in any place, where the Council of Trent is received, as it is here, is considered to be utterly invalid, and that such parties invariably believe that they are at liberty to separate, when the caprice or convenience of either might require it, and who, notwithstanding scruples not to perform and take the fees for such marriages, should complain of me for having performed a marriage, the validity of which he must allow, and the legality of which he can only question but not deny.

But perhaps the Reverend Gentleman does not know that I required no fee at either of these marriages, although I had not travelled six and thirty miles, the distance from Sydney to the place where they were performed, quite free of expense. I certainly accepted four dollars at each, which it would have been an offence to refuse; but, at the same time and place, my chaise, which had cost me more than half a year's salary, was thro' the negligence of a boy, who had charge of my horse, literally broken to pieces, and I have been obliged to use a borrowed one ever since.

With regard to the Letter of Instructions of Major General Macquarie, I beg to state that I do not now, that I never did, and never shall consider them imperative. I refused *ab initio* to comply with them, as I should now feel it my duty to do *de novo*. I freely admit that I thereby incurred his displeasure and subjected myself to the numerous inconveniences, which resulted from it; but it was not of very long continuance; for, having at length discovered that my refusal had not originated from a spirit of disobedience, nor from any want of respect for his person and Government, he received me again into his favour as may be evidenced by some of his autographed letters, now in my possession, by his public answer to my Address at the ceremony of laying the first stone of the Catholic Chapel,* and by his having at a public dinner, at which I had the honor of being present, appended "the rights of Conscience" to the Archbishop of Canterbury, instead of his usual accompaniment "the Protestant ascendancy." The Major General was certainly suspected by many persons, Protestants as well as Catholics, to have supported the Catholic Religion with one hand, only for the purpose of being thereby enabled the more effectually to undermine it

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Marriages
solemnized
by Rev.
J. J. Therry.

Refusal to
comply with
instructions of
L. Macquarie.

Intercourse
with
L. Macquarie.

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with the other; and the odious, irreligious and unjust system, which is still upheld by clerical ingenuity at the Orphan Schools, and of which he was the Author, confirmed the suspicion. But although I had many reasons to know that he was somewhat prejudiced against the Catholic Religion, yet I never ascribed any of his actions even in thought to any other than pure and honorable motives; for I conceive that he had persuaded himself the religion of the State alone to be that of Jesus Christ.

Criticism of
foundation of
orphan schools.

The partial and proselyting system of our Orphan Schools had been long tried in Ireland, and its baneful influence has withered the fairest flowers, and blasted the finest fruits in the land; its unvarying tendency was to disunite, demoralize, degrade and impoverish. It paralyzed the energies of a brave, loyal, generous and grateful people, and, by perpetually furnishing cause for discontent and disaffection, held out no trivial encouragement for foreign aggression, and thereby contributed not a little to produce the awful calamities of the many wars, in which we have been engaged, calamities for which a glorious triumph and even a permanent peace cannot fully compensate.

May I, therefore, be permitted most respectfully to beg that His Excellency Lieut. General Darling, whose Government is distinguished for its impartiality and wisdom, which appears to pride itself in protecting the poor and the humble from the oppressions of wealthy arrogance, and in whose administration I hope I may say with the Royal Psalmist, "misericordia et veritas obviaverunt sibi: justitia autem pacis osculatae sunt," may be graciously pleased to ameliorate this system so far as it affects the infant empire, committed to his charge, or at least to order some means to be provided, by which Catholic children may be rescued from the fangs of voracious intolerance, from the Idol of Apostacy.

I have, &c.,

JOHN JOSEPH THERRY, R.C.C.

[Enclosure No. 2.]

EXTRACT from Minute No. 16 of the Executive Council.

Saturday, 8th July, 1826.

Consideration
by executive
council of letter
from Rev.
J. J. Therry.

HIS EXCELLENCY then submitted to the Council a letter, addressed to the Colonial Secretary by the Reverend John Therry, Roman Catholic Clergyman, dated the 24th of last month.

His Excellency also laid before the Council a printed copy of the late Governor Macquarie's Letter of Instructions to the Roman Catholic Clergy, dated 14th October, 1820, alluded to by Mr. Therry; and the Council, having duly considered the nature of this document, was of opinion that, consistently with the

practice in England where it is not unusual for Parties, of whom one is a Protestant and the other a Roman Catholic, to be married according to the rites and ceremonies of both Churches, it does not appear to be expedient at present to enforce the injunction of Governor Macquarie on this subject; but the Council recommended that a Copy of Mr. Therry's letter to the Colonial Secretary be transmitted to the Secretary of State for the Colonies, in order that the decision of His Majesty's Government may be obtained on this question, as likewise with respect to Mr. Therry's objections to the education of the children of Roman Catholic Parents in the Public Schools of the Colony. And it was further recommended that, in the meantime, Mr. Therry should be informed that, without deciding upon the right, which he assumes to solemnize the marriages of such parties, as may apply to him for that purpose, whether they be Protestants or Roman Catholics, contrary to Governor Macquarie's Instructions, the Government cannot avoid expressing its displeasure at the very unbecoming language, he has applied to the Institutions of the Colony, especially with respect to the Orphan Schools; at the same time pointing out to Mr. Therry that, had he referred to the Charter of Incorporation of the Trustees for the Church and School Lands, he would have perceived that the System, which is pursued at these Schools (and to which he applies such indecorous epithets), is the only one, which could be adopted consistently with His Majesty's Instructions, as signified by His Royal Letters Patent.

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6 Sept.

Consideration
by executive
council of letter
from Rev.
J. J. Therry.

A true Extract:—H. DUMARESQ, Clerk to the Council.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 62, per ship Woodman; acknowledged by Earl Bathurst, 31st March, 1827.)

My Lord, Government House, 7th September, 1826.

7 Sept.

Mr. Busby, the Mineral Surveyor, having given in a List of Claims for Extra Pay, in consequence of his having been employed, during Sir Thomas Brisbane's Administration, in the years 1824 and 1825, beyond the period prescribed by his Agreement with Government, I appointed a Committee to investigate his claims, as the best means of ascertaining what allowance it might be reasonable to grant. I do myself the honor to transmit for Your Lordship's information a copy of the Report of the Committee, and to acquaint you that, in consequence, I have authorized the issue of £245 4s. Sterling to Mr. Busby, to which sum he appears to be justly entitled.

Claim of
J. Busby
for salary.

I have, &c.,

RA. DARLING.

1826.
7 Sept.

[Enclosure.]

REPORT BY BOARD ON THE CLAIMS OF MR. BUSBY.

Board Room, 8th June, 1826.

Report by
board on claims
of J. Busby.

THE Committee of the Board for General Purposes having assembled conformably to His Excellency The Governor's Minute, No. 90, dated 20th April last, to investigate Mr. Busby's Claim for Salary from the 20th January, 1824, to the 20th January, 1826, on examining the various documents submitted for its consideration, they observe that a Settlement took place with Mr. Busby up to the 29th of September last. The Committee, therefore, deems itself incompetent to entertain a fresh claim for the period, antecedent to that date, but is of opinion that Mr. Busby is reasonably entitled to the sum of £2 2s. per diem, and the amount of travelling Expenses, bona fide incurred by him, for every day he was employed beyond the Two hundred days, for which his services are retained by Government.

The Committee, therefore, suggests that Mr. Busby be called on to furnish an account, made up on the above principle from the 30th Sept., 1825, to the 20th January, 1826, accompanied by the Bills of the Coach Proprietors and Tradesmen, referred to in his statement.

Board Room, 4th August, 1826.

Mr. Busby having furnished the account required, It appears that his Claim on the Government to the 20th of January last inclusive is as follows:—

For 113 days from the 29th Sept., 1825, to the 20th January, 1826, both days inclusive, at £2 2s. per diem	£237 6 0
Coach Hire, while travelling on the public Service within the above period	7 18 0
	<hr/>
	£245 4 0

The several Tradesmen's Bills, which have been paid by Mr. Busby, will be brought into Warrant and settled in the usual manner.

ALEXANDER McLEAY. WILLIAM LITHGOW.
HENRY DUMARESQ.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 63. per ship Woodman; acknowledged by Earl Bathurst, 31st March, 1827.)

My Lord, Government House, 8th September, 1826.

I have the honor to transmit for your Lordship's information a copy of a Minute, relative to the investigation of a claim of the Government Printer, Mr. Howe, for an augmented

8 Sept.

Claim by
R. Howe for
extra allowance.

allowance, in consequence of the additional work he has to perform, occasioned by the great increase of Public Business. I have also the honor to enclose a copy of the Report of the Board, and to acquaint Your Lordship that I have authorized the Government Printer's receiving an allowance of £150 Sterling, as recommended by the Committee, until your Lordship's pleasure shall be known. It should be observed that the cost of twenty five copies of the Sydney Gazette, which are furnished for the use of the Public Establishments and Departments, is £97 10s. per annum, being nearly two thirds of the allowance.

1826.
8 Sept.Allowance
granted to
R. Howe.

The expense of printing the Forms, required by the different offices, will I conceive be considerable; but the account has not yet been furnished.

Cost of
printing for
government.

I was desirous of establishing a Government Gazette; but it appeared to the Committee on investigation, and I was induced to concur in the opinion, that the Expence would be very considerable without insuring any correspondent advantage. I have, therefore, relinquished the intention, until I shall have more leisure to consider the matter.

Proposed
government
gazette.

Should the expence of Printing the Forms, etc., required by different Departments, prove considerable, as is probable from the increased business of the Government, I shall in that case submit a Bill to the Legislative Council for imposing a Tax on the Newspapers, in order to cover the expence. I have not hitherto done so, as the expence did not appear of sufficient magnitude to render it an object, and the Council is restricted from passing any Money Bills except for specific purposes.

Newspaper tax
to pay cost
of printing.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

MINUTE No. 76 by Governor Darling to the Colonial Secretary.

10th April, 1826.

LET the accompanying letters from Mr. Howe, Government Printer, dated the 31st Ultimo, and 5th and 8th Instant, with inclosures, be referred to the "Board for General Purposes." The Board will be pleased to investigate and report fully, vizt.

Subjects to
be considered
by board.

1st. With respect to the exclusive privilege, which Mr. Howe is said to have enjoyed of publishing the Acts, Orders and other Public Documents of the Government, and the nature of the understanding or any agreement entered into with him.

2nd. As to the adequacy of the remuneration, made to Mr. Howe on his being deprived of the exclusive privileges, above

1826.
8 Sept.

Subjects to
be considered
by board.

alluded to, during the late Government, and whether Mr. Howe appears to have any claim and to what amount to further remuneration on this account; and

3rdly. What arrangements, should the present mode of making use of Mr. Howe's Paper be continued, the Board would consider more eligible with reference to the claims of the Individual and the necessary attention to the interests of the Public for defraying the expences of Printing for the Government.

It appears desirable, at the same time, to ascertain the expense, which would be increased by establishing a "Government Gazette," to be confined solely to the publication of the Acts, Orders, etc., of the Government.

It does not appear to me in this case that Government need be at any expense for publishing its Orders or Advertisements in the Newspapers, as copies of the Gazette would be sent to all the Public Establishments and Departments for their immediate information, and the Editors would find it to their advantage to copy the advertisements from the Gazette into their Papers, as a means of their obtaining their more general circulation.

RA. DARLING.

N.B.—The Colonial Secretary; Clerk of the Council; Auditor of Accounts; J. T. Campbell, Esqre.

[Enclosure No. 2.]

REPORT OF COMMITTEE OF BOARD FOR GENERAL PURPOSES.

Board Room, 4th August, 1826.

THE Committee of the Board for General Purposes, having met in pursuance of His Excellency the Governor's Minute No. 76, dated 10th April last, and having taken into consideration the several points and various documents, connected with Mr. Howe's Claims on Government for printing, together with the expediency of establishing a Government Gazette, is of opinion that, on the first head, viz. the Exclusive privilege which Mr. Howe appears to have enjoyed of publishing the Acts, Orders and other public documents for Government, it appears to the Committee that no such privilege was ever formally acknowledged or conceded by Government, but arose simply from the circumstance of Mr. Howe being the sole Printer and Publisher in the Colony. It, however, appears that Mr. Howe was appointed Government Printer in succession to his father in the Gazette of the 22nd of September, 1821.

In respect of the inadequacy of the remuneration, made to Mr. Howe, when he ceased being the exclusive publisher in the Colony on the commencement of a second newspaper,* Mr. Howe

* Note 127.

Report of
board.

Privileges of
R. Howe.

appears to have been paid the full amount of his demand, on an Estimate of the actual cost of the work performed by him at that time. It does not, therefore, appear necessary to enter further into this part of Mr. Howe's statement. However, since the adjustment of this claim, the work required by Government has increased very considerably; the Committee is, therefore, of opinion that it now becomes necessary to enter into a new arrangement for conducting this branch of the public service, and beg leave to suggest that the Printer of the Sydney Gazette be allowed a Salary at the rate of £150 per annum, from the first of January last, in consideration of his inserting in his Gazette, free of expence, all Proclamations, Acts and Ordinances of Council, Government Orders and Notices, Rules and Regulations, and supplying the Government Offices with twenty five numbers of his Gazette on each day of its publication, amounting to £97 10s.

1826.
8 Sept.

Increase in
printing for
government.

Salary
proposed for
R. Howe.

With reference to "the establishment of a Government Gazette to be confined solely to the publication of the Acts, Orders, etc., of the Government," it appears to the Committee that a very considerable expence would necessarily be incurred thereby, whilst no particular benefit could result. But, for the convenience of the Public offices and facility of reference, it is suggested that, every six months, all the Acts of Council, Proclamations, and Government Orders and Notices be republished in a digested form and in a uniform manner.

Proposed
government
gazette.

It is further suggested that Mr. Howe be required, at the end of every quarter, to send in his accounts for all work executed by him, exclusive of that for which the proposed Salary is to be allowed; these accounts to be submitted to a Committee for the purpose of ascertaining the reasonableness of the charge, and establishing a correct data, on which Estimates may hereafter be formed.

Accounts to be
submitted by
R. Howe.

From the varied nature of the Forms required, the Government Printer stated to the Committee that it is impossible for him at present to lay down any settled rates, at which they can be executed.

ALEX. MCLEAY. WM. LITHGOW.
H. DUMARESQ.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch marked "Separate," per ship Woodman; acknowledged by Earl Bathurst, 31st March, 1827.)

My Lord, Government House, 8th September, 1826.

I have the honor to forward to Your Lordship a letter from Mr. Robert Crawford, who has been employed as Principal Clerk in the Office of the Colonial Secretary, and who feels

1826.
8 Sept.

Alleged
grievances of
R. Crawford.

Proposed
appointment
of assistant
colonial
secretary.

himself aggrieved by the arrangement, notified in my Despatch No. 40. It must be unnecessary to observe that I can have no desire to injure Mr. Crawford; but I should not do my duty, if I were to permit a person with so little pretension as a man of business to hold a situation next to the Colonial Secretary. The importance of the Office, under the present arrangement, and the great increase of Business, which without any desire to exaggerate I can assure Your Lordship requires some skill, if not ability, to conduct in an advantageous manner, will render it necessary to appoint an Assistant Secretary to relieve the Principal from the attention, which is indispensable to the details of the Office. I have for some time past been looking out for a person, properly qualified for this Duty, that I might recommend him to Your Lordship, as Mr. Crawford is not competent to it. And, as I should not propose giving the Assistant Secretary a larger salary than £500 a year at the utmost, Mr. Crawford could hardly have been continued at a higher rate than the salary now allotted to him (£360), which is an ample remuneration for his services. The Fees are received as heretofore, and are applied as in other cases to the general expences of the Office.

In making the arrangement alluded to, I cannot suppose I have taken an erroneous view of the tenure, on which Mr. Crawford has held his appointment. He received it from the Local Government, and I cannot conceive there is any prescriptive right in such appointment to the continuous enjoyment of advantages, for which no adequate return is made.

I have, &c.,
RA. DARLING.

[Enclosure.]

MR. R. CRAWFORD TO EARL BATHURST.

Colonial Secretary's Office, New South Wales,

My Lord, 26th July, 1826.

His Excellency Governor Darling, in carrying into effect certain arrangements connected with this Department, has deemed it adviseable to fix my salary at £360 per annum in lieu of the salary and fees hitherto enjoyed by me.

The late Commissioner of Enquiry recommended "that the Fees, received by the Principal Clerk on mustering the crews of Vessels, should be abolished, and *that an addition of £200 to his former Salary of £60 should be made, exclusive of the other Fees he receives on giving Tickets of Leave, Certificates and emancipations.*"

Accordingly your Lordship in a Dispatch,* addressed to Sir Thomas Brisbane, directed that this recommendation should be

* Note 128.

Salary
assigned to
R. Crawford.

Recommendation
by
J. T. Bigge.

carried into effect; and, until last quarter, I have enjoyed the salary and emoluments resulting therefrom.

1826.
8 Sept.

Average salary
and emoluments
of R. Crawford
for three years.

In the year 1823 the fees were	£206	9	0
In 1824	253	0	0
And in 1825	280	15	0

3 / 740 4 0

making an average of	246	14	8
to which added the Salary	200	0	0
and commutation for rations	30	0	0

Average total .. £536 14 8

His Excellency's arrangement, however, has much diminished my income; for I am only now allowed £100 for fees and rations, which on an average during the last three years amounted to £246 14s. 8d., and that too at a period when sterling money is no longer as formerly at a premium of 15 to 20 per cent. Reduction
of income.

Your Lordship is fully aware that I cannot expect further promotion in this Department; and I, therefore, contemplated that, as my service and duty increased, so in proportion would my remuneration; but I regret to say that in this expectation I have been disappointed, and I feel the more so, when I reflect that the salary of my appointment should be *curtailed*, a salary which I conceived to have been as virtually fixed as that of any other Officer arriving from England, bearing a Commission from your Lordship.

I have appealed to His Excellency The Governor, and have been answered that, in the situation in which I will stand, when the arrangement contemplated is completed, His Excellency could not consistently have assigned me a higher Salary.

I beg to observe that I have been nearly five years in the Department, during four of which, I have had the honor to fill the situation of Principal Clerk; and it must be mortifying to me indeed to find that, instead of being augmented in ratio with those in other offices, whose situation I consider to be less responsible or confidential, or with the increased and increasing duties of this Office, my salary is now much less than it was, when I first received the appointment, and £210 14s. less than it was last year.

Under all these circumstances, therefore, I respectfully but earnestly hope that Your Lordship will see just cause to direct that my salary be fixed at a sum, equal at least to the amount of the fees and allowances, hitherto received by me in terms of Your Lordship's instructions.

I have, &c.,
ROB. CRAWFORD.

1826.
9 Sept.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 64, per ship Woodman; acknowledged by Earl Bathurst, 31st March, 1827.)

My Lord, Government House, 9th September, 1826.

I have the honor to state to your Lordship that I have authorised the issue of £107 5s. Stg. to Captain Butler of the 40th Regt., until your Lordship's pleasure shall be known. His Memorial, of which I enclose a copy, will explain the case, and the accompanying Extract of the Attorney General's letter will satisfy your Lordship that, although Captain Butler was cast, paying his own costs, still, under the circumstances of the case, he is deserving the interposition of Government. Had he acted with intemperance, I should have felt no desire to screen him from the effects of the Law; but the course, he pursued, seems to give him just claim to consideration.

Captain Butler was a Subaltern at the time of this occurrence; and I need not add, as the Military receive no allowances in this Command, that the payment of such a sum would be ruinous to him. I had, therefore, no alternative, and have only to hope your Lordship will approve of the view I have taken of the case.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

THE MEMORIAL OF CAPTAIN JAMES BUTLER OF THE 40TH
REGIMENT.

To His Excellency Lieut. General Ralph Darling, Captain General and Governor in Chief of New South Wales, etc., etc., etc.

SHEWETH, that, in the month of October or November, 1824, Memorialist, in company with another Officer, whilst bathing at the usual Garrison bathing place, Sydney, was called by the Sentinel, posted there to prevent intrusion. to know what he should do, as two individuals had forced his post, jumped into the water from it, and swam directly up to the Jetty within the Enclosure, in defiance of repeated Orders not to do so. As Memorialist heard the altercation, and saw the Act, of which the Soldier complained, he felt that he could pursue no other course than send for a constable to take the principal Offender to the Police Office, which, not being then open, he was detained in the Watch House about an hour, when the affair was investigated, and the Individual told that a recurrence of such conduct would be visited with a month at the House of Correction.

Payment of
costs of
law suit of
J. Butler.

Memorial of
James Butler.

Shortly afterwards, an action was brought by this Individual against Memorialist, and a Verdict obtained for the Plaintiff, by which Memorialist has had costs to pay to the amount of £107 5s. Sterling or £125 Currency.

1826.
9 Sept.
Memorial of
James Butler.

That, as Memorialist considered it his duty, under the Circumstances stated, to support a sentinel duly posted by the competent Authority, and as the mode of doing so fully accorded with the invariable practice in England in such cases, which almost every Officer (Regimental), who has been on duty in the large Towns, must know;

Memorialist hopes that Your Excellency will be pleased to consider the heavy expence, which has been entailed by this proceeding upon your Memorialist, and that your Excellency may be graciously pleased to relieve him from the burden thereof, by causing the amount to be defrayed out of the Public Purse, or such portion of the said amount, as to Your Excellency may seem proper.

J. BUTLER, Captain, 40th Regiment.
Macquarie Harbour, 21st March, 1826.

[Enclosure No. 2.]

ABSTRACT from the Attorney-General's Letter, dated Sydney,
2nd August, 1826.

"I HAVE always been of opinion that his (Captain Butler's) conduct was very moderate under extremely provoking circumstances; and, although it would be improper I think that the Crown should interfere in such a case before Trial, I am not aware that it is unusual to indemnify the Officer upon its being proved that he acted merely against Law.

Opinion of
attorney-
general.

"In this case, the practice of the Garrison in planting a sentinel over a place of Amusement* may be said to have exposed Capt. Butler to a situation of much embarrassment, as he must either do, at the least, what he did, or appear to allow a soldier on duty to be grossly insulted."

I have, &c.,

S. BANNISTER.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch marked "Separate," per ship Woodman; acknowledged by Earl Bathurst, 1st April, 1827.)

My Lord, Government House, 9th September, 1826.

I have the honor to transmit, for your Lordship's consideration, a Petition in original from the Presbyterian Settlers of the District of Portland Head, praying that their Minister,

* *Marginal note.*—the bathing place of the Garrison.

1826.
9 Sept.

Petition for
salary of a
clergyman.

the Rev. John McGarvie, may be allowed a Salary, together with two letters, which have been addressed to me by the Rev. Dr. Lang on the subject. I have declined complying with this application, not knowing whether it was Your Lordship's intention that the number of Presbyterian Clergymen, receiving pay from Government, should be increased, and conceiving that a compliance in one instance might subject me to other applications of this nature which, if not attended to, would probably occasion feelings of dissatisfaction. I shall avoid this by the present course, and, should Your Lordship not be disposed to accede to their wishes, it may be more satisfactory to decline doing so than to discontinue an indulgence, which they had actually enjoyed.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

THE MEMORIAL FROM PRESBYTERIANS AT PORTLAND HEAD.

Memorial from
Presbyterians at
Portland Head
soliciting salary
for Rev. J.
McGarvie.

To His Excellency Lieutenant General Darling, Captain General and Commander in Chief in and over the Territory of New South Wales and its Dependencies, etc., etc., etc.

THE Memorial of James Mein, Andrew Johnston, James Davison, John Johnston, George Hall, John Turnbull and John Grono, etc., Humbly Sheweth,

That Your Excellency's Memorialists are for the most part free Settlers on the banks of the Hawkesbury and chiefly in the District of Portland Head. That the Settlement of Portland Head was formed in the year 1802 by free Settlers from the Scottish border, who had previously been in communion with the Presbyterian Church. That the indulgence of a free passage and a grant of land in this Colony was granted to each of the families composing that settlement, in consequence of their religious character and industrious habits, His Majesty's Government being greatly desirous at the time in question to form an industrious moral and religious population in this distant land. That, in conformity to that profession, which had procured them the favour of His Majesty's paternal Government, those of your Memorialists, who reside in the neighbourhood of Portland Head, resolved, immediately on their arrival in the Colony, to meet together in each others houses for religious worship every Sabbath; and they accordingly continued to do so from the period of their arrival till the year 1809. That, in the year 1809, your Excellency's Memorialists erected a Presbyterian Church in the settlement of Portland Head with the view of rendering the

dispensation of religious ordinances regular and permanent in that vicinity, and also in the hope of speedily obtaining a Minister of their own communion.

That, in order to facilitate the accomplishment of this object, a correspondence was opened with certain Presbyterian Clergymen in the City of London; but that, in consequence of the inadequacy of that support, which your Excellency's Memorialists were enabled to offer, they were disappointed in their expectations of procuring a pastor. That their Church has, therefore, remained seventeen years without a Minister, while the population of the neighbourhood has greatly increased, since the period of its erection, from the intermarriages of the offspring of the original Settlers.

The humble Memorial of Your Excellency's Memorialists also sheweth that, in the Year 1824, a Memorial was carried to Scotland by the Revd. John Dunmore Lang, A.M., at the instance of the Presbyterian Settlers of Portland Head, praying that a Minister might be sent to that district from the Church of Scotland, and that such assistance might be given towards his settlement, as their Presbyterian brethren might be disposed to Grant. That, in consequence of that Memorial, the Revd. John McGarvie, A.M., a licentiate of the church of Scotland, was ordained for the settlement of Portland Head by the very Revd. the Presbytery of Glasgow, and that the Sum of Two Hundred Pounds was subscribed to assist in building a house for his residence. That the Revd. Mr. McGarvie has arrived in the Colony, and dispensed the ordinances of religion at the settlement of Portland Head; and that your Excellency's Memorialists have agreed to contribute for his maintenance and support to the best of their ability.

Your Excellency's Memorialists beg, however, most respectfully to represent to your Excellency that their means are far from being adequate to the full attainment of this important object; and they, therefore, humbly solicit that Your Excellency will be graciously pleased to grant a Salary to the Minister of their Church from the period of his arrival in the Colony in addition to the small stipend, which they themselves are able to give him.

That Your Excellency's Memorialists are induced to prefer this petition solely from the strong attachment they have uniformly felt towards the venerated institutions of their forefathers, and from a deep conviction of their salutary tendency in promoting the interests of morality and religion; and they are

1826.
9 Sept.

Memorial from
Presbyterians at
Portland Head
soliciting salary
for Rev. J.
McGarvie.

1826.
9 Sept.

Memorial from
Presbyterians at
Portland Head
soliciting salary
for Rev. J.
McGarvie.

emboldened to hope for a favourable answer from Your Excellency by the well known liberality of His Majesty's beneficent Government in providing the means of religious instruction for Scots Presbyterian emigrants in the other Colonies of the Empire. Humbly soliciting, therefore, that the same enlightened liberality may be manifested towards themselves

Your Excellency's Memorialists will ever pray, etc., etc., etc.

JNO. GRONO.

GEORGE SMITH HALL.

JAMES MEIN.

TOMAS SIMPSON HALL.

JAMES DAVISON.

JAMES Blich JOHNSTON.

WM. JACKLIN.

MATTHEW H. HALL.

GEORGE HALL.

JAMES ARNDELL.

ANDW. JOHNSTON.

JOHN ANDERSON.

JOHN JOHNSTONE.

JAMES HALL.

THOS. ARNDELL.

ABRAHAM JOHNSTON.

JOHN TURNBULL.

AM. for JOHN JOHNSTON.

JOHN JACKLIN.

Do. for ALEXANDER JOHNSTON.

LEWIS JONES.

JOHN DAVISON.

WILLIAM JOHNSTON.

Do. for JAMES DAVISON.

JOSEPH JACKLIN.

JOSEPH FLEMING.

WILLIAM GRONO.

Portland Head, 26th June, 1826.

I certify to His Excellency the Governor that the Original Settlers, who have signed this Memorial, have been known to me upwards of Twenty Years. That the whole of them came free to the Colony or have been born here with the exception of one, Jacklin, who is also a very Correct man; that their conduct is unexceptionable and worthy the Consideration of His Excellency the Governor.

WM. COX, J.P.

Windsor Court House,

27th June, 1826.

[Enclosure No. 2.]

REV. JOHN DUNMORE LANG TO GOVERNOR DARLING.

Sir,

Sydney, 30 June, 1826.

I have the honor to transmit to Your Excellency the humble Memorial of the Scots Presbyterian Settlers of Portland head, praying that your Excellency will be graciously pleased to grant a salary to their Minister the Revd. John McGarvie, A.M.

Your Excellency is doubtless aware of the strong attachment, which the Middle classes of the population of Scotland have uniformly testified towards the religious institutions of their native land, and of the influence of these institutions in

Transmission
of memorial.

promoting the cause of morality and religion. Alive to the importance of cherishing this feeling both in a Civil and religious light, His Majesty's Government have cordially patronized the Settlement of Ministers of the Scottish National Church in the other colonies of the Empire, wherever there were Scotsmen in sufficient number to form a congregation, and to testify their desire for enjoying the ordinances of Religion according to their own communion by building a Church and by contributing towards the maintenance of a Pastor. I beg, therefore, to represent to your Excellency that the Presbyterians of Portland Head have long since built a church; that they have maintained religious worship in their settlement with the utmost regularity and decorum for upwards of twenty years; and now that they at length enjoy the prospect of having a Minister of the Church of Scotland settled among them, I can assure your Excellency that they have already contributed to the utmost of their power towards his maintenance and support. I have reason to fear, however, that, without the Assistance of Government, the Settlement of the Rev. Mr. McGarvie at Portland Head, however earnestly desired by the people, cannot be effected. At the same time, I beg leave to represent to Your Excellency that, in humbly soliciting the assistance and support of Government, the Presbyterians of Portland Head are by no means extravagant in their expectations. A very moderate salary from Government would entirely meet the utmost wishes both of the Memorialists and of their Minister; and, while it will enable the latter to effect his Settlement in that interesting neighbourhood in the primitive simplicity of the Presbyterian Church, it would tend to perpetuate among the former that regard for virtuous conduct and undefiled religion, for which they have hitherto been pre-eminently distinguished in their Colony. For, while the Settlement of Portland Head is the only one in the Territory in which an industrious moral and religious population is to be met with among the smaller proprietors of land, I am confident, from my own personal observation, that nothing would so strongly tend to fix and to perpetuate that character in the neighbourhood as the ministrations of a Presbyterian Minister settled at Portland Head. For, while the Settlers in that vicinity have been altogether unaccustomed from their infancy to the service of the Church of England, and while individuals among them are strongly prejudiced against the system and doctrines maintained by the Wesleyans, who have occasionally preached to them, I beg to refer Your Excellency to a simple fact, in which I was myself concerned,

1826.
9 Sept.

Assistance to
Presbyterians in
other colonies.

Religious
worship at
Portland Head.

Maintenance
of clergyman.

1826.
9 Sept.

Administration at
of the sacrament
at Portland
Head.

and which clearly demonstrates that the Presbyterian worship is alone calculated to constitute a close and permanent bond of union among them. The only time I ever dispensed the sacrament of the Eucharist at Portland Head, notwithstanding the strict scrutiny, which Presbyterian Ministers are required to institute into the characters of those whom they admit to that ordinance, and notwithstanding that most of the well disposed youth of the neighbourhood were deterred from participating in consequence of having never previously witnessed its celebrations, there were not fewer than twenty Communicants, a number which, I am sorry to say, would not be reckoned inconsiderable in any Church or Chapel in the Territory.

Congregation at
the settlement.

Besides the Settlers at Portland Head, there are several other families of Presbyterians on the banks of the Hawkesbury, but considerably nearer the mouth of the river. Of these, there are several, who occasionally attend divine service at Portland Head, as I have myself seen some of them there from a distance of fifteen miles. All those, however, who have signed the accompanying Memorial, reside at that Settlement. The greater number are heads of families. They are all arrived at the years of maturity.

Proposed
school.

As two of the Scotch Settlers at Portland Head are extremely desirous that Mr. McGarvie should superintend the education of their sons in the event of his Settlement among them, and as Mr. McG. has expressed his willingness to do so, and also to receive a few other pupils, whom he will instruct in classical and mathematical learning, there being no facilities for obtaining such education in the interior of the Colony, I beg leave to enclose a few of Mr. McGarvie's certificates for your Excellency's perusal that your Excellency may be enabled to estimate the effects that are likely to result from his Settlement in the Territory, both as a Christian Minister and as an Instructor of Youth.

I have, &c.,

JOHN DUNMORE LANG

[Enclosure No. 3.]

REV. JOHN DUNMORE LANG TO GOVERNOR DARLING.

Sir,

Sydney, 27 July, 1826.

I had lately the honor to transmit to your Excellency a Memorial from the Scots Presbyterian Settlers at Portland Head, praying for the appointment of a Salary from Government for their Minister, the Rev. John McGarvie, A.M. But, as your Excellency did not feel authorized to comply with the

prayer of that Memorial, I beg leave, at the instance of the Memorialists themselves, to request that your Excellency will have the goodness to forward it to the Right Honble. the Earl Bathurst, that His Lordship may remit to Your Excellency such instructions on the subject, as his wisdom shall deem expedient.

1826.
9 Sept.

Request for
reference to
Earl Bathurst.

His Lordship has laid down certain rules for the guidance of the respective Colonial Governments in similar cases in the other Colonies of the Empire; and it is consistent with my own knowledge that he lately informed the Rev. Mr. Brown of the Scots Church in Demerara that, in the event of Scotsmen in the out Settlements of that Colony forming themselves into congregations and agreeing to build churches and to contribute to a certain extent for the support of the Ministers of the Church of Scotland, Government would give such Minister a salary equal to what should be contributed by the people.

Subsidies
granted in
other colonies.

Were such a regulation extended to these Colonies, and a maximum and minimum fixed on the part of Government, a very important benefit would be conferred on those districts, in which there either is or may be at some future period a Scottish population, while no detriment could possibly ensue therefrom to the Episcopal Establishment. The only District in this Colony, that would be likely to avail itself of such a regulation for a considerable time to come, is that of Portland Head; but I have reason to know that it would gladly be embraced in several districts in Van Diemen's Land, Scottish Settlers being more numerous in that island, and being for the most part altogether deprived of the ordinances of religion for want of Ministers of their own communion.

Advantage of
extension of
system to
N.S.W. and
Tasmania.

Hoping, therefore, that Your Excellency will be pleased to mention the subject to my Lord Bathurst, should your Excellency think fit to transmit the Memorial from Portland Head to His Lordship.

I have, &c.,

JOHN DUNMORE LANG.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 64, per ship Albion; acknowledged by Governor Darling to under secretary Hay, 14th February, 1827.)

Sir,

Downing Street, 10th Sept., 1826.

10 Sept.

I have lately had under my consideration Sir Thomas Brisbane's dispatch of the 10th September, 1825, enclosing the Report of certain Commissioners, appointed by him to enquire into the truth of Imputations, which were thrown out against the Government of New South Wales, and by which it was

Report of
inquiry re
female convicts
at Emu plains.

1826.
10 Sept.

attempted to fix, on the Governor and on the Colonial Secretary, the odium of having ordered that a certain number of female convicts should be sent to the Establishment at Emu Plains for the purpose of illicit intercourse with the Convict men, who were employed there.

Inquiry
ordered by
Sir T. Brisbane.

Sir Thomas Brisbane, when he directed the inquiry in question, was not aware either of the names of his accusers, or of the precise point of the accusation, which was alleged against him personally; but, with that proper feeling every honorable man would entertain upon such an occasion, he lost no time in proceeding to the examination of Witnesses; and he appears to have omitted no precaution, which it was in his power to take, for rendering the Investigation of the matter complete and satisfactory.

Result of
inquiry.

Although, from the absence of any direct Accuser, the enquiry does not appear to have been so conclusive of the question at issue, as under other circumstances it might have been, or even than it would have been, had the Commissioners not omitted many sources of Information, which were within their reach, yet, after attaching to the preceding observations the very utmost degree of weight to which they can possibly be entitled, there still remains a body of evidence so positive clear and consistent, as to leave no room for any reasonable doubt that the sending these Women to Emu Plains did not originate in any improper motive, was unaccompanied by any improper Instructions, and was followed by no improper effects; on the contrary, it seems to be distinctly proved that the motive of the Act was perfectly innocent, if not laudable; that the Instructions given to the subordinate Officers were dictated by humane and virtuous feelings; that those Instructions were exactly observed; and that the females were benefitted both in health and in moral habits by their Settlement at Emu Plains.

Exoneration of
Sir T. Brisbane
and
F. Goulburn.

With these points clearly established, I deem it but an act of Justice to Sir Thomas Brisbane, as well as towards the late Colonial Secretary, Major Goulburn (against whom the calumnious aspersions were also and indeed principally directed), to leave a statement on record that those Officers had completely cleared themselves of the Imputations, which had been so wickedly alleged against them; although, as I have observed before, the Evidence, taken before the Commissioners, and from which my conclusions are drawn, might have been rendered more complete by an examination of other witnesses than those, who were brought before them, whose testimony might have thrown additional light upon the subject.

Some of those, who were implicated in the odious task of propagating this falsehood, have already left the Colony. I have, therefore, no Instructions to give respecting them; but one of the direct accusers of the Colonial Government appears to have been Sir John Jamieson; and I have, therefore, to desire that on no account whatever should you employ in any Civil Situation under the Colonial Govern't a person capable of carrying his avowed hostility against Major Goulburn to so disgraceful an extent, as to involve not only the character of that Officer, but of the Local Authorities generally, without any ground for the calumnies which he thought fit to propagate against them.

I have, &c.,

BATHURST.

1826.
10 Sept.

Exclusion of
Sir J. Jamison
from holding
any civil office.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Albion.)

Dear Sir,

Downing Street, 10th Sept., 1826.

I am directed by Earl Bathurst to transmit to you here-with a letter with its enclosure, which have been received from Mr. Harrison on behalf of his Son, who is, I understand, a Clerk in the Treasurer's Office at New South Wales, and to acquaint you that, should Mr. Harrison's conduct have been such as to entitle him to the favorable consideration of the Colonial Government, his Lordship will have no objection to his being confirmed in the situation, which he at present fills in the Treasurer's Office.

I remain, &c.,

R. W. HAY.

Appointment of
J. S. Harrison
to be confirmed.

[Enclosure No. 1.]

MR. J. F. HARRISON TO UNDER SECRETARY HAY.

Sir,

26 New Broad Street, 14 Septr., 1826.

When I had the honor of calling upon you last week to request the favor of an interview for a few Minutes, the Messenger told me that you desired that I should address you by Letter.

Request for
confirmation of
appointment.

Allow me, therefore, to mention that, when my son James Stirling Harrison went to Sydney with the Treasurer General in the Hibernia, you were so kind to procure for me a Letter of recommendation from Mr. Wilmot Horton to Sir Thos. Brisbane in his favor. At present, my son holds the situation of principal Clerk from Mr. Balcombe, the Treasurer General, and has the entire management of that department. I am most anxious for him to receive an Appointment from Home; he has had a most liberal Education, speaks five Languages, was four

1826.
10 Sept.

Request for
confirmation of
appointment.

Years in a Dutch Counting House, two at Smyrna and Constantinople for improvement; he is a complete man of Business, and has conducted himself in all respects as becomes a Gentleman and Man of Honor, since he has resided at Sydney; he was destined for a Mercantile House at Batavia, but, as the Climate is so unhealthy (as he is the eldest of Eleven), I prevailed upon him to change his destination to Sydney.

I also mentioned, when I last saw you, my own Services of nearly 20 Years as principal accountant in the Transport Office, and my retirement from Office without a pension after so long a servitude. With so large a family, you will not be surprized at my anxiety for the advancement of my Eldest Son, and hope you will excuse the liberty, I am about to take, in soliciting your favorable consideration of him, when an opportunity may offer. I beg to enclose a Letter I received from Major Goulburn.

I am, &c.,

J. F. HARRISON.

[Enclosure No. 2.]

MAJOR GOULBURN TO MR. J. F. HARRISON.

Sir, Phoenix Park, Dublin, 22nd July, 1826.

Testimony of
F. Goulburn.

I have lately been favored through General Stapylton with your letter of the 8th Instant, acquainting me of your Intention to make application to some friends to interest themselves to obtain an Appointment for your Son, and asking in consequence my opinion of him as regards his discharge of the duties of the Office, entrusted to him in New South Wales, as well as his conduct as a Gentleman during his residence in that Colony.

It gives me great pleasure to be able to inform you that my late appointment at Sydney having brought me very much in contact with the Department, to which Your Son belongs, I entertain the most favorable opinion of him in both the above points, and will feel a lively satisfaction at learning that your endeavours are crowned with Success.

I am, &c.,

F. GOULBURN.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 65, per ship Woodman; acknowledged by Viscount Goderich, 23rd August, 1827.)

My Lord, Government House, 10th September, 1826.

I have the honor to forward for His Majesty's approbation, as directed by the 30th Clause of the 5th Geo. 4, chap.

96, copy of an Act, which has been passed with the advice of the Legislative Council, vizt.

“An Act for vesting the Orphan School Estate in the Trustees of the Clergy and School Lands in the Colony of New South Wales, and for duly governing the Children at School and in Apprenticeship.”

I have, &c.,

RA. DARLING.

1826.
10 Sept.

Transmission of
act of council.

[Enclosure.]

[*This was a copy of the act 7 Geo. IV, No. 4, as published in the “Public General Statutes of New South Wales,” with the usual prefix and an endorsement, “Passed the Council, this second day of August, 1826, Six:—Henry Grattan Douglass, Clerk of the Council.”*]

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 66, per ship Woodman; acknowledged by Earl Bathurst, 19th March, 1827.)

My Lord, Government House, 10th September, 1826.

I have the honor to transmit, in obedience to the desire expressed in your Lordship’s Circular letter of the 14th of October last, a return of all Civil and other Officers, attached to this Government, who are at present accommodated with Houses or Lodging at the Public Expense. It is not in my power to ascertain the dates in the cases, where the authority has proceeded from the local Government.

Return
transmitted.

In addition to these, the Officers and other persons, employed at the Penal Settlements and other Stations, are all supplied with necessary accommodation.

Omission of
officials at penal
settlements
and clergy.

But their appointments are not on the fixed Establishments, and the Buildings, which they occupy, have been constructed by the Prisoners, and generally speaking are of a temporary nature. I have, therefore, omitted them in the Return. Neither have I understood it to be Your Lordship’s intention that the Houses occupied by the Clergy should be included, though they have all been built at the expence of the Local Government, as I conceive these will now be delivered over to the Corporation for the Church and School Estates and their value credited to the Public.

The Officers of the Military Service, when not furnished with Quarters the same as in other commands, received an allowance under the head of “Lodging Money”; but, being a distinct branch of the Service, I have not supposed the order was intended to apply to it.

Lodging money
for military
officers.

I have, &c.,

RA. DARLING.

1826.
10 Sept.
Return of
officials
provided with
free houses or
lodging.

[Enclosure.]

RETURN of Civil and other Officers belonging to the Government of New South Wales, who have been accommodated with Houses or Lodgings at the Public Expense.

15th August, 1826.

Station.	Officer's Name and Situation.	Estimated Value of the Houses belonging to the Government.	Allowance for House Rent.	Authority under which the accommodation has been granted.	Remarks.
Sydney	Chief Justice, F. Forbes	£3,000	Secretary of State.	The Building is part of the Hospital Establishment.
	Colonial Secretary, A. McLeay	1,800	....	Secretary of State.
	Surveyor-General, J. Oxley	1,600	....	Secretary of State.
	Principal Surgeon, J. Bowman	3,700	....	Local Government
	Assistant Surgeon, J. Mitchell				
	Superintendent of Police, F. Rossi	1,800	Secretary of State		The Post Office is part of the same Building.
Master Attendant, J. Nicholson	500	....	Local Government.	
Parramatta	Police Magistrate, J. Harris	£80	Local Government	The Post Office is part of the same Building.
	Assistant Surgeon, M. Anderson	750	....	Local Government.
	Superintendent of Works, J. Aird	312	....	Local Government.
Windsor	Police Magistrate, A. Bell	1,000	The Governor's	The Post Office is part of the same Building.
	Assistant Surgeon, I. B. Allen	312	....	Local Government.

R.A. DARLING.

GOVERNOR DARLING TO MR. E. BARNARD.

1826.
10 Sept.

(Despatch per ship Woodman.)

Sir, Government House, 10th September, 1826.

In reply to your Letter of the 1st October, 1825, enclosing one from Ann Baillie, I have the honor to inform you that, on enquiry, it appears her late Husband, Laurence Baillie, died in the Colonial Hospital on the 6th September, 1820; and, as Convicts and Paupers only are received into this Establishment, the circumstance of his dying there would seem sufficient proof that he did not possess any Property at the time of his decease.

Death of
L. Baillie.

I have, &c.,

RA. DARLING.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 65. per ship Albion: acknowledged by Governor Darling, 12th February, 1827.)

Sir, Downing Street, 11th Sept., 1826.

11 Sept.

It having been determined to establish as a general principle that half Salary only should be granted to Officers filling temporary Appointments in His Majesty's Colonies abroad, I have the honor to acquaint you with the above Regulation in order that you may decline to comply with any application, which may be addressed to you by persons, employed in New South Wales under the Colonial Government, for the full emolument of their respective Offices, as it will be out of my power to attend to any recommendation to that effect, except under very particular circumstances; and I am to desire that, whenever you appoint to any vacant Office in the Colony, you will explain to the Officer, whom you may select for the situation, that he is only to expect half the emoluments of the Office, until he is either confirmed or superseded from this Country.

Regulation *re*
half salary
for temporary
officers.

I have, &c.,

BATHURST.

EARL BATHURST TO GOVERNOR DARLING.

(A circular despatch per ship Midas: acknowledged by Governor Darling to under secretary Hay, October, 1827.)

Colonial Department, Downing Street,

11th September, 1826.

IN order to obtain with more regularity and at an earlier period some part of the information, which you are directed to furnish in the Annual Blue Book, and which is essentially necessary for the use of this Department, I transmit to you some Tables,

Half-yearly
statements to
be transmitted.

1826.
11 Sept.

which I request may be filled up and transmitted half yearly, vizt. in the Months of January and July, as a compendious mode of putting this Department in possession of various points, which relate to the State of your Government, upon which it is desirable that I should be furnished with the most accurate information.

Explanatory
statements
required.

I should wish you to accompany these Tables with an explanatory Statement in the nature of a short Exposé of the proceedings, which have taken place in your Government since the transmission of your last Statistical Tables; and, for the convenience of arrangement, I would point out the subjects, upon which I should desire to receive your observations, and which may be classed in the order, in which they are stated in the Margin.*

In drawing up the succinct Statement, which I propose that you should transmit, it will be in your power to introduce some points of so little importance as not to form the subject of a Separate Dispatch; and I shall be able to collect from the details, with which you will furnish me on the various subjects, to which I have adverted, a general view of the State of the Colony over which you preside.

Transmission
of blue book.

You will of course continue to send the Blue Book as usual, two copies of which for the present year I herewith enclose, to be filled up and returned to me; and I am particularly anxious to impress upon you that the importance, which has been attached to the regular transmission of this very material document, is by no means diminished by the establishment of the Tables which are now forwarded.

I have, &c.,

BATHURST.

[Enclosures.]

[Copies of these papers are not available.]

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 67, per ship Woodman.)

My Lord, Government House, 11th September, 1826.

Transmission
of return.

I have the honor to transmit herewith, in obedience to the Commands conveyed in Your Lordship's (Circular) letter, dated the 25th of November, 1825, an account of all Fees levied on the Shipping and Trade of this Colony, received by persons not connected with the Collection and management of the Customs Revenue, and specifying the average amount of those Fees for the last five years.

I have, &c.,

RA. DARLING.

* *Marginal note.*—Civil Establishments; Revenue and Expenditure; Military Establishment; Judicial Do.; Ecclesiastical Do.; Education; Commerce; Manufactures; Agriculture; Grants of Land; Public Works; Population.

[Enclosure.]

AN ACCOUNT of all Fees levied on the Shipping and Trade of New South Wales, received by Individuals not connected with the collection and management of the Customs Revenue, shewing under what Authority and in what manner they are collected, to whom they are in the first instance paid, and their Average Amount for the last Five Years.

In Return to Earl Bathurst's Circular Letter of the 25th November, 1825.

By whom received.	Specification of Fees levied.	Under what Authority.	In what manner collected.	To whom in the first Instance paid.	Average Amount for the last Five Years.
The Colonial Secretary.	On Registering Vessels not exceeding 40 Tons £2 0 0	The Approval of His Majesty's Secretary of State for the Colonies, signified in a Despatch from the Rt. Honble. Earl Bathurst, dated 23rd. Novr., 1812.	Demanded from the respective Owners, Agents or Masters of Vessels, on their application for Certificates of Registry or Port Clearances.	The Principal Clerk to the Colonial Secretary.	£ s. d. 698 5 3 ³
	*On Tonnage of Vessels cleared for Foreign Voyages or Fisheries, 6d. per ton.				
	*On Mustering the Crews and Passengers of Vessels Outward bound, for every name inserted in the Clearance of each Vessel 1s. 6d.				
	*Clearance for Colonial Vessels Coastwise 5s.				
The Principal Clerk to Ditto.	On Registry of each Vessel 10s.	As above.	As above.	The Principal Clerk	108 14 2 ³
	On Mustering the Crews and Passengers of Vessels Outward bound, for every Name inserted in the Clearance of each Vessel 1s.				
The Harbour Master of Port-Jackson	Vessels removed from one Anchorage or Moorings to other anchorage or Moorings:—	Government Order of Sir T. Brisbane of 16th. May, 1822. Proclamation of Govr. Macquarie, 6th. February, 1819.	Demanded by the Harbour Master or his Clerk from the respective Owners, Agents or Masters of Vessels, previously to their obtaining Clearances.	The Harbour Master or his Clerk.	244 11 7 ¹
	Under 50 Tons				
	of 50 Tons and under 200				
	200 Tons and under 300				
	300 Tons and under 400				
400 Tons and under 500					
500 Tons and upwards					

* Since the 5th April, 1825, when an Act of the Legislative Council of New South Wales was passed "For the Regulation of Shipping in the Harbour of New South Wales," the Fees thus marked have been discontinued.

† Discontinued since 5th April, 1825.

1826.
11 Sept.
Return of fees on shipping and trade received by colonial secretary, his clerk, harbour master, pilots, and wharfinger.

1826.
11 Sept.
Return of fees on shipping and trade received by colonial secretary, his clerk, harbour master, pilots, and wharfinger.

[Enclosure]—*continued.*
AN ACCOUNT of all Fees levied on the Shipping and Trade of the Colony of New South Wales, &c.—*continued.*

By whom received.	Specification of Fees levied.	Under what Authority.	In what manner collected.	To whom In the first Instance paid.	Average Amount for the last Five Years. £ s. d.
The Harbour Master of Port-Jackson	Harbour Master's Attendance, where each Vessel exceeding 50 Tons Burthen is hauled on shore, 5s. per diem.	(Govt. Order of Sir T. Brisbane, 16th. May, 1822.			
	Rates of Pilotage on Vessels into or out of the Harbour for Vessels drawing under 7 feet. £4 0 0				
	from 7 to 10 Feet 5 10 0				
	11 Feet 5 15 0				
	12 " 6 16 0				
	13 " 7 5 0				
	14 " 8 0 0				
	15 " 8 10 0				
	16 " 9 10 0				
	17 " 10 5 0				
18 " 11 16 0					
19 " 12 10 0					
20 " 14 0 0					
Upwards 15 0 0					
The Pilots of Port-Jackson	On each Bale, Cask or Package, landed or Shipped 3d.	{ The approval of His Majesty's Secretary of State for the Colonies, signified in a Despatch from the Rt. Honble. Earl Bathurst, dated 23rd. November, 1812.	Collected by the Harbour Master from the Masters, Owners or Agents of Vessels, and paid over to the respective Pilots at the end of each Quarter.	The Harbour Master	687 12 2½
	On Salt per Ton 1s. 4d.				
The Wharfinger of the King's Wharf at Sydney.	On Iron per ditto 3s.	{ The Custom of several Years standing.	Collected by the Naval Officer together with the Government Duties and Wharfinger Dues and paid over by him to the Wharfingers.	The Naval Officer	556 14 4

I hereby Attest the foregoing to be the Average Amount for the last Five Years of the Fees, received by the Individuals above mentioned.

Colonial Secretary's Office, Sydney, New South Wales, 21st August, 1826. ALEX. McLEAY, Colonial Secretary.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 68, per ship Woodman.)

1826.
11 Sept.

My Lord, Government House, 11th September, 1826.

1st. I have the honor to forward the accompanying Requisitions for Stores for the use of this Government; they are arranged under different heads, and such Articles, as are required by the different Departments, are repeated, which in appearance adds considerably to the items.

Requisitions
for stores.

2nd. The Departments are as follows, vizt:—

1st, Engineer's Department and Public Works; 2nd, Dock-yards; 3rd, Civil Medical Department; 4th, Clothing, Bedding and Utensils for the Convicts; 5th, Government Observatory and Trigonometrical Survey; 6th, Military; 7th, Miscellaneous; 8th, Ordnance Department; 9th, Surveyor General's Department; 10th, Horticultural; 11th, Mineralogical Survey; 12th, Clothing for Mounted Police and Orderlies.

3rd. It is difficult, if not impossible, to point out with any accuracy the head, under which the Stores required for the Engineer's Department, should be charged. These Stores are applied as required to all Services, whether immediately connected with the Convicts, or relating to the Colonial Government.

Stores required
by engineer's
department.

4th. The Expences of the subsequent Branches (the Dock-yard, Medical Department, and Clothing, etc., for Convicts) should I conceive be exclusively charged to His Majesty's Government, as being immediately applicable to the Prisoners of the Crown. The supplies for the Government Vessels are included under the head of "Dock Yard"; and these are employed in victualling and communicating with the Penal Settlements.

Cost of convicts.

5th. All the remaining Branches should, I conceive, be classed under the head of "Colonial Expenditure," as they are not immediately necessary to the convict population, but are more or less connected with the Colonial Government.

Cost of colonial
government.

6th. The preparation of the necessary Estimates, in order to framing the Requisitions, has been attended with much difficulty, as there has been no satisfactory data upon which to calculate the probable expenditure. A great proportion of the Articles has heretofore been made or purchased, as they happened to be required. The loss by theft, in the former case, has been very great, particularly in Nails and other articles of Iron, independent of other considerations: the little work, for example, which the Government Mechanics perform, and the injury, the Settlers sustain in not having the benefit of their assistance, which, to those who reside in the Interior, is

Preparation
of estimates.

1826.
11 Sept.
Importation of
all public stores
proposed.

incalculable and irremediable. Besides, when the Articles are purchased on the spot, the expence is enormous; every argument is, therefore, in favor of all articles of Stores being, for some time to come, sent out from Home, rather than to depend on our own means of making them, or on the supplies of the Merchants who require large profits.

Inferiority of
articles.

7th. I take the liberty of adding that the Articles sent out are generally bad, and of the very worst quality. Knives and forks, for example, fall to pieces immediately; the spoons are equally unserviceable, and the canvass for the Hammocks is quite unfit for the purpose, and immediately gives way where the clues are attached.

8th. I have only to assure Your Lordship that every possible pains have been taken in framing these Requisitions, in order to prevent any unnecessary demand. They have been prepared by a Board in concert with the Heads of the several Departments; and I have myself carefully revised them. I beg in conclusion to state that it is most desirable these Stores should be sent out without delay, as the expence of purchasing on the spot, such as cannot be made in the Engineer Department, would be very considerable.

I have, &c.,

RA. DARLING.

[Enclosure.]

[*These lengthy requisitions have been omitted.*]

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 69, per ship Woodman.)

My Lord, Government House, 11th September, 1826.

Returns of
sentences.
transmitted.

I have the honor to forward to Your Lordship, in reference to my Dispatch No. 36, sundry Returns of Sentences, imposed by the Courts of Session during the last and present year.

These returns have in general been in the hands of the Attorney-General, whose comments on the irregularities, which have taken place, have been communicated to the Benches, which made the Reports, in order to prevent a recurrence of any similar proceedings. I have thought it better to forward these Returns by this occasion, rather than wait until the series was completed, as I should have lost the present opportunity by so doing; and, if containing any useful information, their early receipt by Your Lordship may be of importance.

I have, &c.,

RA. DARLING.

[Enclosure.]

[*A copy of these returns is not available.*]

GOVERNOR DARLING TO UNDER SECRETARY HAY.

1826.
11 Sept.

(Despatch per ship Woodman.)

Sir, Government House, 11th September, 1826.

I beg leave to enclose a letter from the Attorney General, observing as he states shortly on one point in the King's Instructions, and transmitting a letter with "Some Papers on the next year's New South Wales Act." As I did not receive these Papers, which are voluminous, until yesterday afternoon, and as the "Woodman," the ship now under dispatch, will sail tomorrow, it is impossible for me to peruse them, much less to make any observations on them. I have thought it better to forward than to detain these Papers, until I could examine them, as, in the event of their containing any useful observations, it may be of importance that there should be time to consider them.

Transmission
of letters from
S. Bannister.

I have, &c.,

RA. DARLING.

[Enclosures.]

[Copies of these two letters are not available.]

GOVERNOR DARLING TO UNDER SECRETARY HAY.

(Despatch marked "Private," per ship Woodman; acknowledged by under secretary Hay. 5th April, 1827.)

My dear Sir, Government House, 11th September, 1826.

I am under the necessity of troubling You respecting Mr. John Raymond, the object of your letter of the 14th of September last. I acquainted You, in mine of the 3rd of May, with the arrangements which had been made with a view to his Provision. But Mr. Raymond finds his Income insufficient, and seems to Consider that Government is bound to support him and his family. The enclosed Letter, which is in original, will satisfy you that he is not at all qualified as a Man of Business, or fit for any Public Situation. It was my intention to employ him as a Police Magistrate, on seeing it stated in your Letter that he had been a County Magistrate upon his Estate in Ireland. But he now informs me that he never was a Magistrate; and, if he ever possessed an Estate, I apprehend, from what I learn here from those who know him, that it must have been a very inconsiderable one. I have little doubt that his Circumstances and situation have been mistaken, as you desire in your Letter that he may be provided with a suitable Appointment on his arrival in the Colony, referring as it would seem to his Claim, as set forth in Mr. Goulburn's Letter, Copy of which accompanied Yours.

Report on
John Raymond.

On referring to Mr. Goulburn's, however, I perceive he states that Mr. Raymond is desirous of proceeding as a *Settler* to New

1826.
11 Sept.
Report on
John Raymond.

South Wales, and simply recommends his being provided with a free Passage for himself and Family. Mr. Raymond's own Letter shews he has neither the intention nor the means of settling, but that he looks entirely to the Government for the necessary Provision for himself and family. If he were qualified for any employment, there would be less difficulty; but I can discover no means of providing for him in the Rank, he seems to expect, but by giving him a Pension, which, for the support of so large a family in a respectable manner, could not be less than *Five Hundred Pounds a Year*.

I remain, &c.,
RA. DARLING.

[Enclosure.]

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

GOVERNOR DARLING TO UNDER SECRETARY HAY.
(Despatch marked "Private." per ship Woodman.)

Paramatta, Governt. House,

My dear Sir,

11th Septr., 1826.

Outrages by
natives near
Hunter river.

I think it right to apprise you that the Natives have lately Committed some acts of outrage on Hunter's River, and that I have in consequence ordered a Detachment of Troops to proceed and punish their aggressions. They have put two Stock Keepers of Mr. Lethbridge's to death, and speared two others, and not long since murdered an overseer of Mr. Bowman's, and also speared one or two of his Stockmen. The latter event appears to have been occasioned by the circumstance of one of their Tribe, who had been taken up for some offence, having been confined for a day or two on Mr. Bowman's Farm, which it is supposed had induced them to think that Mr. Bowman's People had been concerned in Apprehending their Comrade. Previously to Committing the outrage at Mr. Lethbridge's, they had been at Mr. Ogilvie's, who lives in that neighbourhood, but was absent from Home at the time. On their presenting themselves, Mrs. Ogilvie, who appears to have acted with much judgment and spirit on the occasion, immediately went out and talked with them, their numbers being as she supposed above 200; she then gave them some Maize and a little Tobacco, and they left the Premises without being guilty of any irregularity. They then proceeded to Mr. Lethbridge's, where, I presume, not being managed with the same skill, they fell on the Overseer and Stockmen, killed and speared four Men, as I have already stated, and plundered the People's Huts.

The Attorney General has, as on the occasion* of the unfounded rumour of the Natives being in Commotion at Bathurst, which I lately mentioned, again urged the proclaiming of Martial Law, and his being allowed to proceed to Hunter's River, Conceiving that his presence would be of importance. On my informing him that I had already taken the necessary steps by ordering a Detachment of the Military to proceed and punish the Offenders, I received a Letter from him, of which I send You a Copy. This you will perceive is of a piece with the rest of his proceedings. The Instructions, under which I have acted, *have placed him in a situation of great difficulty*; and he has asked for a Copy of the Instructions, which I shall certainly not give him. The rest of his Letter is very offensive and insolent; and, as I now find it impossible to put him down by pointing out the impropriety of the conduct he has pursued, I shall cease to Communicate with him. I should observe that, on this point, the cause of the Natives, he is particularly sensitive—still he would declare Martial Law against a few naked Savages, who, however treacherous, would not face a Corporal's Guard.

1826.
11 Sept.

Martial law
proposed by
attorney-
general.

Insolent
letter from
S. Bannister.

You will be aware by my former Correspondence that I have always considered that the Natives have been aggrieved by the Stock Men, which, I am satisfied, has alone prevented a good understanding being established with them.

Aggressions
by stockmen.

If any further proof of this feeling on my part were necessary, I should refer You to the accompanying Correspondence, which took place a few days since. But, now they have proceeded to the Acts of violence, which I have mentioned, they must be made to feel the punishment which is due to their offence. But to refer once more to the Attorney General, unpleasant as the subject is, You will perceive that, in his own opinion, *he* is to control and direct (without his advise being asked) the private proceedings and Public Conduct of the Government, both Civil and Military. He prescribes the Persons to be admitted to my Table, would dictate the measures of Government, the proclaiming of Martial Law, etc., the arrangement of the Troops, and last of all like another Quixote would proceed himself in search of adventures!! His eccentricities would amuse, were it not for the impertinent style of his observations. He has pursued the same course with the Magistrates and others, which he would assume with me. None of them dare move without Consulting him, which, Considering this Population, has had a very bad effect. Not that I believe there is any desire on the part of the Magistrates to act arbitrarily, but,

Conduct of
S. Bannister.

Relations of
attorney-
general with
magistrates.

* Note 129.

1826.
11 Sept.

bearing in mind the description of people they have to deal with, I doubt whether the peace of the Country is better preserved by a rigid adherence to all the forms of Law.

I have, &c.,
RA. DARLING.

[Enclosure No. 1.]

LANDHOLDERS TO GOVERNOR DARLING.

Sydney, 4th September, 1826.

May it Please Your Excellency,

Request of
landholders
for military
protection.

We, the undersigned, Landholders at Hunter's River, beg leave most respectfully to represent to Your Excellency the present very disturbed state of the Country by the incursions of numerous Tribes of Black Natives, armed and threatening death to our Servants, and destruction to our property.

We are fully impressed with the intentions of Your Excellency by ordering the protection of the Horse Patrole; at this moment, we have received information that some of the Soldiers are withdrawn to attend an Investigation at Newcastle on a subject connected with the marauding conduct of the Natives.

We most humbly trust Your Excellency will take this into Your consideration, either by ordering others to take their places, or by suspending the order of their recall to Newcastle, until the threats and murderous designs of the Natives shall have subsided; for, in the event of our losing the protection of the Troops, our property will be exposed to the revenge and depredation of these infuriated and savage people.

The Natives lately burnt all the grass on the several Farms, killed some Men, have speared several Cattle, and threatened to destroy the Wheat of the ensuing Harvest.

We have, &c.,

J. BOWMAN.	J. H. WINDER.
PETER McINTYRE.	DAVID MAZIERE.
A. B. SPARK.	WILLIAM OGILVIE.
LESLIE DUGUID.	H. MALCOLM.
J. GAGGIN.	JOHN BROWN.
JOHN COBB.	

[Enclosure No. 2.]

GOVERNOR DARLING TO THE LANDHOLDERS AT HUNTER'S RIVER.

Gentlemen, Government House, 5th September, 1826.

I have received your Letter of the 4th on the subject of a Military Force being employed for the protection of your Farms

in the neighbourhood of Hunter's River. Every one knows that, from the Natives as a Body, at the utmost but few in Numbers, nothing is to be feared. The Settlements at Hunter's River are very extensive, and the Settlers, who are proportionably numerous, should not allow the Natives to see that they are under any apprehension. Vigorous measures amongst yourselves would more effectually establish Your ascendancy than the utmost power of the Military, as, when the latter is withdrawn, and circumstances do not permit of their being detached for any length of time, the chance is that, no longer fearing the Settlers, the Natives will renew their depredations. I, therefore, strongly recommend you to unite to take Measures for Your own defence; and you may be satisfied that, in any exertions you may make, you shall receive every necessary support.

1826.
11 Sept.

Necessity for
defensive
measures
amongst
settlers;

I cannot close my letter without remarking that, out of the Eleven signatures to the letter, which you have addressed to me, the Majority consists of persons who constantly reside in Sydney; and I am informed that not one of the whole Number was on the spot when the outrages alluded to took place, or has had an opportunity of ascertaining the particulars of the facts you represent. As you very properly attach much importance to the preservation of your Property, I would remark that your presence and personal example would tend more to this object than any measure of the Government. 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.

and for
personal efforts
by landholders.

I have, &c.,
RA. DARLING.

[Enclosure No. 3.]

ATTORNEY-GENERAL BANNISTER TO GOVERNOR DARLING.

Sir, Sydney, 5th September, 1826.

I take the liberty of stating to Your Excellency that it is said by those, who are interested upon Hunter's River, that the Black people are committing further ravages.

Preventive
measures
proposed by
S. Bannister.

If this be true, there will I believe be no question amongst the best friends of their general cause that they will be best protected by the Government putting forth an overwhelming force.

Experience proves that, if the Crown do not take the lead in a decisive manner and on a large scale, both in the coercion and in the improvement of the aborigines, they will fall in a miserable way in contact with white people.

1826.
11 Sept.
Preventive
measures
proposed by
S. Bannister.

The news of such force coming can, I believe, be communicated to the natives without difficulty; and I apprehend that the Magistrates and the principal persons, who have property and knowledge in the district, will be able to suggest a course of proceeding, subject to proper instructions, which will be beneficial for the future, as well as safe for the present.

But if the extreme interference of the Troops be thought necessary to enforce the delivery of certain individuals, known to have committed murder or other capital crimes, I am not aware that the soldiers and others, who may accompany them, can be indemnified in certain possible cases of mistake, without martial Law being proclaimed in a limited district.

I have thus taken the liberty of stating to Your Excellency a course of proceeding, which I believe was found useful in 1824, and to which I referred in June.

Previous
experience at
Bathurst.

In the beginning of 1824 and in the end of 1823, violences had taken place at Bathurst; the proprietors of stock asked for a Military force, which was delayed; at length numbers of stockmen were killed, I think 19 in the whole were brought into Bathurst dead.

The Settlers were in a state of extreme alarm, and took upon themselves to avenge the deaths of the white people.

Before the whole of those white men were killed, I have no doubt of miserable outrages having been committed on the Blacks without cause. But, after the Government acted decisively, no violence occurred on either side.

I have, &c.,
S. BANNISTER.

GOVERNOR DARLING TO EARL BATHURST.
(Despatch No. 70, per ship Woodman.)

12 Sept.
Transmission
of rules and
orders of
supreme court.

My Lord, Government House, 12th September, 1826.

I have the honor to transmit to Your Lordship for His Majesty's approval a Copy of Certain Rules and Orders for the conduct of Business in the Supreme Court of this Colony, which have been made by Chief Justice Forbes, in pursuance of the Authority contained in an order of His Majesty in Council, dated at Windsor, the 19th day of October, 1824.

I have, &c.,
RA. DARLING.

[Enclosure.]

[*This was a manuscript copy of the rules and orders of the supreme court of New South Wales; see volume in series IV.*]

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 71, per ship Woodman; acknowledged by Earl Bathurst, 16th March, 1827.)

1826.
12 Sept.

My Lord, Government House, 12th September, 1826.

I have the honour to acquaint Your Lordship, in reference to the arrangements which have been made for withdrawing a portion of the Prisoners from Port Macquarie, that it appeared desirable to employ Mr. Carter, the Chairman of the Quarter Sessions, and Major Gillman, who had been Commandant for some time at that Settlement, and was well acquainted with the Characters of the different Prisoners, to make a selection of those who might, from the nature of their Offences and conduct whilst at Port Macquarie, best deserve a mitigation of punishment; and these Gentlemen, having been absent on this duty five weeks, which they have performed in a satisfactory manner, and having been subjected to considerable expence, I felt it would be necessary to make them an allowance on the occasion, not, however, with any view of remunerating their services, but to prevent them suffering any pecuniary loss; and I have in consequence authorized the sum of £70 to be advanced to each of these Gentlemen: trusting that Your Lordship will be pleased to approve thereof.

Employment of
W. Carter and
H. Gillman to
select convicts
at Port
Macquarie.

Allowance for
services.

I have, &c.,

RA. DARLING.

GOVERNOR DARLING TO UNDER SECRETARY HAY.

(Despatch per ship Woodman.)

My dear Sir, Paramatta, 12th September, 1826.

I mentioned in a late Letter* that I had suspended proceeding in the prosecution of the Editor of the "Monitor" Newspaper, as he appeared to have desisted from the seditious publications, which had induced me to order the proceedings against him. The "Monitor" of the 8th inst.,* which I now enclose, is calculated to be as mischievous as any of the former, as, by the circulation of the gross misrepresentations, which it contained, people may be prevented from coming out to the Colony. I have, therefore, determined that the prosecution shall proceed, and only hope it will be better conducted than that of a Commissariat Clerk, who was lately brought to trial for robbing the Stores; on which occasion, the Attorney General so completely lost himself that he did not even attempt to substantiate the Charge, and the Case Consequently fell to the ground, though he had stated, in his written opinions to me, that the Clerk was guilty of Grand Larceny. The Editor of the "Monitor" is no doubt endeavouring to establish himself with the lower Classes of the Community; and, as a great

Proposed
prosecution of
E. S. Hall.

Failure of
S. Bannister
as prosecutor.

* Note 130.

1826.
12 Sept.
Refusal of
E. S. Hall's
request to
purchase land.

majority of these are Irish Catholics, the republication of Cobbett's Papers may be attended with serious consequences. Mr. E. S. Hall, the Editor, has applied to me to be allowed as a favour to purchase some Land, adjoining or Contiguous to Land which he already possesses. Considering him, as I do, a very ill disposed, if not a dangerous person, it is my intention to exercise the power, vested in me by my Instructions, and not permit of his purchasing any Land. This power could hardly be exercised on a more proper occasion in my opinion; and I hope it will be approved. I should not have troubled You again respecting the "Monitor"; but I have done so, lest any Private representation should be made, or its absurdities should be republished in the English Papers.

I have, &c.,
RA. DARLING.

GOVERNOR DARLING TO UNDER SECRETARY HAY.
(Despatch per ship Woodman.)

13 Sept.
Discovery of
comet by
C. S. Rumker.

Sir,

13th September, 1826.

I have the honor to enclose herewith a note from Mr. Rumker, who is employed at the Observatory, signifying that he had discovered a Comet on the 4th inst., and communicating the observations he had made thereon.

I have, &c.,
RA. DARLING.

[Enclosure No. 1.]

[A copy of this letter is not available.]

[Enclosure No. 2.]

Observations
on comet.

OBSERVATIONS made in Parramatta on the Comet, which appeared Sepr., 1826, in Orion.

1826.	Sidereal Time.	Mean.	Mean declination.
Sep. 4	2 50	84 10 26	.....
	3 28 21	84 13 54	8 50 19 South.
5	2 50 6	85 49 56	7 54 7
6	2 31 49	87 28 36	6 54 8
7	2 56 17	89 10 46	5 50 59
8	2 16 30	90 49 48	4 48 45
9	3 1 56	92 35 35	3 41 48
11	3 51 18	96 6 59	1 28 5
12	2 50 50	97 46 27	0 24 34 North.
14	3 9 5.5	101 18 55	1 50 41
15	3 28 36	103 6 14	2 58 52
20	3 46 50	112 0 11	8 26 25
21	3 54 49	113 46 37	9 28 42
23	4 41 55	117 26 19	11 36 17
24	4 28 17	119 7 26	12 27 49
25	5 20	120 53 25	13 25 20
26	4 38 29	122 37 3	14 17 49
29	4 40 41	127 45 48	16 47 11
30	4 56 56	129 27 7	17 32 46
Oct. 1	5 5 29	131 8 5	18 16 26
	5 15 41	134 25 1	19 36 33

1826.
14 Sept.
Reply to
criticism.

impracticable with any degree of justice to the several Individuals, as pointed out in the Minute, submitted to the Council, which accompanied my Dispatch No. 43; and the attempt to carry it into effect would have opened a door to fraud, which it is better on every Account should be kept closed.

The Article in the "Australian," now alluded to, is after all very unlike that in the "Monitor" of the 8th inst., which I send you by this opportunity. It is supposed that the Editor of the "Australian," who has been taunted as having changed his Politics, and become the supporter of the Government, has published the Comments alluded to in order to prove that the reports of his Apostasy are without foundation.

I remain, &c.,
RA. DARLING.

GOVERNOR DARLING TO UNDER SECRETARY HAY.

(Despatch per ship Woodman.)

Sir, Government House, 15 September, 1826.

The "Woodman" having been detained in consequence of the arrival of the "Orpheus," which left England on the 6th of May, and of the "Marquis of Huntly," which sailed on the 22d of that month, it has afforded me an opportunity of acknowledging the receipt of the Despatches from your Office, by those Vessels; and, as it may be satisfactory, I shall subjoin a General Statement of the respective numbers of all those, commencing with the present year, which have been received.

The *Originals* from No. 9 to 28 inclusive, are I conclude on board the "Chapman," which ship is daily expected.

As the Orpheus arrived only yesterday, which has brought the series of Despatches* (with three exceptions, Nos. 18, 25 and 27), it is not in my power at this moment to do more than acknowledge their receipt, and to assure you that no time shall be lost in carrying into effect the Instructions, which I have had the honor to receive.

I have, &c.,

RA. DARLING.

[Enclosure.]

[*This statement named the despatches from Earl Bathurst, numbered 1 to 8 and 29 to 36 inclusive in original, and numbered 1 to 17, 19 to 24, 26, and 28 to 36 inclusive in duplicate; particulars of despatches from under secretary Hay were also given for the following dates:—6th, 19th, and 25th February; 9th March; 20th, 21st, 21st, 22nd, 23rd, and 29th April, and 12th May.*]

* Note 133.

15 Sept.
Acknowledg-
ment of
despatches.

GOVERNOR DARLING TO UNDER SECRETARY HAY.
(Despatch per brig Fairfield.)

1826.
16 Sept.

Sir, Government House, 16th September, 1826.

I have the honor to forward herewith a copy of the Petition of Cornelius Kenny, a Prisoner of the Crown, praying that enquiry may be made as to the period, for which he was sentenced to be transported; and I have to request that it may be forwarded if necessary to the Irish Government for information.

Transmission
of petition.

I have, &c.,

RA. DARLING.

[Enclosure.]

THE HUMBLE PETITION OF CORNELIUS KENNY, OF SYDNEY, IN THE
COLONY OF NEW SOUTH WALES.

Petition of
C. Kenny
soliciting
particulars of
his sentence.

To His Excellency The Most Noble the Marquis Wellesley,
Lord Lieutenant and General Governor of all Ireland, etc.,
etc., etc.,

Most respectfully sheweth,

That Your Excellency's Petitioner arrived in this Colony per ship Dorothy in 1820, under sentence of transportation for some period not known to Petitioner.

That a quantity of forged notes, upon the Bank of Stephen and James Roche of Cork, having been found upon a woman, named Catherine Neil, who stated to the Constable that she received the Notes from Petitioner, whereupon she was committed and convicted in the absence of Mr. Daniel O'Connell, whom Petitioner had retained as his Counsel; but no sentence was then or since passed upon the Petitioner in his hearing.

That, since Petitioner arrived in this Colony, he is given to understand that he is transported for life, which Petitioner humbly begs to submit is excessive, inasmuch as the charge was minor in its nature (an alledged forgery of a Country Banker's Note in Ireland), and Petitioner begs to refer for certainty to the Notes of Mr. Justice Joye, before whom Petitioner was tried.

That Catherine Neil, the woman in whose possession the Notes was found, was sentenced to transportation for seven years; and Petitioner's Sentence for a like period afterwards appeared in the public newspapers in Cork, wherefore Petitioner is strongly led to believe that his sentence must have been ruled in error and not by direction of the Judge.

That Your Excellency's Petitioner has, since his arrival in this Colony (1820), lived in the service of some Gentlemen of highest respectability, and, during that period, preserved the most unblemished character, as would appear from the underneath certificates.

1826.
16 Sept.
Petition of
C. Kenny
soliciting
particulars of
his sentence.

Petitioner humbly implores Your Excellency's consideration of his case, and that, when his regular conduct in this Colony, united with all the other circumstances herein stated, would appear in Your Excellency's wisdom, that Your Excellency may be graciously pleased to order an investigation of the certainty of his original (or real) sentence; and that, should it appear to be seven years, Your Excellency may be graciously pleased to order that Petitioner's probationary period should expire in March, 1827; but, should it appear otherwise, then that Your Excellency may be pleased to order a mitigation, and your Petitioner will pray.

S. CORNELIUS KENNY.

Sydney, 10th August, 1826.

[*Certificates of good conduct from Father Therry and others were attached.*]

UNDER SECRETARY HAY TO GOVERNOR DARLING.
(Despatch per ship Albion.)

22 Sept.
Convicts to be
transported to
Norfolk island.

Sir, Downing Street, 22nd Sept., 1826.

I am directed by Earl Bathurst to transmit to you the enclosed list of Prisoners selected from those Convicts, recently embarked in the Ship "Albion," who, in the opinion of His Majesty's Government, are fit objects to be transferred to Norfolk Island; and I am therefore to desire that the Prisoners included in this list may be so disposed of on their arrival at New South Wales.

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

[Enclosure.]

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

EARL BATHURST TO GOVERNOR DARLING.
(Despatch No. 66, per ship Midas; acknowledged by Governor Darling, 1st March, 1827.)

24 Sept.
Diminution of
dread of
transportation.

Sir, Downing Street, 24th Sept., 1826.

His Majesty's Government having occasion to believe that very erroneous notions are entertained in this Country respecting the condition of those persons, who have been banished for their crimes to New South Wales and Van Diemen's Land, and that, from this cause, the dread of Transportation is very much diminished amongst the lower Classes in this Country, I am to desire that you will transmit to me, without loss of time, a statement of the precise Regulations, as they at present exist, for the safe Custody and good conduct of the Convict, in order

that I may observe how far the Orders have been carried into effect, which have been issued from this Department with respect to the discipline and management of the Convict Population (more particularly with reference to the objects embraced in Commissioner Bigge's Report, as brought under the notice of Sir Thomas Brisbane in my dispatch of the 9th September, 1822), and with the further view of adopting measures for giving publicity to those Regulations in this Country, and thereby to remove that dangerous misconception, which is understood to prevail in regard to the state of those persons, who remain under the sentence of the Law in those Colonies, as well as for the further abridgement of any Indulgences, still permitted to be enjoyed by the Convict, which may be considered inconsistent with the terms and spirit of his Sentence.

1826.
24 Sept.
Regulations re
discipline of
convicts to be
published.

In addition to the alterations in the treatment of the Convicts, which I have directed to be introduced since you were appointed to the Government of New South Wales, I consider it very essential that the Services of those Convicts, who may be assigned to the Settlers, should, as far as may be possible, be transferred to persons established up the Country with a restriction, which may prevent their being afterwards employed elsewhere, in order that the Convict may be placed out of the reach of pleasures, which are open to those, who reside in the Town of Sydney, and which prevent Transportation from being either an object of terror or the means of reformation to such persons, as have rendered themselves liable to that description of Punishment.

Convicts to be
assigned to
districts.

I have, &c.,

BATHURST.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 67, per ship Midas; acknowledged by Governor Darling, 15th February, 1827.)

Sir, Downing Street, 24th Sept., 1826.

Lt. Colonel Morisset, whom I have recently appointed to be Civil Commandant of Norfolk Island, having requested that I would recommend to the Commander in Chief the expediency of his being invested with authority over the Troops, that might be stationed in that Island, I have deemed it advisable to accede to his request; and I, therefore, do myself the honor of acquainting you that His Royal Highness has been pleased to submit the name of Colonel Morisset to His Majesty for the appointment of Military Commandant of Norfolk Island.

J. T. Morisset
to be military
commandant at
Norfolk island.

You will understand that, although Colonel Morisset is, by this appointment under the recent regulations, invested with all

1826.
24 Sept.

the Military Authority he can possibly require in that Dependency, yet it is not intended that any additional Emolument should accrue to him on account thereof; and you will no doubt see the propriety of not detaching any Officer to that station, whose Rank in the Army should be higher than that of Lieut't Colonel Morisset.

I have, &c.,
BATHURST.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Midas.)

25 Sept.

Sir,

Downing Street, 25th Sept., 1826.

Missionary schooner to be exempted from port duties.

I am directed by Earl Bathurst to transmit to you the enclosed Copy of a Letter, which his Lordship has received from the Committee of the Church Missionary Society, praying that a Schooner of about 60 Tons burthen, called the "Herald," which has been lately completed at New Zealand, may, in consideration of the purposes for which she has been constructed, be relieved from payment of the Port Duties, to which all Vessels are subject on entering Port Jackson. Under the circumstances, which are stated by the Society, Lord Bathurst is disposed to direct that you should comply with their request; but, should you be of opinion that an exception in favor of this Vessel would be the means of creating an inconvenient precedent, his Lordship desires that you will not consider yourself bound by this Instruction to grant the Indulgence solicited. In complying with their request, however, should you deem it right to do so, you will of course give orders that the schooner be restricted from all trading operations whatever, and that the utmost care be taken that she does not engage in any.

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

[Enclosure.]

MR. D. COATES TO EARL BATHURST.

Church Missionary House, Salisbury Square,

My Lord,

23 September, 1826.

Mission schooner Herald built in New Zealand.

I am directed by the Committee of the Church Missionary Society to acquaint Your Lordship that the Society's Missionaries in New Zealand have recently completed the building in New Zealand of a Schooner of about 60 Tons burthen, called the "Herald," partly for the purpose of maintaining a communication between the Society's Settlements in New Zealand and the Colony of New South Wales, in order to procure the necessary supplies for the use of the Missionaries and Settlers, and partly for visiting different points of the coast of

the Islands of New Zealand in prosecution of the Society's Mission to the Natives of those Islands; and that the Committee are informed that the Port Duties of Port Jackson are very heavy; so that, if the Society's Schooner should be subjected to those Duties on visiting that Port, either the Missionaries' communications with it must be less frequent than the welfare of the Settlements require, or a burdensome charge imposed on the Society's funds for Port Duties. Under these circumstances, the Committee respectfully submit to Your Lordship's consideration the propriety of remitting the Port Duties of Port Jackson with reference to the said Schooner, as it is intended that that Vessel should be exclusively employed for the objects of the Mission; and the Committee presume that His Majesty's Government would not wish that a Vessel, solely designed to promote such objects, should be liable to the duties in question.

1826.
25 Sept.

Request for
exemption from
port duties.

I have, &c.,

DANDESON COATES.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Midas.)

Dear Sir,

Downing Street, 26th Sept., 1826.

26 Sept.

Mr. Francis Stephen, who was employed for some time by Sir Thomas Brisbane as Clerk of the Council at New South Wales, has stated to Earl Bathurst his intention of returning soon to the Colony, and mentioned his wish to be employed in the legal Depart't there. Mr. Stephen has applied for the appointment of Prothonotary; but, as no opinion can be formed here of the propriety of making the appointment in question, Lord Bathurst could not undertake to confer that Situation upon him. I am, however, directed by his Lordship to acquaint you that, if any favorable occasion should offer for availing yourself of Mr. Stephen's Services, he will have much pleasure in hearing that some employment has been conferred upon him.

Recommendation of
F. Stephen for
employment.

I have, &c.,

R. W. HAY.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 68, per ship Midas: acknowledged by Governor Darling, 14th February, 1827.)

Sir,

Downing Street, 27th Sept., 1826.

27 Sept.

I have the honor to acknowledge the receipt of your Dispatch, No. 16 of the 1st of May last, enclosing, for my information, a "Government Notice," which you had deemed it expedient to publish explanatory of the light, in which

Approval of
regulations re
tickets of leave.

1826.
27 Sept.
Approval of
regulations re
tickets of leave.

prisoners, holding Tickets of Leave, would in future be considered by the Government; and I have to convey to you His Majesty's Approbation of the Restrictions, which this Regulation imposes on those persons, to whom the Indulgence may have been granted.

I have, &c.,
BATHURST.

UNDER SECRETARY HAY TO GOVERNOR DARLING.
(Despatch per ship Midas.)

28 Sept.
Passage on
ship Midas
granted to
C. Macarthur.

Sir,

Downing Street, 28th Sept., 1826.

I do myself the honor of enclosing Copy of a letter from Mr. Charles McArthur, and to acquaint you that I have taken upon myself, in the absence of Lord Bathurst, to direct the Navy Office to allow him to embark on board the "Midas" for New South Wales; but I think it necessary to explain to you that, as it is contrary to the general Rule of this Depart't to allow private Individuals to embark for the Colony on board Publick Vessels, it is only under the peculiar and embarrassing circumstances of his Situation, as explained in his letter, and the circumstance of there being no Private Vessel likely to leave this Country for a considerable time to come, that I have considered myself justified, under the conviction that it will meet Lord Bathurst's concurrence to depart in this special case from the general practice above adverted to.

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

[Enclosure.]

MR. CHARLES MACARTHUR TO UNDER SECRETARY HAY.

Sir,

99 Piccadilly, 27th September, 1826.

Request for
passage on
ship Midas.

The documents, that have been laid before you by Mr. Wilkinson, having made you acquainted with the circumstances of the Master of the Ship Cumberland having sailed for the Colony of New South Wales in the most illegal manner, by which he has involved a number of respectable persons (amongst whom are the wife of Capt. King R.N. and four young Children) in serious difficulty and distress,

I beg leave, in the most respectful manner, to request you will be pleased to lay my application for a passage in the fast sailing Ship Midas, about to sail for New South Wales, before the Right Honorable Earl Bathurst.

The truly embarrassing situation, in which I am placed, renders my early departure of such paramount necessity, and may be productive of such important consequences, that I shall esteem it a favor to obtain an order to be received on board with my Nephew, and will make my own arrangements with the Master of the Ship.

I trust I may be permitted to call your considerate and favourable attention to so unusual and distressing an event, and that a passage, under the peculiar circumstances in which I am placed, may be ordered in the *first* transport going to New South Wales, with a view to my rejoining the party, who have been so illegally forced from my protection, and to prevent the Master of the Cumberland escaping from Justice.

With great respect,

I have, &c.,

CHARLES MACARTHUR.

1826.
28 Sept.

Request for
passage on
transport.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 69, per ship Midas; acknowledged by Governor Darling, 14th February, 1827.)

Sir, Downing Street, 29th Sepr., 1826.

29 Sept.

I have had much pleasure in receiving the account, contained in your dispatch, No. 34, of the 23rd of May last, of the dispersion of the Natives, who had assembled and threatened to disturb the Public peace in the County of Argyle; and it has been particularly gratifying to me to find that, owing to the prompt measures which you had pursued, this desirable event has been effected before any depredations had been committed by the Natives, and without any act of severity being resorted to on the part of the Troops employed against them.

Approval of
precautions
taken against
natives.

I have, &c.,

BATHURST.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 70, per ship Midas; acknowledged by Governor Darling, 19th February, 1827.)

Sir, Downing Street, 29th Sepr., 1826.

I have the honor to acknowledge the receipt of your dispatches of the dates and numbers, mentioned in the Margin,* respecting the Pardons promised by Sir Thomas Brisbane to sundry individuals, immediately previous to his embarkation for England, a list of which accompanied your dispatch No. 15.

Pardons
promised by
Sir T. Brisbane.

I regret that your Excellency did not at the same time inform me of the circumstances connected with the case of each of the persons, therein enumerated, in order that His Majesty's Government might have had the means of judging of the merits and claims of those persons to the benefits intended to be conferred upon them.

* No. 15, 30 April, 1826; Secret and Confidential, 30 April, 1826; No. 30, 5 May, 1826.

1826.
29 Sept.

Further
information
required.

Your Excellency will, however, take the earliest opportunity of supplying me with this information; and, in the mean time, you will abstain from proceeding any further with a view to their Emancipation, until you shall have received additional Instructions from His Majesty's Government upon this subject.

I have, &c.,

BATHURST.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 71, per ship Midas; acknowledged by Governor Darling, 14th February, 1827.)

Sir,

Downing Street, 29th Sept., 1826.

Moneys de-
posited in bank
of N.S.W. by
W. Balcombe.

I have the honour to acknowledge the receipt of your dispatches, as enumerated in the Margin,* in reference to the proceedings of Mr. Balcombe, the Colonial Treasurer, as connected with the affairs of the New South Wales Bank; from which, it appears that he had placed Money, to the amount of 100,174 Dollars belonging to the Public, in that Establishment, at a time when there is every reason to suppose that he must have been aware of the difficulties under which it laboured.

Censure
passed on
W. Balcombe.

The measures, which you have adopted with a view to the recovery of this Sum, are entirely approved by His Majesty's Government. But I cannot close this dispatch without marking, with His Majesty's strongest displeasure, the conduct of Mr. Balcombe in risking the loss to the Publick of so large a Sum, as that which he deposited with the Bank; and I am sorry that I must further observe that, notwithstanding Mr. Balcombe alleges in his excuse that he had no other object in this transaction than the desire of placing the Money, entrusted to his charge, in a more secure situation, than was afforded by the unprotected state of his own residence, it is but too evident, from your report of the case, that he was actuated by other far less unobjectionable motives.

I am, &c.,

BATHURST.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 72, per ship Midas; acknowledged by Governor Darling, 1st March, 1827.)

Sir,

Downing Street, 1st Oct., 1826.

1 Oct.

Qualified
approval of
allowances to
W. Carter.

I have received your dispatch, No. 14 of the 30th of April, recommending that an allowance of £100 a year may be granted to Mr. Carter, as Chairman of the Quarter Sessions, to meet the expenses, to which he is subjected in proceeding to the different Districts, where the Sessions are held; in reply to

* Separate, 22nd May, 1826; do., 27th do.

which, I beg to acquaint you that, if Mr. Carter gives the Publick the benefit of his Services in that capacity without remuneration, and if it forms no part of his duty, as Master of the Supreme Court for which he receives an adequate Salary, I consider it but reasonable that his actual expenses should be defrayed; but, unless this should be the case, I am under the necessity of declining to sanction, as a permanent measure, the allowances, which you have authorized to be made to Mr. Carter, as a compliance with his application would give rise to similar claims on the part of all other Officers filling Legal situations (at Van Diemen's Land as well as at New South Wales), whose duties may require their attendance in remote situations of the Colony.

I have, &c.,

BATHURST.

1826.
1 Oct.

Qualified
approval of
allowances to
W. Carter.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 73, per ship Midas; acknowledged by Governor Darling, 1st March, 1827.)

Sir, Downing Street, 1st Oct., 1826.

I have received and laid before The King your dispatch, No. 19 of the 1st May, communicating the regulations, which you have adopted with a view to a more just and equal distribution of the Prisoners of the Crown, as Servants and Labourers with reference to the immediate wants of the Inhabitants.

Regulations re
assigned
servants.

It is extremely gratifying to His Majesty's Govern't to learn that you have given your attention, so early after your arrival at the seat of your Govern't, to a subject of such extreme importance, as a proper distribution of the Convict Labour, not more with reference to the interests of the Settler and consequent prosperity of the Colony, than to the advantage in a moral point of view of the Prisoners themselves; for the facility, with which Settlers have been in the habit of obtaining Convicts, when in want of their Services, and of returning them on the hands of Govern't, when dissatisfied with their conduct, without any attempt to reform their habits of life, has left to the Settler so little inducement to bestow attention on the moral improvement of the Convict, allotted to him, as to render it indispensable that that attention should be considered one of the necessary conditions, upon which Convict Labour can be obtained by the Settler.

I observe that these Regulations principally relate to agricultural Labourers; and that there appears to be no particular arrangement adopted with regard to Mechanics, excepting in so far as relates to their classification according to their respective Trades.

1826.

1 Oct.Assignment
of convict
mechanics.

With respect to this latter Class of Convicts, the difficulty of distribution appears to be infinitely greater than in the case of the other and more numerous Class, to which the new Regulations principally apply. This description of Convicts, when engaged for the benefit of the Inhabitants in the Trades, to which they have been brought up, must generally speaking be employed in Towns; and, as their Characters, from the profligate habits to which they have been accustomed, are for the most part of the worst description, they are consequently the persons, who of all others are the least likely to be reformed, if permitted to reside in the midst of a crowded population. Their employment in Towns must also have the effect of lightening their Punishment, and thereby diminishing their chance of Reformation. I cannot, therefore, too strongly recommend that, in all cases where these men are capable by their bodily strength of undertaking field work or any Agricultural employment in the Country, they should be so distributed, although they may happen to be very skilful Mechanics and capable of being very profitably employed at Sydney.

I am aware that the Services of many useful Mechanics may be lost to the Colony by employing them in field-work, as above proposed, and by sending them into the less populous parts of the Country; but very considerable advantage, on the other hand, will arise from the check, which will thus be placed on imposture, and the better chance of reformation, which they will have when removed from the temptations, to which they will otherwise be exposed.

Exceptions, however, might be made where the conduct of the Convict on the Passage, as well as the offence for which he may have been transported, appear to recommend him for special indulgence. But, in those cases, where the offences are of a graver character, or where his conduct has not been such as I have described, I have to direct that he should, on no account, be assigned to any Master, whose Residence may be in a Town; but that he should be kept under the strict discipline, to which those Convicts, who are in the immediate employment of the Government, are understood to be subjected, or assigned to some Settler, who would be in a situation to enforce such discipline; and this appears to His Majesty's Govern't the more necessary to guard against that deception, which the Convicts may otherwise endeavour to practice of passing themselves off for Mechanics, in order to prevent their being disposed of amongst those Settlers, who may be established at a distance from any of the Towns.

I have, &c.,

BATHURST.

EARL BATHURST TO GOVERNOR DARLING.

1826.
1 Oct.

(Despatch No. 74. per ship Midas: acknowledged by Governor Darling to under secretary Hay, 14th February, 1827.)

Sir, Downing Street, 1st Oct., 1826.

His Majesty's Government having deemed it advisable to encourage Officers of the Army, and more especially those on Half pay, to become Settlers in the Colonies of New South Wales and Van Diemen's Land, by holding out to them, in consideration of their Services, advantages superior to those enjoyed by ordinary Settlers, I do myself the honour of enclosing, for your information, the Copy of a General Order, issued by the Horse Guards on the 8th June last with the approbation of His Majesty, explaining the nature of the encouragement, which it has been determined to afford to Officers of this description, who may be desirous of establishing themselves in that quarter, and the terms on which they will be allowed in that case to dispose of their Commissions.

Inducements
to military
officers to
become settlers.

The sums, which these Officers will respectively obtain for their Commissions, will it is conceived furnish Capital sufficient, after defraying all necessary expenses connected with the conveyance to the Colony of themselves and their families, to place them on a par with those Settlers, who are required, by the terms of their agreement with the Govern't, to possess funds to the amount of £500 Sterling.

Capital value
of commissions.

It will be observed by the enclosed paper that the distinction, which is to be made in favour of the new Class of Settlers, consists in a remission of Quit Rent, either wholly or in part, according to the length of his Military Services; but that, in other respects, the conditions, on which the Grants are to be made, are with certain modifications to be similar to those, upon which Land is now granted to Settlers in general in New South Wales and Van Diemen's Land.

Remission of
quit rent.

The modifications, which I should be disposed to establish in those conditions, are only such as appear to His Majesty's Govern't to be called for in consequence of the Superior advantages, held out to the Officers in question over ordinary Settlers in the remission of Quit Rent. The obligation to cultivate having been found necessary, even where a Rent is paid for the Land, it must be considered still more requisite, where land is held free of all Quit Rent; although it is at the same time evident that a stipulation of this kind must eventually turn out to the advantage of the Settler himself.

Stipulation for
improvements.

An actual outlay of Capital in certain proportions, attended with a compulsory performance of certain duties, such as

1826.
1 Oct.

Term for
completion of
improvements.

making Roads, Drains, etc., form one of the most material conditions imposed upon all Settlers; but, in order to ensure sufficient attention to the cultivation of the Land on the part of the persons adverted to in this Dispatch, I am disposed to direct that the examination of each grant by the Surveyor General should take place within a shorter number of years, than is prescribed by Clause 15* of the printed Regulations, which provides that every grantee without purchase shall, at the expiration of seven years, prove to the satisfaction of the Surveyor General that he has expended, in the cultivation and improvement of his land, a Capital equal to half its value, as that value was estimated at the time of his Grant; and that, on failure of such proof, the land will be forfeited to the Crown. Six years is the period, within which I should propose the Surveyor's examination to be made in the case of Grants to these Officers.

Deposit to be
lodged as
security by
officers.

In order to give some security to the Government that the Officers who may thus avail themselves of the Privilege of disposing of their Commissions, are fully determined to settle in the Colony, either of New South Wales or Van Diemen's Land, every Officer so situated will be required to place, in the hands of the Govern't at home before his departure for the Colony, a Sum equal to one third value of his Commission, to be repaid to him on his arrival in the Colony, and, as soon as it shall be satisfactorily made to appear to the Governor that the Officer has taken possession of, and is actually located upon the Grant, which may be assigned to him. In conformity with this arrangement, therefore, directions have been given to the Colonial Agent to receive payment of, and pass to the credit of the Colonial Govern't, such Sums as may be offered to be placed in his hands by Officers, proceeding under these circumstances to New South Wales, giving to each Officer a receipt for the amount, which he shall have thus deposited with him, and which he will not fail to take with him as a Voucher to be presented at the Secretary's Office in the Colony, when he applies for the restoration of his deposit; and I am to request that you will issue your Warrant to the Treasurer of the Colony for the repayment of the amount in Sterling money on presentation of the receipt alluded to, and the fulfilment by the Settler of the conditions, on which, as I have already stated, the deposit should be restored.

It is only necessary for me further to desire that you will carry into effect the other parts of the Regulation, agreeably to the expectations, which have been held out to the Officers of the

* Note 134.

Army in the paper enclosed, applying also to them the principles, hitherto adopted, with respect to ordinary Settlers, excepting in so far as I have directed a modification of them in favor of the persons in question.

1826.
1 Oct.

I have, &c.,
BATHURST.

[Enclosure.]

GENERAL ORDER.

Horse Guards, 8th June, 1826.

EARL BATHURST, the Secretary of State for the Colonial Department, having communicated to the Commander in Chief the Rules, which His Majesty's Government have laid down for regulating the Grants of Land in the Colonies of New South Wales and Van Dieman's Land to persons, proceeding thither as Settlers, and his Lordship having suggested that it would be desirable to encourage Officers of the Army, and more especially those on half pay, to become Settlers in that Colony, by holding out to them superior advantages in consideration of their services: His Royal Highness hereby makes known to the Officers of the Army the Regulations, approved by His Majesty for carrying these. His Majesty's gracious intentions, into effect.

Military
general order
re land grants
to officers.

The Rules, under which Lands may be obtained without purchase, are as follows:—

That no free Grant shall be made to any Officer under the rank of Captain, nor to any Officer, who shall not produce satisfactory testimonials from the Commander in Chief's office of good conduct and unexceptionable character.

That in these cases a remission of quit rent shall take place for a certain number of years beyond the average period, which is prescribed in the case of ordinary Settlers according to the following scale:—

Officers, who have served twenty years and upwards, to be exempted from all quit rent.

Officers, who have served fifteen years and upwards, but short of twenty years, to be exempted from quit rent for the first twenty years.

Officers, who have served ten years and upwards, but short of fifteen years, to be exempted from quit rent for the first fifteen years.

In other respects, the conditions, upon which the Grants are made, to be similar to those which are now in operation in New South Wales, with certain modifications, respecting which the Officers, who may be disposed to avail themselves of this arrangement, will receive information at the Colonial Department.

The Officer, to whom Land is granted, shall give some security that he or his family shall reside for at least seven years in the Settlement; and the Grant shall not be allowed to be sold by him, until he shall be reported to have expended upon it a capital equal to half its value, as that value was estimated at the time when his Grant was made.

1826.
1 Oct.

Military
general order
re land grants
to officers.

In the application of this arrangement to the Officers of the Army, the following Regulations are to be observed:—

Officers on full pay, who have purchased their Commissions, or who have served twenty years, are to be permitted to dispose of their Commissions in the usual manner at the price fixed by His Majesty's Regulations.*

Officers on half pay, whether they have or have not purchased, and whatever may have been the period of their service, provided it be not less than ten years, to be permitted to sell their Commissions for two-thirds of the value, fixed by the last Regulation, and without being subject to any of the restrictions, imposed by the Regulations of 25th April, 1825, excepting those which apply to age, and health, and character.

The surplus,† viz. one third of the value, to be paid in such manner as His Majesty's Government shall direct, the price given by the purchaser being in each case the full value of the Commission.

The Officer, who may avail himself of this Offer, will be required to provide for his own passage and that of his family to the Colony; and, out of the proceeds of his Commission, to place in the hands of the Government a sum equal to one third value of the Commission, to be reserved for the cultivation of the Land, and which sum will be repaid to him upon his arrival in the Colony and upon his taking possession of the Grant.

By Command of His Royal Highness the Commander in Chief,
HENRY TORRENS, Adjutant-General.

UNDER SECRETARY HAY TO GOVERNOR DARLING.‡

Sir,

Downing Street, 1st Oct., 1826.

Request for
land grant from
W.P. Ashburner.

I am directed by Lord Bathurst to transmit to you the accompanying Copy of an Application from Mr. W. P. Ashburner to receive a Grant of Land in New South Wales; and I am to request this Gentleman may receive such facilities in the selection of his Grant, together with any other attentions to which a Person of his respectability may be considered entitled.

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

[Enclosure.]

MR. W. P. ASHBURNER TO EARL BATHURST.

My Lord,

3 Fitzroy Square, 2nd October,§ 1826.

Having resided in India fifteen years, during which period I was engaged in mercantile pursuits in a house of Agency at Bombay, but having been obliged by ill health to quit that Island, I am desirous of emigrating to New South Wales, and respectfully solicit your Lordship's permission to proceed to that Colony.

* *Marginal note.*—viz. Lt. Col. £4,500; Major, £3,200; Captain, £1,800.

† *Marginal note.*—Lt. Col. £1,500; Major, £1,066 13s. 4d.; Captain, £600.

‡ Note 64. § Note 135.

My family consists of my wife and six children, two of whom will accompany me; and I take with me property amounting to Two thousand Pounds (£2,000).

1826.
1 Oct.

Application
from
W.P. Ashburner.

Having been for several years an Alderman of the Recorder's Court in Bombay, and also a Justice of the peace for that Island, I should be anxious to render my services available to Government, should they think proper to employ me in the Magistracy.

I beg to refer your Lordship as to my respectability to Sir Charles Forbes, Bart., M.P., and to Thomas Wilkinson, Esqre., both of Fitzroy Square.

I have, &c.,
WILLIAM PAGE ASHBURNER.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 72, per brig Fairfield.)

My Lord, Government House, 1st October, 1826.

I have the honor to forward herewith Returns of Summary Punishments, awarded by the Benches of Magistrates noted in the Margin,* and received since the departure of the last opportunity for England on the 17th Ultimo.

Transmission
of returns.

I have, &c.,
RA. DARLING.

[Enclosures.]

[Copies of these returns are not available.]

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 73, per brig Fairfield.)

My Lord, Government House, 1st October, 1826.

Referring to my Despatch No. 70, transmitting a manuscript copy of certain Rules and Orders for the conduct of Business in the Supreme Court of this Colony, I have now the honor to forward the enclosed letter from the Chief Justice, together with a printed copy of the Rules and Orders, alluded to, certified under the Seal of the Supreme Court, and which His Honor requests may be received (as being more correct) instead of the Copy which accompanied my Despatch No. 70.

Transmission
of printed rules
and orders of
supreme court.

I have, &c.,
RA. DARLING.

* Marginal note.—Hyde Park, Newcastle, Bathurst and Campbell Town.

1826.
1 Oct.

[Enclosure No. 1.]

CHIEF JUSTICE FORBES TO GOVERNOR DARLING.

Sir,

Supreme Court Office, 3rd Oct.,* 1826.

Transmission
of printed rules
and orders of
supreme court.

I had the honor to inclose a manuscript copy of certain Rules and Orders of the Supreme Court, in order that Your Excellency might transmit the same to Earl Bathurst for His Majesty's Approbation. At the time the copy alluded to was made, the rules and orders were printing for general distribution, and I have reason to apprehend that the manuscript copy, which has been transmitted by Your Excellency, is incorrect and imperfect. I have, therefore, to request that Your Excellency would be pleased to mention this circumstance to Earl Bathurst in your next dispatch, and desire that the inclosed printed copy, certified under the Seal of the Supreme Court, may be received instead of the manuscript copy alluded to.

I have, &c.,

FRANCIS FORBES, Ch. Justice.

[Enclosure No. 2.]

[This was a printed copy of the rules and orders of the supreme court, with an attached certificate from chief justice Forbes; see volume in series IV.]

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 74, per brig Fairfield.)

My Lord,

Government House, 1st October, 1826.

Shipments of
salt provisions
on convict
ships.

I am induced to request Your Lordship's attention to the circumstance of the large quantities of salted provisions, which arrive here by the ships employed in bringing out Convicts. The Supply is stated by the Victualling Board to be fit for the use of the Prisoners for the first ten months after their arrival.

Contract prices
of provisions.

This arrangement was no doubt highly necessary in the infancy of the Colony; but your Lordship will judge whether, under present circumstances, the discontinuance of the practice is not equally desirable. Cattle are abundant here, and, by placing the supply of provisions altogether in the hands of the Settlers, the Colony in general would be materially benefitted, and a saving of much importance would I have no doubt be effected. In order to afford the means of ascertaining this fact, I beg to state for Your Lordship's information that the present contract prices of provisions, supplied in the Colony, are as follows, vizt:—

Fresh Beef, 3d. per lb.; Salt Beef, 4d. per lb.; Salt Pork,
6½d. per lb.

I have, &c.,

RA. DARLING.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 75. per ship Midas; acknowledged by Governor Darling, 14th February, 1827.)

1826.
2 Oct.

Sir, Downing Street, 2nd Oct., 1826.

I have the honour to acknowledge the receipt of your dispatch, No. 21 of the 2nd May, transmitting an application from Colonel Stewart, the Lieutenant Governor, for an allowance in lieu of Forage for two Horses in his Civil capacity, which you appear to have authorized, but which I am sorry it will not be in my power to confirm, as I cannot undertake to sanction any allowance, which may not have been enjoyed by the Officer, who preceded Colonel Stewart in that situation.

Refusal
of forage
allowance for
W. Stewart.

I have, &c.,

BATHURST.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 76. per ship Midas; acknowledged by Governor Darling, 14th February, 1827.)

Sir, Downing Street, 2nd October, 1826.

I have the honor to acknowledge the receipt of your dispatch, No. 22 of the 2nd May last, accompanied by the Copy of a letter, addressed to you by Dr. Douglass on the subject of the Monies received by him from the period of his departure from the Colony in February, 1824, and of his entering upon the duties of Clerk of the Council; and you submit two questions for my decision, connected with that subject: first, whether Dr. Douglass not having done any duty in the Court of Requests is to retain the Salary in consequence of the Mission, on which he was employed by the late Governor; and secondly, whether he is to receive full Salary as Clerk of the Council from the date of his embarkation from England until his arrival at New South Wales, or only half Salary agreeably to the existing Regulations.

Advances on
account of
salary to
H. G. Douglass.

I beg to acquaint you, in reply, that, under the circumstances of Dr. Douglass's case, I am of opinion that he should be allowed his whole Salary as Commissioner of the Court of Requests from the time of his leaving the Colony, to proceed to this Country, vizt. the 23rd of February, 1824, until the 19th of February, 1825, when he appears to have embarked for the purpose of returning thither; but this Salary should be issued to him at the rate only of £500 per annum, that being the amount assigned by Sir Thomas Brisbane to the Office of Commissioner.

Salary as
commissioner
of court of
requests;

With respect to the Salary, claimed by Dr. Douglass as Clerk of the Council, the existing Regulations only entitle him to half the Emoluments of that Situation from the date of his embarkation; but, as Sir Thomas Brisbane appears to have issued his

and as clerk
of council.

1826.

2 Oct.

Payment as
clerk of council.

Warrant for the payment of Dr. Douglass's full Salary from that period, it would not be just now to call upon him to refund any sums, which he may have received on that account; and, as my dispatch to Sir Thomas Brisbane, dated the 7th January, 1825, points out to him that, in case the enquiry, which was directed to be instituted into Dr. Douglass' conduct, should prove satisfactory, he would be entitled to his full Salary, as Clerk of the Council, this is an additional ground for my directing the payment to be now made to him.

I have, &c.,

BATHURST.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 77, per ship Midas; acknowledged by Governor Darling, 14th February, 1827.)

Sir,

Downing Street, 2nd October, 1826.

Salary of Rev.
T. Reddall as
director of
schools.

I have the honour to acknowledge the receipt of your dispatch, No. 23 of the 3rd of May last, on the subject of the Salary received by the Revd. T. Reddall as Director of the Publick Schools, a situation to which he had been appointed by Sir Thomas Brisbane, but which I did not deem it proper to confirm, the appointment being an unnecessary one in consequence of the Archdeacon having been invested with that particular duty; and I have to acquaint you, in reply, that, under the circumstances which you have stated, I have no objection to allow Mr. Reddall to retain the Salary up to the period, to which you have authorized its being issued to him, vizt. to the 6th of February last.

I have, &c.,

BATHURST.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 78, per ship Midas; acknowledged by Governor Darling, 20th February, 1827.)

Sir,

Downing Street, 3rd October, 1826.

3 Oct.

Approval of
procedure re
natives.

I have had the honour to receive your dispatch, No. 28 of the 6th of May last, transmitting the Copy of a Government notice, which you had felt it necessary to issue on the occasion of an outrage committed by the Natives on two Stock keepers in the County of Argyle.

I have much pleasure in conveying to you His Majesty's Approbation of the course, which you have adopted to prevent a recurrence of similar proceedings, as much to be deplored on account of the Individual cases of violence, which have unfortunately resulted, as from the general alarm, which the assemblage of so large a body of people must create throughout the Colony.

There is, however, one part of the Regulations, the policy of which I am much disposed to question. I allude to the encouragement directed to be held out to the Natives by the promise of Rewards "to seize and deliver up any Men, who shall ill-treat them, in order that they may be punished for such offence." As it is not to the principle of Rewards, but to the seizure of the person of the Offenders, to which I am adverse, I have no wish to alter that part of the Regulation, further than as respects the particular point, to which I have adverted; my objection, therefore, will be removed, if, for the words "to secure and deliver up any Men, who shall ill-treat them," you were to substitute the following, vizt. "to furnish such information as may lead to their detection."

1826.
3 Oct.

Disapproval of
encouragement
to natives to
arrest offenders.

Unless this alteration be made, I am apprehensive that the permission to the Natives to secure any person, by whom they may consider themselves aggrieved, may of itself lead to that very evil, which it is the object of the Regulation to remedy, or for the sake of the reward induce them to lay hold of innocent persons, or others whose offences may not be of that character, as to require the infliction of any severe punishment.

I have, &c.,
BATHURST.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 79, per ship Midas; acknowledged by Governor Darling, 14th February, 1827.)

Sir, Downing Street, 4th October, 1826.

4 Oct.

I have had the honour to receive your dispatch, marked "Separate" of the 8th May last; and it is with much satisfaction that I find every measure has been taken to supply the new Settlement at Melville Island with such Articles of provisions and other necessaries, as it was conceived they might require.

Despatch
acknowledged.

I have, &c.,
BATHURST.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 80, per ship Midas; acknowledged by Governor Darling, 21st July, 1827.)

Sir, Downing Street, 4th October, 1826.

I have the honour to acknowledge the receipt of your dispatch, marked "Separate" of the 25th May last, transmitting, agreeably to the request of Mr. Cogill, late Master of the Convict Ship Mangles, an explanation of the circumstances referred to in Sir Thomas Brisbane's dispatch, No. 32 of the 30th January, 1825.

Despatch
acknowledged.

1826.
4 Oct.

Acceptance of
explanation by
J. Cogill.

As you have not expressed any doubts as to the truth of the assertions, contained in Mr. Cogill's statement, I am induced to consider his explanation as satisfactory, so far as his conduct appears to be concerned in the transaction; but it seems to me so very extraordinary that the Magistrates, before whom Mr. Cogill was summoned, should have convicted him solely on ex parte evidence, although Witnesses were present desirous of disproving the facts alleged against him, that I am under the necessity of requesting you to report to me the names of the Magistrates, who judged this case, and to call upon them to explain the grounds, on which they were induced to refuse to examine the Witnesses, who were ready to give their evidence.

Magistrates
to explain.

I have, &c.,
BATHURST.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 81, per ship Midas; acknowledged by Governor Darling, 14th February, 1827.)

Sir, Downing Street, 4th October, 1826.

Receipt
of returns
acknowledged.

I have received your dispatch, No. 36 of the 25th May, transmitting, in pursuance of the 19th Clause of the New South Wales Act, Returns of Sentences, which have been awarded by the Benches of Magistrates, so far as you have been able as yet to collect them; and I am glad to observe that you have brought to the notice of the Magistrates those cases, with reference to which their proceedings have appeared objectionable, and taken measures to ensure a more regular transmission of these Returns for the information of His Majesty's Government.

I have, &c.,
BATHURST.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 82, per ship Midas; acknowledged by Governor Darling, 21st February, 1827.)

5 Oct.

Sir, Downing Street, 5th October, 1826.

Requisitions
for ordnance
and stores.

I have the honour to acknowledge the receipt of your dispatch of the 26 May, forwarding the explanations, which were called for by my dispatch of the 31st Oct., 1825, with regard to certain Requisitions for Ordnance and Stores, forwarded by your Predecessor to the Lords Commiss'rs of the Treasury. But, as you state it to be your Intention to send home, for the information of His Majesty's Govern't, a Report on the Military defences of the Colony, I have deemed it proper

to wait for the arrival of that Report, before I take any measures for providing the several Articles enumerated in the corrected Lists, which you have now transmitted.

1826.
5 Oct.

I have, &c.,
BATHURST.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Midas; acknowledged by Governor Darling,
9th March, 1827.)

Sir, Downing Street, 5th October, 1826.

I have had the honour to receive and to lay before Earl Bathurst your letter of the 3rd of May, reporting the temporary provision, which you had made for Mr. Raymond and his family, in compliance with the recommendation, contained in my letter of the 14th Sept., 1825.

Temporary
provision
made for
J. Raymond.

In approving of the arrangement, which you have adopted with reference to that Gentleman, Lord Bathurst desires me to acquaint you that no other expectation was held out to him than that a mere sufficiency would be afforded to him in the shape of employment, on his arrival at New South Wales. His Lordship did not, therefore, intend to recommend him for any other situation under your Govern't than an inferior one; and according to the opinion, expressed in your letter, Mr. Raymond does not appear to be calculated to fill any Appointment of a higher Class.

Under these circumstances, his Lordship is glad to find that Mr. Raymond has been already apprized that the allowances, which you have granted to him, were only to be considered as a temporary measure.

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

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Midas.)

Sir, Downing Street, 5th October, 1826.

I am directed by Earl Bathurst to transmit to you the enclosed Application from Mr. Arch'd Campbell, M.P., in favor of Mr. Robt. Crawford, who is desirous of obtaining an additional Grant of Land in New South Wales; and I am to request, in the event of Mr. Crawford being entitled to this indulgence, that you will, so far as you may deem it expedient, accede to his wishes.

Application
in favour of
R. Crawford.

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

1826.
5 Oct.

Application of
R. Crawford
for land grant
in extension.

[Enclosure.]

MR. ARCHIBALD CAMPBELL TO EARL BATHURST.

My Lord,

Blythswood, 24 Septr., 1826.

At the very earnest request of my respectable friend and neighbour, Sir Michael Shaw Stewart, I beg leave to recommend to Your Lordship's favorable consideration the enclosed application of Mr. Robert Crawford for an additional Grant of Land in New South Wales.

I have, &c.,

ARCHD. CAMPBELL.

[Sub-enclosure No. 1.]

MR. H. CRAWFORD TO SIR MICHAEL SHAW STEWART.

Sir,

Greenock, 22nd Septr., 1826.

I take the liberty of transcribing to You an extract of a Letter, which I have received from my Son Robert, who you are perhaps aware is a Settler in N. S. Wales.

It appears of much importance to him that he should obtain an additional Grant of Land; and, as this I am informed can only be accomplished by the Interest of a Member of Parliament, I shall be very essentially obliged, if you would show the goodness to ask Mr. Campbell of Blythswood to apply to Earl Bathurst on my Son's behalf. At all events, I beg you will pardon my thus intruding upon you.

I have, &c.,

HUGH CRAWFORD.

[Sub-enclosure No. 2.]

EXTRACT OF ROBT. CRAWFORD'S LETTER REFERRED TO.

I REALLY wish you would obtain an order for some Land, interest with Lord Bathurst will alone obtain it. If a Memorial to His Lordship will obtain a Grant, you may address one in my name; and, if you get an Order for 3,000 Acres, let it specify to be near my present Grant to preserve the purity of my Sheep and flocks; my pretensions to an additional Grant are these.

"I have expended on my Grant of 2,000 Acres, which I obtained as a free Settler, upwards of four thousand pounds. I have victualled from 38 to 40 Convicts every Year, free of all expense to the Crown. My Flock consists of 800 Head of horned Cattle, 18 Horses and Mares, with 600 Sheep, which I will have before this reaches you, and my intention still further to employ a large Sum towards Agricultural pursuits."

I am anxious to obtain this land, in order that I may have a sufficient tract without going to a distance for a Run, which is attended with great Expense.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

1826.
5 Oct.(Despatch per ship Midas; acknowledged by Governor Darling,
30th September, 1827.)

Sir, Downing Street, 5th October, 1826.

I am directed by Earl Bathurst to transmit to you the accompanying Copy of a Letter, which has been addressed to him by the Commissioners of Victualling, submitting to his Lordship's consideration whether the Medical Stores, which may remain after the arrival of Convict Ships at New South Wales and Van Diemen's Land, might not be appropriated to the Public Service there, instead of being sent home, as has hitherto been the practice, at an Expense of Freight nearly commensurate with the value of the Articles, together with a Copy of the Answer, which has been returned to the Commiss's letter; and I am to request that you will carry into effect that arrangement, which they have suggested, should there not appear to be any objections to it, of which his Lordship may not be aware.

Disposal of
medical stores
on convict
ships.

I am, &c.,

R. W. HAY.

[Enclosure No. 1.]

THE COMMISSIONERS OF VICTUALLING TO EARL BATHURST.

My Lord, Victualling Office, 27th September, 1826.

Some Medicine Chests and Medicines, which had been left by Surgeons of Convict Ships in charge of the Officers of the Commissariat at New South Wales, having been recently sent Home at a charge of Freight nearly commensurate with the value of the articles, and as we consider that the Medicine Chests and other Packages, landed from the Convict Ships, might be disposed of in the Colony, and that the Medicines, which are of the best quality and calculated for general practice, as well as the remains of Medical Stores, might be so far beneficially applied to the Public Service there, as materially to reduce the demands of the Colonial Medical Officers for the supply of such articles from England, We beg leave to propose for your Lordship's consideration whether it may not be advisable that the Principal Surgeon at Sydney should be instructed to receive from the Commissariat Officers and from the Surgeons of the Convict Ships, which may hereafter arrive there, the Medicine Chests, Medicines and all other Medical Stores, that may be remaining in their charge, to grant them regular receipts for the same, and to appropriate the whole to the Service

Suggested
disposal of
medical stores
in colony.

1826.
5 Oct.

Suggested
disposal of
medical stores
in colony.

of the Colony, or dispose of any Surplus, as also of the Medicine Chests, Lemon Juice, Cases, etc., to the best advantage, that can be obtained for the benefit of the Crown, rendering to this Board from time to time correct Accounts of the proceeds of the Sales.

Should this proposition meet your Lordship's approval, we would recommend that the like arrangement should be extended to Van Diemen's Land; and we shall, from time to time, cause your Lordship to be furnished with Statements, shewing the quantities and description of the Stores delivered into the Charge of the Colonial Surgeons and applied by them to the Public Service; and, upon being favored with the communication of your Lordship's sanction of the measure, we shall request the Navy Board to give the requisite directions to the Surgeons of the Convict Ships on the subject; and we shall instruct the Officers of the Commissariat at New South Wales to deliver over to the Colonial Surgeons all Medical Stores that may be in their charge.

We have, &c.,

G. A. CHETWYND STAPYLTON.

F. EDGCOMBE.

W. BURNETT.

[Enclosure No. 2.]

UNDER SECRETARY HAY TO THE COMMISSIONERS OF VICTUALLING.

Gentlemen,

Downing Street, 5 Oct., 1826.

Approval of
proposal.

I have received the directions of Earl Bathurst to acknowledge the receipt of your letter of the 27 Sept., submitting to his Lordship's consideration whether the Medical Stores, which may remain after the arrival of Convict Ships at New South Wales and Van Diemen's Land, might not be appropriated to Public service there, instead of being sent home, as has hitherto been the practice, at an expense of freight nearly commensurate with the value of the Articles; and I am directed by Lord Bathurst to acquaint you in reply that his Lordship is not aware that there will be any objection to the arrangement, which you have suggested, and he will give directions to the Governor of New South Wales, unless he shall see any objection to the measure, to cause the different articles in question to be received into the Colonial Stores at a fair valuation, and to cause payment of the same to be made to the Victualling Board.

I am, &c.,

R. W. HAY.

GOVERNOR DARLING TO UNDER SECRETARY HAY.

1826.
5 Oct.

(Despatch per brig Fairfield.)

Sir,

5th October, 1826.

I find that two of my Despatches, dated the 25th of May and the 18th of July last, have, by some mistake been numbered 36. I have, therefore, to request, as the best means of rectifying the error, that the Despatch dated the 18th of July may be marked "Separate," and the number be erased, which alteration has been made in the Record Book, which is kept here.

Error in numbering despatches.

I have, &c.,

RA. DARLING.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 83. per ship Midas; acknowledged by Governor Darling, 22nd February, 1827.)

Sir,

Downing Street, 6th October, 1826.

6 Oct.

I have the honor to acknowledge the receipt of your dispatch, No. 35 of the 24th May last, enclosing the copy of a letter from Archdeacon Scott, as Chairman of the Committee of the Corporation for the Church and School Estates, on the subject of an advance of Money to enable the Trustees to proceed in erecting the Buildings, required for School Houses, and the performance of Divine Worship, and for Residences for the Clergy; and you state that you have informed the Committee that, in the event of the Corporation not having it in their power to raise Money on Debentures, as proposed in the Archdeacon's letter, you shall not object to the issue from the Colonial Treasury of such money, as may be required from time to time for the purposes pointed out, until you shall receive Instructions from me on that subject.

Financial assistance for corporation of clergy and school estates.

The objects, for which these funds are required, are so closely allied to the religious and moral condition of all Classes of the Inhabitants, and the prosperity of the Colony is so intimately connected with the success of them, that it is impossible to doubt the propriety of providing for this Service, as soon as possible after due consideration shall have been given to the mode, by which the funds necessary for the purpose can be supplied; but I regret, at the same time, to acquaint you that His Majesty's Government cannot but disapprove of your having undertaken to advance any money out of the Colonial Treasury for this or for any other purposes, involving so large an expenditure, without previous authority. However desirable and important the objects may be in themselves, it never can be maintained that they are of that pressing and immediate urgency as to supersede the possibility of your sending home a Report, and affording

Disapproval of unauthorised advances.

1826.
6 Oct.

His Majesty's Government time to give their consideration to the means, by which funds are to be raised for carrying similar undertakings into effect.

Instructions to
be implicitly
obeyed.

I take this opportunity of calling your attention to the Instructions of the Lords Commissioners of the Treasury, dated the 13th June, 1826 (copy of which I had the honor to forward to you in my dispatch of the 11th August); to the Rules and Regulations, prescribed in which, you will most strictly conform yourself; but more particularly must I enjoin you to observe that part of the Instructions, which provides that no service shall be undertaken, which involves an expenditure above £200 Sterling without the sanction of His Majesty's Government being first obtained.

Responsibility
of governor for
unauthorised
advances.

I beg at the same time to state that, in all cases where Governors for the time being shall omit to comply with this Regulation (which has become additionally requisite from the urgent necessity of observing every circumspection in applying the resources of the Country), the contingent Sums, so expended, will be considered as inadmissible charges by the Commissioners of Audit, and the amount be permanently surcharged in the Colonial Accounts; nor will it be in the power of the Secretary of State, except in very particular cases, to remove, by any subsequent interference, the responsibility which such an omission will have entailed upon the Parties concerned.

I have, &c.,
BATHURST.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 75. per brig *Fairfield*; acknowledged by Earl Bathurst. 20th March, 1827.)

My Lord, Government House, 6th October, 1826.

Report on
outrages by
natives near
Hunter river.

As the particulars of some outrages, which have been committed by the Natives in the District of Hunter's River, may from the want of the necessary information be misrepresented, I have in consequence obtained from Messrs. Scott and McLeod, Magistrates of that District, a Report of the Proceedings, as they occurred, and have the honor to transmit herewith a copy thereof, judging that Your Lordship would wish to be in possession of authentic information of the several events.

Depositions
taken by
R. Scott.

It appears that, on hearing of the Proceedings at Mr. Lethbridge's farm, Mr. Scott, who is a very active Magistrate, immediately repaired to the spot; and I do myself the honor to enclose for your Lordship's information copies of the depositions, which were taken on that occasion.

As soon as I was informed of these events, I directed Captain Foley, the officer in the immediate command of the Military at Newcastle, to proceed with a detachment for the protection of the Settlers. But the Natives had disappeared before the arrival of the Troops; and Captain Foley, having communicated with the Magistrates, as he was directed, returned to Newcastle, leaving a few men for the security of the more distant Farms.

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6 Oct.
Military
detached for
protection
of settlers.

I beg to refer your Lordship to the enclosures, numbered in the margin,* as having immediate reference to the proceedings at Mr. Lethbridge's; and, in order that your Lordship may be satisfied that no exertions have been spared on any occasion to afford the necessary protection to the Settlers, I further beg to refer your Lordship to the accompanying enclosures,† which relate to a former occurrence, when one of Dr. Bowman's men was killed by the Natives.

I have only to add that no apprehension can be entertained of the Natives as a body, though their treacherous proceedings render it necessary for the stockmen and others, employed on the remote Farms, to watch them closely, it being stated in Captain Foley's letter of the 22nd of last Month, which is enclosed, that the Murders have invariably been perpetrated by the Natives, domesticated on the Establishments of the Settlers. The outrages, which they have been guilty of, deserve the severest chastisement; and it may be mercy in the end to check by decisive measures the disposition, which they have manifested on the late occasion. But I fear the conduct of the Natives has not been altogether unprovoked; and, being strict observers of the Law of retaliation, I am informed that they never fail to exact blood for blood.

Treachery
of natives.

Mr. Bannister, the Attorney General, who though extremely sensitive on the subject of the Natives, has repeatedly urged the necessity of proclaiming Martial Law. The idea, however, appeared too extravagant to be entertained for a moment. Martial Law could not be necessary to put down a few naked Savages; nor am I aware, if mercy to these people be his object, that the means which he proposed would have insured the end he had in view.

Martial law
proposed by
S. Bannister.

It may be satisfactory to your Lordship to be informed that the whole of the proceedings at Hunter's River have been communicated to the Executive Council, and that an enquiry has been directed into the circumstance, stated in the Report of the

* *Marginal note.*—Nos. 3, 4, 5, 6 and 7.

† *Marginal note.*—Nos. 8, 9, 10, 11 and 12.

1826.
6 Oct.

Magistrates (vide page 6*), of a Native having been shot, when in custody. The result will be duly communicated to Your Lordship.

I have, &c.,
RA. DARLING.

[Enclosure No. 1.]

MESSRS. SCOTT AND MACLEOD TO COLONIAL SECRETARY MCLEAY.

Sir,

Sydney, 3rd October, 1826.

In compliance with His Excellency the Governor's request to draw up a brief account of the hostilities, at present existing between the Europeans and the Aborigines in the Upper Districts of Hunter's River, we subjoin the following report for His Excellency's information; and we regret that this report cannot be so satisfactory, as could be wished, as many of the incidents related are from hearsay alone.

It is our opinion that the first cause of ill blood originated in a communication between the Mudgee Natives and those on Hunter's River. The Mudgee Blacks, it may be recollected, were one of those Tribes concerned in the outrages in the Bathurst Districts. During the time that the Mudgee Natives remained, several acts of aggression were committed, such as food and clothes being forcibly obtained from some of the lone Stock Stations, for instance Mr. Onus's station at Wollumbi Brook.

The next symptoms of hostility were at Mr. Little's and Mr. Intyre's farms, where the Natives stole the maize, and the proprietors defended it. On one occasion, the natives were pursued by Mr. John McIntyre from the Maize field, when they took up a strong position and rolled down rocks and stones, which forced Mr. McIntyre and party to retreat.

Then followed several petty robberies on single individuals, while travelling the long and lonely road from Dr. Bowman's upwards, such as stripping them of their cloathes and provisions; and Mr. McIntyre's dray was robbed by the Natives, although one of the two men in charge had a blunderbuss.

Mr. Greig and his shepherd soon after were murdered without any apparent cause, unless Mr. Greig's known aversion to having the Natives about him might have excited their hatred. The same Tribe, who committed this murder, fearful of our vengeance, removed, together with the Wallumbi Natives, into the Mountains; and there again they were guilty of another atrocity by murdering one man and dreadfully lacerating another, whose name is Robinson. This happened at Mrs. LAYCOCK'S Station at Booty. Robinson is at present somewhere in

* Note 136.

the neighbourhood of Windsor. When the report of this Murder reached Windsor, a party of the Military were sent from thence in pursuit of the Blacks, whom they fell in with and fired upon; but whether any deaths occurred we cannot state.

1826.
6 Oct.

Report by
magistrates on
hostilities
with natives.

In consequence of all these acts of violence, a party of Military were sent up from Newcastle to the disturbed Districts. Several Natives, who were known, and others, who were suspected to have been concerned in the murders and robberies, were apprehended; some of whom got away unperceived, and others were fired upon, while running away, but no shots took effect.

The mounted Police now arrived, and were called into active operation, in consequence of an attack by the Natives on Mr. John Forbes's Station, when one of his men was speared in the shoulder.

About this time, Billy, who was identified as one of those concerned in this outrage, was apprehended by the Mounted Police, and lodged in Newcastle Gaol, where he still remains.

Shortly after this Dr. Bowman's Stockman was attacked, and stript quite naked in the Bush; and a day or two after the same Gentleman's Watchman was murdered in his hut about 3 o'clock of the day, while the other men were absent with their flocks.

And again, a few days after that, the same Natives went to James Chilcott's Farm, and attempted by force to plunder the house; one of the Natives, named Cato, had a struggle with Chilcott for a gun, when a general engagement took place, and the Natives were beaten off without the loss of any lives, the white people only firing at their legs.

Two of Dr. Bowman's Fencers were attacked, while at work in the Bush, by a Body of Blacks; and, altho' they escaped with their lives, they were severely wounded; one of whom is now in Newcastle Hospital with seven spear wounds and dangerously ill.

After this, the party of Mounted Police were reinforced and succeeded in taking one of the Natives, who murdered Dr. Bowman's Watchman, who was shot. Shortly after, several more Natives were taken by the Police, three of whom were shot, as stated in a report to His Excellency by three Magistrates of Hunter's River. About the same time, two more Blacks, suspected of being concerned in the murders at Mr. Greig's and at Booty, were apprehended and lodged in Newcastle Gaol; one of those has since been liberated.

1826.
6 Oct.

Report by
magistrates on
hostilities
with natives.

The House of Mr. Ogilvie, during his absence, was attacked by a large body of Blacks, whose principal object, it would appear, was to get two men, who had on a former occasion detained a Black by the name of Jerry, having mistaken him for another of the same name, who was one of the murderers at Dr. Bowman's, and who was liberated the next morning when the error was discovered. These men, however, were not to be found; and, in consequence of Mrs. Ogilvie's judicious and spirited conduct, the Natives retired without doing any further harm than stealing a quantity of maize from the House, where it was stored.

Then followed a daring and most shocking attack on Mr. Lethbridge's Farm, when the Hut was suddenly surrounded, and two men killed and one wounded, before they had time to defend themselves; and the fourth man was severely wounded, while defending the Hut, after the others had fallen, his wife and two children having been sheltered under the bed during the attack. The Natives succeeded in plundering the Huts adjacent, and retired in consequence of one of the Shepherds having ran towards Mr. Glennie's for the Military. As per depositions taken on the spot and formerly forwarded to His Excellency—On the alarm being given at Mr. Glennie's, the Mounted Police went in pursuit, but did not find the Natives. Two days after this, a party was formed consisting of a Magistrate, five Military and four Europeans, and four friendly Native Blacks, who came up with the murderers on the morning of the third day, when a skirmish took place and one European was speared in the face, and it is supposed that two of the murderers were killed, and some more wounded, as reported by a Black woman, who was taken prisoner.

Subsequently to this, another attack was made upon five Fencers in the employ of Dr. Bowman, who, while at work, were alarmed by their dog barking, when they immediately seized their arms and fired upon the Blacks, and it is supposed wounded one.

This is the last act of violence, we have heard of.

It will be necessary to add that the disturbances are confined to the Upper districts of Hunter's River, principally occupied by three Tribes, whose numbers we should suppose to exceed five hundred.

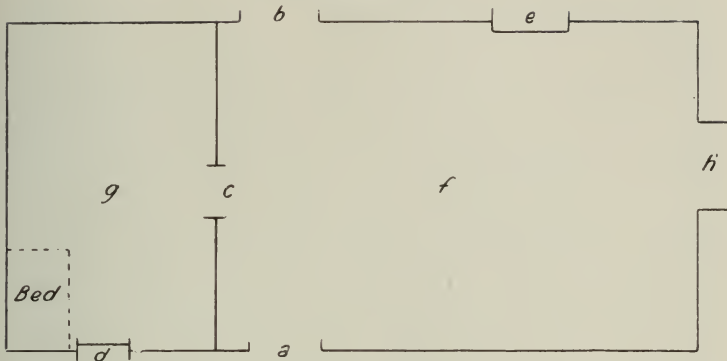
These circumstances have all occurred within the last ten months.

We have, &c.,

ROBERT SCOTT, J.P. ALEX. MACLEOD, J.P.

[Enclosure No. 2.]

1826.
6 Oct.



- a. Door. b. Door. c. Door into Inner Room. d. Window of do. do.
e. do. of Outer do. f. Outer Room. g. Inner Room. h. Fire place.

DEPOSITION AT INQUEST.

New South Wales To Wit.

JOHN WOODBURY, Hindostan, assigned servant to Mr. Thos. Cullen, Pitt Town, Sworn, Stateth

Deposition of
J. Woodbury
at inquest.

That I am at Hunter's River looking after Cattle, belonging to my Master. That the Cattle are on Captain Lethbridge's farm, and I reside there also. That yesterday I came home about 12 o'clock, and found about 14 or 15 Blacks had just arrived. They were all armed. There was no one at home at that time, except Mrs. Allcorn (the overseer's wife) and a little boy. This boy was sent for two men, who were working near the house; a Black followed the boy to see which way he went. The two men came with the boy, and the Black with them. Mrs. Allcorn desired me to give the Natives some Kangaroo to keep them quiet, which I did; and they roasted it at the fire and eat it. They then wanted Bread and Maize, and we told them we had not any. A few only came into the house; the others were at a fire they had made to roast the Kangaroo. The Natives stayed about the place without offering any violence either in word or deed, until about 4 o'clock when the overseer Allcorn came home.

We then consulted together, and thought it would be dangerous to allow so many armed Blacks to remain about the place, and accordingly ordered them to go away to the Bush, and not to remain about the Hut; this was told to two or three, who were in the Hut with us at the time. (What made us more anxious to get the Natives away was that there were three among them, who had been concerned in robbing Chilcott's hut some time before.) The Natives, who we desired to go away, immediately cried out to the others, who began to talk loudly among themselves; and the little boy, who was looking out of the door, cried out the Blacks were coming. We rushed to the inner room G, where the arms were; and the Natives instantly surrounded the house (there

1826.

6 Oct.

Deposition of
J. Woodbury
at inquest.

were neither doors nor shutters to the hut); and, just as I got a musket and turned round to the window D, I saw several spears pointing in; and, before I could shoulder the musket, a spear struck me in the hand, and I was forced to drop the musket with the weight of the spear and pulled it out. The woman and little boy and baby got under the bed. Henry Cottle, who stood at the bottom of the bed, received a spear in the left breast and fell down dead. Just as I recovered my Musket, one of the men (Morty Kernan) cried out he was a dead man, dropped his musket, and grasped the side of the door, and leant his shoulder against the door post with his head in the outer room f.. Morty was with the gun at the door C, pointing at the window e, when he received the spear. I fired through the window D, and loaded as far as I could with powder only, for the shot was in the outer room F near the fireplace H, and we did not dare go into that room, on account of the two doors A and B and the window E, which were all manned by Blacks. Their spears seem to have been exhausted by this time, for they now began to throw stones; one of which struck Morty on the back of the head, as he leant on the door post, and he fell dead. I cannot exactly say that it was a stone that struck Morty; it may have been a club, for I heard two heavy blows very quickly after each other, when I saw him fall. Richard Allcorn was not wounded at this time that I saw; he asked me for a Bayonet, we had fixed on a short pole, and he kept thrusting at the Blacks, as they thrust at him with their long spears; at last a blow with something or other broke the bayonet; all this time I kept firing blank powder at them. Allcorn then seized a cloaths Box, and put against the window D; but the Blacks soon broke the box to pieces, and he was forced to drop it, when he received a blow on the back of the head with a large stone, and he fell senseless. I was now left alone and kept guarding the window D, and the door C with the Musket. Through the slabs, I saw several Natives making off with blankets and a bed from the men's hut, which was close by the one, where we were in; a short time after this, all the others left me and made away in the direction the others had gone with the booty and did not return. I went outside and fired off two shots to alarm Chilcott's men; but they did not come until the little boy went for them.

Soon after the Blacks had gone, Allcorn got up and was quite bewildered and talked nonsense.

I know some of the Natives.

Ball, Murray, Togy:—These three Men were concerned in robbing Chilcot's Hut;

Brandy and a lad, who was once taken by the Soldiers and let go again on Mr. Glennie's farm;

And a man, who kept one of his eyes almost closed;

And another short stiff fellow, whom I should know well.

The others I don't recollect particularly.

his
JOHN X WOODBURY.
mark

Sworn before me this 29th day of August, 1826.

ROBERT SCOTT, J.P.

Richard Allcorn is in too weak a state to give evidence; and Mrs. Allcorn seems to have but a confused idea of what passed. She is still much agitated.

ROBT. SCOTT, J.P.

DEPOSITIONS OF MESSRS. ROBERT SCOTT AND J. GLENNIE.

1826.
6 Oct.

30th August, 1826.

I, THIS day, went to the Station belonging to Capt. Lethbridge to examine the bodies of Henry Cottle, per ship _____, assigned servant to Capt. Lethbridge, and Morty Kernan, per ship _____, also assigned to Capt. Lethbridge. I found them lying exactly in the way described by John Woodbury.

Depositions of
R. Scott and
J. Glennie.

Henry Cottle was killed by a spear, which passed through the fleshy part of his left arm, and entered his body a little (about one inch) under his arm pit; he had no other wound.

Morty Kernan had a spear wound in his left side about four or five inches under the arm pit, and a very severe and extensive fracture on the back of the head, the blood issuing from his nose, ears and mouth.

Broken spears were lying about in every direction; and I was shown two stones, which had been thrown into the Hut by the Natives.

I also saw the shattered Box.

Mr. James Glennie accompanied me in the above investigation.

The Burial Service was read over the two men, and interred as decently as circumstances would admit.

ROBT. SCOTT, J.P. JAMES GLENNIE.

The attack, so far as Capt. Lethbridge's people were concerned, was quite unprovoked. This same Tribe is a distinct one from those, which have hitherto been committing the outrages so often repeated, and are the same, who robbed and used some violence to the people at James Chilcott's House, which is only a quarter of a mile from Capt. Lethbridge's; for which one of the Blacks concerned have been shot.

ROBT. SCOTT, J.P.

[Enclosure No. 3.]

LIEUTENANT DE LA CONDAMINE TO CAPTAIN ALLMAN.

Sir, Government House, 7th September, 1826.

I have the honor to acknowledge your letter of the 30th August, with its enclosures, representing the disturbed state of the District; and I am directed to inform you that orders have, in consequence, been sent to the Officer, commanding the Detachment at Newcastle, to repel those aggressions, and to put an end to the violence of the Native Inhabitants.

Orders sent
to military.

I have, &c.,

T. DE LA CONDAMINE, Actg. Mil. Secy.

[Enclosure No. 4.]

LIEUTENANT DE LA CONDAMINE TO CAPTAIN FOLEY.

Sir, Government House, 7th September, 1826.

It has been reported to the Lieut. General commanding that the District of Newcastle is much disturbed by the conduct of the Natives, who are said to have assembled in considerable

1826.

6 Oct.

Military
detachment
to proceed
against natives.

numbers, and to have murdered two men, the servants of Mr. Lethbridge. I am in consequence instructed to desire that you will immediately proceed, leaving the subaltern of your Detachment at Newcastle, with 20 or 25 men in addition to those already detached by Captain Allman, in order to repress the hostile incursion of the Native Inhabitants, and to punish the outrages, which have been recently committed; to which effect, you will oppose force by force, and repel those aggressions without waiting further Orders.

It is desirable that you should proceed with promptness, and act with decision, as the most likely means of intimidating these people and putting an end to their further violence. The Detachment of Mounted Police will be under your orders; and you will be pleased to communicate with the Magistrates of the District, from whom you will receive every support and information.

His Excellency desires that you will report for his information by every opportunity. I have, &c.,

T. DE LA CONDAMINE, Actg. Mil. Secy.

P.S.—You will consider this as superseding any Order on this subject, which you may have received through the Major of Brigade. T. DE LA C.

[Enclosure No. 5.]

LIEUTENANT DE LA CONDAMINE TO CAPTAIN FOLEY.

Sir, Government House, 8th September, 1826.

I am directed by the Lieut. General to state, in reference to my letter of last night, that it is understood that eleven of the Natives can be identified as the persons, who committed the outrages at Mr. Lethbridge's. You will, therefore, endeavour to ascertain this fact; and, if it prove correct, the Lt. General desires you will make use of any of the Natives, whom you may be enabled to employ, in communicating with those, who are assembled, and call on them immediately to deliver up the murderers, making it the condition of General Pardon to the others, who must further be required immediately to disperse. If this be refused, you will take such steps, as may appear most likely on the spot, to seize the eleven men alluded to, and disperse the general Body by force of arms. The Lt. General has desired me further to point out to you the advantage, which will result from your Detachment being accompanied by some trusty intelligent Natives; and he desires you will accordingly avail yourself of their services. I have, &c.,

T. DE LA CONDAMINE, Actg. Mil. Secy.

Natives guilty
of outrages
to be secured.

P.S.—It is understood that one of the Natives, who is now in Jail at Newcastle, and was taken up as having been concerned in the outrages, which took place some time since, may be rendered instrumental in communicating with the Natives. You will apply to Captain Allman accordingly.

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6 Oct.

T. DE LA C.

[Enclosure No. 6.]

CAPTAIN FOLEY TO LIEUTENANT DE LA CONDAMINE.

Sir,

Newcastle, 22nd Septr., 1826.

I beg leave to acquaint you, for the information of the Lt. General, that, on the receipt of the instructions, conveyed to me in your letters of the 7th and 8th Inst., I proceeded with 20 men to the scene of the late outrages upon the Hunter.

Report by
J. M. Foley.

On my arrival at Mr. Glennie's estate, I found the Detachment of a Corporal and six, despatched on Captain Allman's requisition, who, as well as the party under my own immediate orders, had been anticipated by the activity of Mr. Scott of Glendon, who, with some of his people and some volunteers, with three soldiers of the Mounted Police, pursued the murderers, the second day after the outrage at Mr. Lethbridge's farm, and succeeded by the aid of one of his own Blacks in coming up with them at a distance of twenty miles or more from the scene of the murder. Two of the most active in the attack of Mr. Lethbridge's people were shot; and, from the report of their women, several others were wounded. In the affair, one of the pursuing party was speared through the cheek, and one of the Police narrowly escaped being speared through the head. The remainder of the Tribe has fled far into the Interior, and for several days, previous to my coming up, no appearance of their return to the vicinity had been observed.

Punitive
measures taken
by R. Scott.

Considerable difficulties presenting themselves in rationing the Detachment, I considered its detention there unnecessary, and ordered it back to Newcastle, having stationed seven men in the district, divided between Mr. Bowman's, Mr. Glennie's, and a Mr. Chilcott's farms, the latter but half a mile distant from Mr. Lethbridge's farm, with a small detachment of the Mounted Police under Serjeant Moore, a very active and intelligent non-commissioned Officer, and well acquainted with the Country, and the only soldier, who has had influence sufficient with the Natives to induce one of them to accompany him in pursuit of his fellows. I have given him instructions to use every means to secure the surviving men of the Tribe, known to be implicated in the late affair.

Military and
police stationed
in district.

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6 Oct.Statement by
W. Ogilvie.

With five more, I proceeded to Mr. Ogilvie's, having forwarded five to the Estate of Mr. McQueen. I have ascertained from Mr. Ogilvie that the assemblage of Natives some time since at his place arose altogether from his constable and a soldier of Police having got among the Blacks in disguise, under pretence of searching for bushrangers, and seizing one of them, named Jerry, under the supposition of his being the Jerry of another Tribe, who is believed to be the murderer of Mr. Forbes' stockman; but, having found their mistake, he was liberated; yet his tribe assembled at Mr. Ogilvie's with an intention of taking vengeance on the constable and soldier for what, they deemed, an act of bad faith and hostility; and, had they been present at the time, it is likely they would have destroyed them. They are still in the neighbourhood but perfectly quiet; and Mr. Ogilvie does not entertain any apprehensions of their future hostility. He willingly retains the Detachment I brought; and two of them will be stationed within a short distance on Captain Pike's Estate on the other side of the river, and can be communicated with, if necessary, in half an hour. From this mode of distribution, which they will immediately become acquainted with, it is hoped their knowledge of the Troops being within call, whom they particularly dread, will tend much to prevent any treacherous aggressions, as they will be aware that the means of punishing the Offenders is at hand.

Distribution of
detachments.

With respect to stationing an officer and party at or in the vicinity of Mr. Scott's, I beg to state that it is the general opinion of the Magistrates, I have consulted, that they are more usefully placed in small Detachments in the disturbed District, and that the Station of Mr. Robertson at Wallis Plains is quite sufficient for all purposes of speedy communication; nor is there the means of accommodating an Officer's party in any part of the country about Mr. Scott, nor even at his place, without great inconvenience. I beg the Lieut. General's further instructions on this head.

Native sent to
communicate
with tribe.

In endeavouring to open a communication with the Natives, it was deemed prudent to make use of the Native (named Dennis), who was detained in Jail at Newcastle; and he was taken by Captain Allman and Mr. Ogilvie as far as Mr. Scott's. It was conceived best to let him go, uncontrolled by any military party, of which he seemed much in dread. He promised, however, to join us at Mr. Glennie's, and lead us into the Bush, which he did not perform; and, whether he will carry the instructions given him to the Tribes is yet uncertain, Mr. Ogilvie being the only Settler, who does not doubt his good

faith. He belongs to the tribe, who frequent that Gentleman's district. It is generally believed that the Natives will not be prevailed on by any threats or promises of pardon to deliver up the guilty individuals, and that stratagem or force must eventually be resorted to; on their re-appearing, this may be effected. It may be necessary to observe that all those acts of outrage have been committed without an exception by Natives, who are domesticated on the very Estates, where they have occurred, and not by the incursions of unknown or wild tribes; every one of these is perfectly and intimately known by names, they have received amongst the Settlers, near whom they have dwelt.

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Outrages
committed by
domesticated
natives.

I beg also to observe the great difficulty a military party ever finds in inducing any Native to accompany it on these excursions after their fellows; none of Mr. Scott's Blacks will accompany any one but himself; and there is but one Black that Serjeant Moore of the Mounted Police has been able by presents to accompany him on one or two occasions; and I would venture to suggest the propriety of some blankets and slops, in request among the Natives, being placed at the disposal of Mr. Robertson for the purpose of attaching guides to his and other Military parties, that may require them. The Native, above alluded to, was gained to Serjeant Moore's service in a moment of necessity by giving him one of his own blankets. From Mr. Robertson of the Mounted Police, I have received the most effective support in everything, that could forward the service, on which I have been employed; and, to his judicious distribution of his detachment, I mainly attribute the quickness, with which Mr. Scott was enabled to pursue the retreating Blacks into their haunts.

Difficulty in
obtaining native
guides for
military.

Services of
ensign
Robertson.

I returned to Newcastle late yesterday; and, finding the packet detained by contrary winds, I avail myself of this first opportunity of reporting for the Lt. General's information the perfect tranquility of the country from Wallis's Plains to Mr. Ogilvie's, a distance of nearly eighty miles.

I have, &c.,
J. M. FOLEY, Captain, Buffs.

[Enclosure No. 7.]

LIEUTENANT DE LA CONDAMINE TO CAPTAIN FOLEY.

Sir,

Government House, 3rd October, 1826.

I have the honor to acknowledge your Letter of the 22nd September, and, in reply, am directed to inform you that it is

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Offensive
measures to be
avoided.

the Lieut't General's desire that the soldiers, who are stationed with the settlers, may be ordered not to act offensively against the Natives under present circumstances, but to protect the Establishments and repel them, should they make incursions and disturb the Country.

His Excellency approves the arrangements you have made for the protection of the Settlers; but he requests that the Soldiers may be withdrawn, as soon as the apprehension of a renewal of attack on the part of the Natives is removed.

Reports to be
submitted.

The Lieut't General requests that you will continue to report from time to time, and that you will inform him whether Dennis, the Native, has returned.

Blankets for
natives.

Instructions have been given to the Deputy Commissary General to send some blankets and sloop clothing to Ensign Robertson to reward the Natives, who afforded their assistance; and it will be very desirable to encourage the most intelligent and faithful among them to remain with the Mounted Police, and to accompany them on all occasions that they may be useful.

I have, &c.,

T. DE LA CONDAMINE, Actg. Mil. Secy.

[Enclosure No. 8.]

LIEUTENANT DE LA CONDAMINE TO CAPTAIN ALLMAN.

Sir,

Government House, 21st June, 1826.

Murders by
natives.

Information has reached the Lieut't General through a private channel that the Natives in the neighbourhood of Illalanny have killed two shepherds on Dr. Bowman's property, and committed other depredations.

Measures for
protection of
lives and
property.

His Excellency desires that you will immediately put yourself in communication with Mr. Close and the Magistracy of the District, and that you will render its inhabitants every assistance necessary for the protection of their property and the preservation of their lives.

The Detachment of Mounted Police will at once be the most efficient and most convenient body of Troops to engage in this service.

The Lieut. General desires that you will report upon the proceedings in this disturbed District by every occasion that presents itself, until order and tranquillity is restored.

I have, &c.,

T. DE LA CONDAMINE, Actg. Mil. Secy.

[Enclosure No. 9.]

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CAPTAIN ALLMAN TO LIEUTENANT DE LA CONDAMINE.

Sir, Commandant's Office, Newcastle, 27 June, 1826.

I have the honor to acknowledge the receipt of your letter, dated the 21st Instant, conveying to me the information of its having been reported to the Lieut't General thro' a private channel that the Natives in the neighbourhood of Illalanny had killed two shepherds on Dr. Bowman's property and committed other depredations. Murders by natives.

Altho' I have not as yet received an answer from Mr. Close to my communication on the subject, yet I feel it my duty not to delay undeceiving the Lieut. General, as far as I am able, as to the accusation brought against the tribes in that neighbourhood; the murder of Dr. Bowman's shepherd was committed at a distance of nearly fifty miles from Illalanny; and, independent of this fact, the Natives to my own personal knowledge, as well as what I have heard of their general character, are very inoffensive and are never known to wander so far; under all these impressions, I think that there exists no foundation whatever for the report made of them in this instance. It will be seen by the depositions, forwarded to the Attorney General, that the unfortunate man, who met his death, was murdered by one of the Natives, who was in the habit of frequently visiting his hut, assisting him in plaiting straw, etc. The report of two men being killed, I am happy to state is not true. Inaccuracy of report.

I beg further to inform you that I am in constant communication with Mr. Ogilvie, the resident Magistrate of the disturbed District, as also Mr. Close and the other Magistrates, and that I shall not fail from time to time rendering to them every means of protection in my power. Maintenance of communication.

Lieut't Low has returned from the Upper District, having in vain tried to apprehend the perpetrators of the late murder. He has left a serjeant and four privates of his Detachment to patrol and report to him anything extraordinary, as a constant Communication is kept up between this Office and the patrol. Assistance can be rendered, if necessary, from these precautions and the zeal and attention of Lieut. Low. I anticipate the future quietness of the District, to insure which no effort shall be wanting on my part; and I shall not fail to report upon the proceedings by every occasion, that presents itself, until tranquility is restored. Failure to apprehend murderers.

As many of the horses belonging to the Mounted Police, at present doing duty here, are very old, their efficiency on active Precautions to maintain peace.

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service cannot long be calculated on; it will, therefore, be most desirable that the reinforcement, about to be sent, may be furnished with a younger and better description of chargers.

I have, &c.,

F. ALLMAN, Commandant.

[Enclosure No. 10.]

LIEUTENANT DE LA CONDAMINE TO CAPTAIN ALLMAN.

Sir, Government House, 23d June, 1826.

With reference to your letter of the 20th Instant, addressed to the Colonial Secretary, the Lieut. General desires me to request that you will place a few more men at the disposal of Lieut. Low, should you consider the late proceedings of the Natives to require it.

Lieut. Low's Detachment will shortly be reinforced from Head Quarters by men now drilling for the purpose.

I have, &c.,

T. DE LA CONDAMINE, Actg. Mil. Secy.

[Enclosure No. 11.]

CAPTAIN ALLMAN TO LIEUTENANT DE LA CONDAMINE.

Commandant's Office, Newcastle,

Sir, 27th June, 1826.

I have the honor to acknowledge the receipt of your letter, dated the 23rd Inst., requesting, by order of the Lieut. General, that I should place a few more men at the disposal of Lieut. Low, should I consider the late proceedings of the Natives to require it.

Having seen that Officer since his return from the upper parts of this District, I am of opinion, from what he stated, that at present it will not be necessary to send any of the Detachment of Infantry on that service; but a reinforcement of the Mounted Police, with some good efficient horses, will be very desirable.

I have, &c.,

F. ALLMAN, Commandant.

[Enclosure No. 12.]

CAPTAIN ALLMAN TO LIEUTENANT DE LA CONDAMINE.

Commandant's Office, Newcastle,

Sir, 18th July, 1826.

I have the honor to report to you for the information of the Lieut. General that no acts of violence have been committed by the Aborigines in this District for some weeks past; and, from the persevering exertions of Lieut. Low and his Detachment, there is every reason to hope for permanent tranquility.

Detachment to
be reinforced.

Reinforcements
of mounted
police required.

Tranquility
in district.

Having made an offer of assistance from the Troops, stationed in this Town, to Wm. Ogilvie, Esqr., the resident Magistrate in the District beyond Patrick's Plains, I am happy to say this Gentleman did not think that at present any part of the Infantry were required.

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Military
not required.

I have, &c.,

F. ALLMAN, Commandant.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch marked "Separate," per brig Fairfield; acknowledged by Earl Bathurst, 20th March, 1827.)

My Lord,

Government House, 6th October, 1826.

I have the honor to acquaint your Lordship, in reference to my Dispatch of this date, No. 75, communicating the particulars of certain outrages, which had been committed in the District of Hunter's River, that 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 Lieutenant Lowe, the Officer commanding the Mounted Police, was acted on; and the accompanying Report was received; but, as the Native in question was not one of the three mentioned in this Report, it appeared advisable to bring the subject of his death under the consideration of the Executive Council, together with the other events, which had taken place. The Council, which met yesterday for the purpose, agreed with me in opinion that the order for an enquiry into the circumstances of the death of the Native, alluded to, should be repeated; and the necessary communication will immediately be made to the Magistrates.

Reported
shooting of
native in
custody.

Consideration
by executive
council.

It is my intention, as soon as their report has been received, to bring it forward with the other cases detailed in the Enclosure, herewith transmitted, so that the Council may have an opportunity of judging of the whole proceeding. 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. I trust, however, that the Report will prove to be unfounded, and I shall not fail to put your Lordship in possession of the result by the first opportunity.

I have, &c.,

RA. DARLING.

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[Enclosure No. 1.]

[A] COLONIAL SECRETARY McLEAY TO CAPTAIN ALLMAN.

Sir, Colonial Secretary's Office, 28th August, 1826.

With reference to your Communication of the 18th Inst., addressed to the Acting Military Secretary, reporting that three Native Blacks had been shot by the Mounted Police, under the command of Lieut. Low, I am directed by His Excellency the Governor to request that you will, in conjunction with Messrs. Close, Webber, and Scott, assemble and enquire into the circumstances of the killing of the Natives, alluded to, so that Government may be enabled to determine whether it will be necessary to institute any proceedings in consequence; but you are not to proceed in the investigation, unless Lieut. Low be present. If he should have left the District, directions will be given for his immediate return.

I have, &c.,

ALEXR. McLEAY.

[B] COLONIAL SECRETARY McLEAY TO CAPTAIN ALLMAN.

Sir, Colonial Secretary's Office, 6th September, 1826.

With reference to my Letter of the 28th Ult., requesting that you would, in conjunction with the other Magistrates, therein named, investigate the circumstances attending the killing of three Native blacks by the Mounted Police, I am directed by the Governor to desire that the investigation may take place at the residence of Mr. Scott as being a more central situation than Newcastle. This arrangement has been notified to that Magistrate and also to Lieutenant Low.

I have, &c.,

ALEXR. McLEAY.

[Enclosure No. 2.]

CAPTAIN ALLMAN TO COLONIAL SECRETARY McLEAY.

Sir, Commandant's Office, Newcastle, 15 Sept., 1826.

In obedience to the Commands of His Excellency, conveyed to me in your letter of the 28th Ult., and subsequently in your Communication of the 6th instant, ordering me, in conjunction with Messrs. Scott, Close, and Webber, to assemble at the former Magistrate's Residence to enquire into the killing of three black Natives, who were shot by the Mounted Police, under the Command of Lieutenant Low, as reported by me to the Acting Military Secretary under date the 18th Ultimo,

I have the honor to inform you that, on the 13th instant, I proceeded with Mr. Close to Mr. Scott's, and, in conjunction with those Magistrates (Mr. Webber being unavoidably absent), entered on the Examination.

Inquiry to
be held *re*
shooting of
natives by
police.

Holding of
inquiry.

By the accompanying proceedings, you will perceive that each individual present, when the occurrence took place, were examined; the Magistrates thought it right to take Mr. Larnach's deposition on oath, as also Mr. Glennie's; these were the only individuals, exclusively of the Military concerned, that could be found to afford any information.

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6 Oct.Holding of
inquiry.

I have, &c.,
F. ALLMAN, Commandant.

[Enclosure No. 3.]

[A] DEPOSITIONS AT THE INQUIRY.

Depositions
at inquiry *re*
shooting of
natives by
mounted police.

GLENDON TO WIT. Deposition of JAMES GLENNIE, Esqre. Sworn. This Deponent states that he was on his farm, when the Mounted Police came there in pursuit of some Blacks.

Four were secured, and one got into a tree. This tree was fallen, when he came to the ground and he was secured.

Deponent then went with the party to Chilcott's, where they were said to have robbed the hut, and to have attempted to get a musket from a man.

The Men recognised the whole party, as having been concerned, one of them more particularly, who had stolen a cake of bread and attempted to get a musket from one of the men by force.

This Black Cato was one of those afterwards shot. From Chilcott's, the party with Deponent went to Captain Lethbridge's to see if any Outrage had been committed by them there; but there had not. In going to Chilcott's, Cato refused to cross the Brook, when the Soldiers were obliged to use the flats of their swords to urge him on. The Soldiers were nearly half an hour endeavouring to secure him. It took four men to hold him. The party, after being at Captain Lethbridge's, went towards Deponent's farm, where Deponent left them. Soon after this, Deponent heard the report of a pistol, three of the Blacks from their being Boys were afterwards released, although they had been identified at Chilcott's.

JAMES GLENNIE.

Sworn before us at Glendon, this 13th of September, 1826.

F. ALLMAN, J.P. ROBT. SCOTT, J.P.
E. C. CLOSE, J.P.

GLENDON TO WIT. Deposition of Mr. JOHN LARNACH SWORN. This Deponent was with the Mounted Police, about the middle of last month, when they were escorting a Black, who had volunteered to show them where the other Depredators were. This Black was lashed by a Picket cord to one of the horsemen, who, when they arrived at a very thick scrub, would go on one side of a tree, when the horseman went on the other, which pulled them both up. This was repeated three or four times, when they arrived at the above Brush, where some fencers had been speared. The Black seemed quite uneasy and seemed well aware of the spearing. The blood was apparent in several places on sheets of bark. The Black pointed to one place, then in another, as the direction

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Depositions
at inquiry re
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mounted police.

where the Natives were. Deponent observed the Black about ten yards from the Soldiers endeavouring to escape, when he was fired at and killed, and left there. Had the Soldiers permitted him to have gone a little further, he would have escaped altogether. All this took place, whilst the party were looking over the spot, where the fencers had been speared. The Black seemed to be well aware of the spearing; and the impression in Deponent's mind was that he was a party concerned. This Black had been identified as one of the spearers at Dr. Bowman's.

This Black was a very singularly formed man, and the soldiers had taken him from the description, that was given by the Fencers, before he was brought to Dr. Bowman's to be identified.

The body of this Black was hung up by the Men on the Farm as a terror to the other Blacks.

JOHN LARNACH.

Sworn before us at Glendon, this 13th day of September, 1826.

F. ALLMAN, J.P. ROBT. SCOTT, J.P.

E. C. CLOSE, J.P.

Examinations
at inquiry re
shooting of
natives by
mounted police.

[B] EXAMINATIONS AT INQUIRY.

GLENDON, N. S. WALES
TO WIT.

Examination of LIEUT. NATHANIEL LOW of
the 40th Regiment.

This Examinant states that he lately commanded the Detachment of the Mounted Police, stationed in the Hunter's River District. That, owing to a number of Murders and Depredations being committed by the Blacks, Examinant gave directions to his party that, if ever they fell in with any of them, who they knew to have committed any act of atrocity, that they must secure them, and, if they attempted to escape by freeing themselves from the ropes, with which they were secured, to fire; this being the only means, pursued by both Civil and Military Officers, who had charge of felons. The escape of some Felons from the Military at Wallis' Plains, not long since, rendered the caution necessary, as the soldiers concerned were most severely punished. When Examinant was at Bathurst, in command of a Detachment there, a similar circumstance took place.

If these soldiers had permitted the Blacks, the subject of the present enquiry, to escape. Examinant would have felt it his duty to have brought them to trial.

Under such impressions, Examinant reported everything that occurred from time to time. It was in obedience to these orders that three Natives were reported to Examinant as being shot.

Examinant, therefore, considered the Soldiers had only done their duty.

Taken before us, this 13th day of September, 1826.

F. ALLMAN, J.P. ROBT. SCOTT, J.P.

E. C. CLOSE, J.P.

Examination of SERGEANT LEWIS MOORE, Mounted Police.

This Examinant states that, about the 12th of August, his Party apprehended several Blacks, who had been named to him, and who were taken about to the different places, where Depredations had been committed, and identified. In marching these Prisoners down

the country, three Blacks broke the ropes, with which they were secured, and fled. Examinant and party did all they could to persuade them to return; but they continued their flight; under these circumstances the party were obliged to fire on them, when the three runaways were shot; from being mounted, the party were unable to pursue the Blacks, who ran into the Brushes. There were at the time other Prisoners in charge, and, having Lieutenant Low's order to secure the Blacks when they were taken, he had nothing left for it but to order them to be shot. Examinant conceived he would be severely punished, if he had permitted the Blacks to escape.

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mounted police.

Answers to questions from the Bench.—Two out of the three Blacks were shot in one day, and the other on a different day. All three of these Natives were shot in making their escape; and, if the body of a Native is hanging in the Forest, the Mounted Police did not do it.

Taken before us, this 13th of September, 1826.

F. ALLMAN, J.P. ROBT. SCOTT, J.P.
E. C. CLOSE, J.P.

GLENDON TO WIT. Examination of GEORGE CASTLES, private in the Mounted Police.

Examinant was present, when some Natives were escorted down the River. They were tied; they afterwards freed themselves; they were called on to come back several times, and then they were fired on; there were other prisoners in charge, and these men could not have been kept without endangering the security of the other prisoners. Had they not been shot, they would have escaped into the thick Brush, where the party could not have followed them. The three Blacks were shot at different places, and in situations where the Cavalry could not follow them. On being questioned by the Bench, Examinant denies that the Party shot any man except in the act of escaping, and knows nothing of a Black being hung.

Taken before us, on this 13th day of September, 1826.

F. ALLMAN, J.P. ROBT. SCOTT, J.P.
E. C. CLOSE, J.P.

GLENDON TO WIT. Examination of JOHN LEE, private in the Mounted Police.

Examinant was with Serjeant Moore escorting Blacks that they had taken about the Middle of August. When one of them endeavoured to escape, he was shot. Two others under similar circumstances were also shot.

Examinant denies the common report that one of these Blacks was hanged by the party, and knows nothing of such a circumstance. Repeats that the Blacks were shot, after having freed themselves from the cords, endeavouring to escape. The whole of these men were called to come back before they were fired at.

Taken before us, this 13th of September, 1826.

F. ALLMAN, J.P. ROBT. SCOTT, J.P.
E. C. CLOSE, J.P.

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GLENDON TO WIT. Examination of JAMES FIELDING, private in the Mounted Police.

Examinations
at inquiry *re*
shooting of
natives by
mounted police.

Examinant states that he was with Serjt. Moore escorting Blacks. Three of the Blacks were shot endeavouring to escape. They were as well secured as the Cords they had would allow. They freed themselves by biting them in two. None of these Blacks were shot except in the act of escaping. When they ran away, every effort was made to cause them to return, before they were fired at. Examinant knows nothing about hanging a man; is aware of a report that a black man was hanged, but it was not done by their party. The body of one of the Blacks, shot by the escort, might have been afterwards hung up, but Examinant is not aware when it was done.

Taken before us, this 13th of September, 1826.

F. ALLMAN, J.P. ROBT. SCOTT, J.P.
E. C. CLOSE, J.P.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 84, per ship Midas; acknowledged by Governor Darling, 14th February, 1827.)

7 Oct.

Sir, Downing Street, 7th October, 1826.

I do myself the honor to acknowledge the receipt of your dispatch, No. 18 of the 1 May, enclosing a statement of Government Cattle, which have lately been disposed of by Public Auction; and it gives me much pleasure to acquaint you that the measure, as well as its details, are approved by His Majesty's Government. I am also glad to find that it is your intention to follow it up by placing the farming Establishments of Government upon a reduced scale of expense. I have, &c.,

BATHURST.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 85, per ship Midas; acknowledged by Governor Darling, 14th February, 1827.)

Sir, Downing Street, 7th October, 1826.

I have had the honor to receive your dispatch, No. 25 of the 4th May, reporting the manner, in which you had distributed the Troops with the view of preventing, as far as possible, any assemblage of Bushrangers, and notifying the Appointments of Commandants in the newly formed Districts of Bathurst and Parramatta, with additional Pay at the rate of 10s. per diem to each of the Officers, whom you have selected for that duty.

The arrangements, which you have adopted for putting a stop to the lawless proceedings of the Bushrangers, are very satisfactory; and I have great pleasure in conveying to you His

Approval
of sale of
government
cattle.

Approval of
measures for
suppression of
bushranging.

Majesty's Approbation of your exertions in relieving the Colonists from those Depredations, which were so frequently committed on their Properties by these People.

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Approval of
measures for
suppression of
bushranging.

Under the circumstances, which have led to the Appointments of Commandants at Bathurst and Parramatta, I am not disposed to refuse my sanction to the extra allowance, which you have assigned to them. I trust, however, that it will not be necessary to continue those Appointments for any considerable period, and that care will be taken that they are not retained for a longer time than the peculiar emergency of the case may require.

I have, &c.,
BATHURST.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch marked "Separate." per brig *Fairfield*; acknowledged by Earl Bathurst, 31st March, 1827.)

My Lord. Government House, 7th October, 1826.

I have the honor to acquaint your Lordship that I have appointed Mr. Robert Hoddle and Mr. J. B. Richards to be Assistant Surveyors on the Fixed Establishment, with a salary of *Two hundred and fifty pounds* a year each, until your Lordship's pleasure shall be known. I understand they are both very useful and active Officers. Mr. Hoddle was appointed by Sir Thos. Brisbane in the month of September, 1823, and Mr. Richards by your Lordship in July, 1824, their salaries under these appointments being payable from the Colonial Fund.

Appointment
of assistant
surveyors.

I do myself the honor to inclose for your Lordship's information a Return of the Surveyor General's Department, as it existed at the time of my arrival, the only change, which has since taken place, being the promotion of Messrs. Hoddle and Richards on the 1st of July last, above reported, to vacancies on the Establishment under the Parliamentary Estimates.

Return of
surveyor-
general's
department.

I have, &c.,
RA. DARLING.

P.S.—I propose raising the Establishment of the Surveyor General's Department, and shall have the honor of forwarding a Return accordingly by the next opportunity. It appears to me by a communication, which I have had with Mr. Oxley since closing this letter, that the double Establishment specified in the Return has originated in some misapprehension, of what appears to me to have been your Lordship's intention.

1826.
7 Oct.
Return of
officers in
surveyor-
general's
department.

[Enclosure.]

RETURN of the Surveyor General's Department, Sydney, 29th September, 1826.

Establishment paid under Parliamentary Estimate.						
No.	Name.	Date of Appointment.	By whom appointed.	Salary.	Allowances.	Remarks.
1	Willm. Harper ..	1 July, 1821....	Gov. Macquarie.....	£250 per annum...	£50 per annum House rent; 2/6 per diem for keep of one Horse.	Paralytic, not expected to be again fit for duty.
2	Vacant .....	.....	.....	250 ..	..	Mr. Robt. Hoddle, 1 July, 1826
3	do .....	.....	.....	250 ..	..	Mr. J. B. Richards, "
4	do .....	.....	.....	250 ..	..	"
5	Henry Dangar ..	1 July, 1821....	Gov. Macquarie.....	200 ..	Same.	"
6	P. Cavenagh ..	March, 1822....	Sir Thos. Brisbane	150 ..	Same.	"
7	Vacant .....	.....	.....	100 ..	.....	"
Establishment paid from the Colonial Fund.						
1	Henry Finch	2nd Feby, 1825..	Earl Bathurst	£250 per annum...	Same.	{ an invalid and unfit for duty and has been reported to { Secy. of State. } } Promoted to the permanent Establishment. Draftsman.
2	John Rodd	30 June, ..	do	250 ..	Same.	
3	James Ralph	18 May, ..	do	250 ..	Same.	
4	J. B. Richards ..	July, 1824....	do	100 ..	Same.	
5	Robt. Hoddle	Sep, 1823....	Sir Thos. Brisbane	100 ..	Same.	
6	J. A. Jackson.....	July, 1825....	Do	100 ..	Same.	

J. OXLEY, Surveyor-General.

GOVERNOR DARLING TO EARL BATHURST.

1826.
7 Oct.(Despatch marked "Separate," per brig *Fairfield*.)

My Lord, Government House, 7th October, 1826.

I have the honor to transmit for your Lordship's information the Monthly Returns for July and August last of the Troops, stationed in this Command. I have, &c.,

Transmission
of military
returns.

RA. DARLING.

[Enclosures.]

[Copies of these returns are not available.]

GOVERNOR DARLING TO THE SECRETARY OF STATE.

(Despatch per brig *Fairfield*.)

Sir, Government House, 7th October, 1826.

Conformably with my Instructions to this effect, I have the honor to transmit for your information a series of the Sydney Gazettes from the 1st of July, 1826, to the present time.

Transmission
of copies of
Sydney Gazette.

I have, &c.,

RA. DARLING.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 86, per ship *Midas*; acknowledged by Governor Darling, 14th February, 1827.)

Sir, Downing Street, 8th October, 1826.

8 Oct.

I have had the honor to receive and lay before the King your dispatch, No. 15 of the 30 April, submitting a list of Prisoners, to whom it appears to have been Sir Thomas Brisbane's intention to have granted Pardons* previously to his departure from the Colony.

Pardons
promised by
Sir T. Brisbane.

With respect to the persons, in whose favor free pardons were promised by the late Governor, I do myself the honor of acquainting you that His Majesty has been graciously pleased to confirm the same, unless in any case, where the conduct of the party since the date of the public notice, issued by Sir Thomas Brisbane, may have rendered him undeserving of that indulgence, or that you shall have satisfactory reason to believe that the real character and conduct of the Individual has been wilfully withheld from or intentionally misrepresented to Sir Thomas Brisbane.

Free pardons
to be confirmed.

In either of these cases, you will suspend the confirmation of the Pardon, until, upon the cases being reported to me, you shall be instructed thereupon.

In regard to those Persons, who were intended to receive conditional Pardons, I do not deem it advisable to authorize

* Note 136A.

1826.
8 Oct.

Conditional
pardons to be
considered.

Certificates to be delivered to them, until I shall have received from Sir Thomas Brisbane a statement of the particular circumstances, attending the case of each Individual, enumerated in the list, which you have enclosed, in order that I may be satisfied that the grounds, on which these conditional Pardons are intended to be granted, were of such a nature as to render the Parties fit and deserving objects for that Act of Clemency.

I have, &c.,

BATHURST.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 76, per brig Fairfield.)

My Lord,

Government House, 8th October, 1826.

Commutation of
death sentences.

I have the honor to report to Your Lordship that the sentence of Death, passed on John Ridgway and Edward Colthurst, who were convicted before the Supreme Court, on the 20th of last month, of the wilful murder of "Tommy," a native Black boy, at Port Stephens on the 8th of May last, has been commuted, at the recommendation of the Executive Council until His Majesty's pleasure shall be known, to transportation and hard labour in chains for the period of their natural lives; and I beg leave humbly to recommend the same for His Majesty's confirmation.

Execution *
of principal.

Samuel Chipp and Thomas Stanley are supposed to have been the Principals in this act. The former has been entered for execution at the place, where the murder was committed. Stanley, who absconded after the event, has been apprehended only within these few days, and is now waiting his trial. Ridgway and Colthurst, being considered less criminal, are therefore recommended to mercy.

Trials for
capital offences.

I regret to add that the criminal cases lately tried have been unusually numerous. Eight and twenty have been capitally convicted, ten of whom are to suffer immediately, and the sentences of eighteen have been commuted to the Penal Settlements.

I have, &c.,

RA. DARLING.

GOVERNOR DARLING TO UNDER SECRETARY HAY.

(Despatch marked "Private," per brig Fairfield.)

My dear Sir,

New South Wales, 8th October, 1826.

I have been so incessantly occupied, since I wrote you last, that it has been totally out of my power to attend, as I could have wished, to the Despatches, I had just then received.

In mentioning generally the receipt of the Despatches, alluded to, I stated that those Numbered 18, 25 and 27 had not arrived; but I now find the Duplicate, No. 18,* was received by that opportunity; and, having been accidentally put aside and not discovered until this Morning, it is not in my power, at this Moment, to Comply with the directions it Contains. I have, however, seen Captain Rossi, and have explained to him what is required, and shall make a point of writing officially on the subject by the next Vessel. As to the occurrences, to which the Depositions of Kendrick and Higgenson refer, I have no knowledge whatever of them. I had in fact left the Mauritius previous to the period to which the circumstances, mentioned in Kendrick's Deposition, is stated to have taken place. But I was in Command of the Troops, though not in Charge of the Civil Government, at the time stated in Higgenson's Depositions; and I cannot but think it extraordinary that the subject never came to my knowledge, particularly as the Officers and Non Commissioned Officers, in charge of the different Posts, were directed to report all extraordinary occurrences; and it was well known that I was not inattentive to any Representations, which were made to me. I have no recollection whatever of Higgenson, and cannot, therefore, form an opinion as to what degree of Credit may be due to his Statements. But I have a perfect knowledge of Kendrick, who was a turbulent dissipated fellow, and whose general character would certainly give him no claim to attention.

I have, &c.,

RA. DARLING.

1826.
8 Oct.

Despatch re
allegations of
slave traffic at
Mauritius.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 87, per ship Midas; acknowledged by Governor Darling, 14th February, 1827.)

Sir,

Downing Street, 9th October, 1826.

9 Oct.

I have the honor to acknowledge the receipt of your dispatch, marked "separate" of the 6th May, enclosing copies of a correspondence, which had passed with Mr. Bannister on the subject of that Gentleman's resignation of the office of Attorney General. As my dispatches of the 23rd April and 20 May will have informed you of a Successor having been appointed to Mr. Bannister, it is only necessary for me further to acquaint you that Mr. Baxter, who has been nominated to that Situation, will embark for the Colony by the earliest opportunity.

Resignation of
S. Bannister.

Appointment of
A. M. Baxter.

I have, &c.,

BATHURST.

* Note 137.

1826.
9 Oct.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Midas.)

My dear Sir, Downing Street, 9th October, 1826.

I beg to acknowledge the receipt of your letter of the 9th May, in which you submit the importance of an experienced Engineer being sent out to New South Wales. I have mentioned your wishes on this subject to Lord Bathurst, who desires me to acquaint you that, after the failure of the application formerly made to the Ordnance Department, with which the Master General could not comply on the grounds stated in the enclosed letter from Lord Fitzroy Somerset, Lord Bathurst apprehends that any fresh application with a view to the same object would not be attended with any better success.

I remain, &c.,

R. W. HAY.

[Enclosure.]

[*This was a copy of the letter forwarded as an enclosure to under secretary Horton's despatch, dated 26th July, 1825; see page 39.*]

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Midas.)

Sir, Downing Street, 9th October, 1826.

I am directed by Earl Bathurst to transmit to you the copy of a Memorial, which has been addressed to his Lordship by two Police Officers, whose appointments formed the subject of Lord Bathurst's dispatch to Sir Thomas Brisbane, dated the 23 July, 1824 (copy of which is enclosed for the greater facility of reference), together with a copy of the reply which has been given to their application. As these Officers complain that the agreement, under which they were induced to accept their present situations, have not been complied with, his Lordship desires that I will call your attention to the Instructions, which are contained in the dispatch, to which I have referred, in order that their complaint, so far as regards this particular, may be removed, should it appear that they have made a correct Representation upon the subject.

I have, &c.,

R. W. HAY.

[Enclosure No. 1.]

POLICE OFFICERS CORNICK AND ARMSDEN TO EARL BATHURST.

My Lord,

We beg leave most respectfully to transmit your Lordship Copies of the Correspondence, which has taken place between

Inability of
ordnance
department
to appoint
engineer.

Grievances
alleged by
G. Cornick and
T. Armsden.

the present Governor and ourselves, respecting the disappointment we have experienced in not receiving from the Colonial Government those indulgences, which, on leaving England, we were led to (and in fact did) expect to be allowed; but, so far from such being the case, our circumstances are actually in a state of serious embarrassment, as we naturally concluded we should at least be paid equally the same as Officers in England, and moreover, for the hazard and risk of coming to such a place as this, we flattered ourselves to have been rewarded; to enter into a general detail of complaint would be too tedious and almost impossible to describe, but your Lordship will be better able to form an accurate opinion of our Case by a reference to the annexed Documents.

Since our arrival here, we have found it impossible to exist upon the Amount we have received, and no allowance whatever has been made for extra duty; we trust Your Lordship will take our case into Consideration and cause an Augmentation of Salary to be made to us in lieu of Fees and allowances (formerly enjoyed by the Assist. Superintendants of Police), but which have been withheld from us.

As the Governor has refused to give us any Relief, we humbly beg to state to Your Lordship we have no allowance made for Horse Forage or Travelling Expenses, the whole of which we expected to have received, as stated we should on our leaving England, and the latter being customary with the Officers here made us comfortably rely upon the same being provided us.

We trust Your Lordship will consider the circumstance of our being kept in England, twelve months after being appointed to the situation we now hold, by which means, we were precluded the benefit of doing anything for ourselves; and as we received £180 each in England, with which we were in a great measure satisfied, and expected we should be allowed House Rent for the twelve Months. But we humbly beg leave to state to Your Lordship that the present General Darling has stopped a certain Sum in each quarter from us out of our Salaries, for the Money we so received, by which Circumstance we are much embarrassed.

The late Governor, Sir Thomas Brisbane, caused the Colonial Treasurer to pay us the Sum of £50 pr. Year for House Rent and Fuel, which is not near equal to the expence we are at in providing the same.

The Chief Constable of the Crown has an overplus of Salary to us by £10 per Year, and the Clerk of the Police Office £35 per Year more than we have, both of whom came out Prisoners of the Crown.

1826.
9 Oct.

Petition of
G. Cornick and
T. Arnsden
for redress of
grievances.

1826.
9 Oct.

Petition of
G. Cornick and
T. Armsden
for redress of
grievances.

We again beg leave to state to Your Lordship that, when we left England, we naturally expected to be able at least to live comfortably; but the consequence is the reverse; and we humbly entreat Your Lordship to pardon us for stating that, unless we receive an Augmentation of Salary equal to those indulgences, of which we have been deprived, that it is our wish to return to England, and, in order to do so, that Your Lordship will provide us with a passage agreeably to the verbal understanding between Mr. Bailly and ourselves.

My Lord, We remain, &c.,

GEO. CORNICK. THOS. ARMSDEN.

[Sub-enclosure No. 1.]

POLICE OFFICERS CORNICK AND ARMSDEN TO COLONIAL SECRETARY
MCLEAY.

Sir,

Sydney, 18th March, 1826.

We beg leave most respectfully to lay before you a statement of our case, and solicit your early consideration thereto, and to the propriety of submitting the same to His Excellency the Governor in Chief.

Alleged
agreement on
appointment.

On the first of August, 1823, We were appointed in England by the Right Honorable Earl Bathurst, as Assistant Superintendants of the Police Department for the Colony of New South Wales, at a Salary of One hundred pounds Sterling per annum (to increase Ten Pounds Yearly) until it reached the Sum of Two hundred pounds, with a House, Coals, Candles, Rations, Horse and forage, and every indulgence by the Receipt of Fees and Emoluments, as were attached to the office, formerly held by our predecessors; it was also promised that, for all extra duty, we should be paid after the same rate Officers of similar Establishments were in England; and, provided we found that our Salaries and other indulgences would not support us in a becoming and respectably manner, suitable to our situations in Life, we were then told to move the Governor of the Colony to Augment our Incomes, who would be instructed to attend to our reasonable applications. In the Month of January, 1825, we arrived here and, having delivered our Credentians to Sir T. Brisbane, were directed to enter on the duties of our office on the first of April following (this was done to give the Officer Mr. Middleton, then acting, to complete the quarter he had entered into); our appointment appeared in the Sydney Gazette, dated 6 January, 1825; we then clearly understood from the then Governor and from the late Major Ovens, his private Secretary, that we were to receive all Fees and other allowances by the Slaughtering of Cattle, Permits to remove Spirits, etc., etc.,

heretofore received by Officers in the same situation; and this we continued to do until the arrival of the present Superintendent of Police (Captain Rossi), when a different System of Arrangement was adopted, and no Fees were allowed to be retained by any individual in the Department, but the whole handed over to the Colonial Revenue, to our great loss and detriment, inasmuch as we were, by this new order, deprived of at least one third part of our income, without any addition to our pay whatever, although the other Officers of the Department have received such advances of Salary in lieu of Fees, etc., as prevents them from feeling the very serious injury to which we have been so suddenly reduced.

1826.
9 Oct.

Withdrawal
of all fees.

You, Sir, must at one glance see the very great inconvenience we have been exposed to, after leaving comfortable Situations in England in the full expectation of benefiting ourselves and families, by emigrating to this Colony and receiving liberal encouragement for our exertions; this we are led to believe would be the case, and this alone induced us to leave our dearest interests and connections.

Reasons
for making
complaint.

Had our means remained, as we were led to suppose on our taking charge, we could not have addressed you in the language of Complaint; but, when unexpectedly deprived of such a considerable part of our incomes, we cannot help expressing our assurance that you will see and represent the hardship of our case to the proper authority, who will no doubt in justice remunerate us for the losses, we have sustained, in being deprived of the receipt of Fees, Sanctioned by all former Governors, and have been, since, we are led to believe, the foundation of the Colony, considered a perquisite of all the persons, who have acted in the capacity of assistants to the Principal Superintendent of Police, which office we left England to fill.

Request for
compensation
for loss of fees.

We presume to hope you will pardon our intruding on your valuable time by entering so fully into the detail of our circumstances; but, when you take into consideration the expenses unavoidably incurred by furnishing our residences and other incidental charges, which we did in contemplation of our resources becoming better rather than decreasing, we find ourselves, as it were, involved in debts as such a nature that no discretion of our own could have foreseen or avoided.

We now, after this candid and just statement of the facts connected with our case, throw ourselves on the justice of the Govt., to whom we look up to for protection and support, leaving it entirely in your hands.

We beg leave to subscribe ourselves, Sir, etc.,

GEORGE CORNICK. THOS. ARMSDEN.

1826.
9 Oct.

[Sub-enclosure No. 2.]

COLONIAL SECRETARY McLEAY TO CAPTAIN ROSSI.

Sir, Colonial Secretary's Office, 11 April, 1826.

Alteration of
pay refused.

With reference to your communication of the 3rd and 7th Instant, respecting the Pay and Allowances of the Assistants Superintendants of Police, I am directed by the Governor to acquaint you that, as these Officers came out to this Country on a specific understanding, His Excellency sees no reason of altering their rate of Pay.

I have, &c.,
ALEX. MACLEAY.

[Enclosure No. 2.]

[A copy of this despatch will be found on page 322, volume XI.]

[Enclosure No. 3.]

UNDER SECRETARY HAY TO POLICE OFFICERS CORNICK AND ARMSDEN.

Downing Street, 9th October, 1826.

Memorial
acknowledged.

I AM directed by Earl Bathurst to acknowledge the receipt of the Memorial, which you addressed to his Lordship, in which you submit to his consideration that the engagements, which were entered into with you on the part of His Majesty's Government, when you accepted your present Situation in the Police Department of New South Wales, have not been complied with on the part of the Local Authorities; and you also complain that many Indulgencies, which were granted to you under the authority of the late Governor, have been withdrawn by General Darling.

Delay through
irregularity in
transmission.

Had you adopted the regular and proper course of sending your Memorial home through the medium of the Governor, Lord Bathurst would have been in possession at the present moment of the necessary information to enable him at once to decide how far the terms of the agreement have been complied with; but, as you have not thought proper to afford the Governor an opportunity of reporting on the circumstances of your case, there remains no other alternative than to refer your application back to the Colony for that purpose; and you must attribute the delay, which must now necessarily take place, to your having omitted to comply with those Regulations.

Terms of
agreement.

I am directed, however, to state that the only agreement, of which Lord Bathurst has any knowledge, which was made with you previously to your departure for New South Wales, was the following: vizt. That Salaries at the rate of £100 per annum each would be issued to you encreasing £10 every year, until they reached the maximum of £200 pr. annum; and that the

further advantage of a Residence, with the usual allowance of Rations and Coals, would be granted to you; and that, should it be deemed expedient to employ you as Mounted Patrole, a Horse and forage would be also provided.

1826.
9 Oct.

With respect to any Allowances in addition to the above, which may have been made to you under the authority of Sir Thomas Brisbane, as he was not authorized to grant them, the present Governor acted very properly in discontinuing them, if he deemed it proper so to do; and, as they formed no part of the original agreement, Lord Bathurst does not consider that you have any cause for complaint in that particular, nor can his Lordship hold out to you any expectation that a passage to this Country can be granted to you at the Public expense, should you be desirous of relinquishing your present situations.

Invalidity
of claims.

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

GOVERNOR DARLING TO UNDER SECRETARY HAY.

9th October, 1826.

[A private despatch of this date was mentioned by Governor Darling in his despatch to Earl Bathurst, dated 24th November, 1826. A copy is not available.]

GOVERNOR DARLING TO UNDER SECRETARY HAY.

(Despatch per brig Fairfield; acknowledged by under secretary Hay, 5th April, 1827.)

Sir, Government House, 9th October, 1826.

The Reverend Mr. Marsden has requested that I would forward the accompanying letter,* which he has addressed to Earl Bathurst; and I beg you will be pleased to submit it to his Lordship accordingly.

Transmission
of letter from
Rev. S.
Marsden.

I have, &c.,
RA. DARLING.

[Enclosure.]

[A copy of this letter, dated 4th October, 1826, with fifteen enclosures, will be found in a volume in series II.]

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 77, per brig Fairfield.)

My Lord, Government House, 10th October, 1826.

10 Oct.

I have the honor to acknowledge the receipt of your Lordship's (Duplicate) Despatches, numbered 16, 17 and 22, dated in the month of March last, with respect to establishing Settlements at Western Port, and Shark's Bay or King George's

Despatches
acknowledged.

* Note 138.

1826.
10 Oct.

Sound; and I shall not fail to carry into effect, with the least possible delay, the Instructions, with which your Lordship has been pleased to honor me with.

Reports on
eligibility of
Western port.

Concerning Western Port as claiming first attention, I applied to Mr. Oxley, the Surveyor General, for any information, it might be in his power to furnish with respect to it; and Your Lordship will perceive by the accompanying statement that, as far as he can depend on his recollection, Western Port does not hold out any of those advantages which, under other circumstances, would induce a Settlement at that place. I have also seen Messrs. Hume and Hovell, the persons who explored the Country from hence to Western Port,* alluded to in your Lordship's Despatch, No. 16; and I do myself the honor of enclosing for Your Lordship's information a copy of a letter, which Mr. Hume addressed to Sir Thomas Brisbane on his return. It does not, however, appear that any information was afforded respecting the Port or its eligibility as a Settlement. I shall, notwithstanding, send a small Expedition under Captain Wright of the Buffs, an officer who appears to be well qualified for a service of this nature, and as Capt. Wetherall, of His Majesty's Ship Fly, has very readily offered to proceed with his ship and give every assistance, which he can afford in establishing the Settlement.

Preparations
for expedition
to found
settlement.

Reasons for
not detailing
J. Oxley.

As Mr. Oxley could not, under present circumstances, be spared from his duties here, which require his whole time and attention, and as I am not aware he could render any important assistance in forwarding the object of the Expedition, I have been induced to think Your Lordship would not consider it necessary that he should proceed with it. But I have accepted the offer of Mr. Hovell's services, who is sanguine in the realization of the expectations, which he has formed with respect to Western Port.

W. H. Hovell to
be employed.

Brig Amity
to convey
expedition.

I have only further to state to your Lordship that I propose equipping the Government Brig Amity to convey the stores and persons to be employed, and that I calculate on the Expedition being ready to proceed in the course of a fortnight or three weeks at the utmost.

Adverse
expectations re
King George's
sound.

Unfavorable as the prospect is, as to Western Port being likely to become of importance as a place of Trade, an idea which is very generally entertained, and which, as is extremely desirable, the Expedition will confirm or correct, I am very apprehensive King George's Sound will be found totally unfit for the purpose, even of a Penal Settlement. I have not been able to obtain any precise information respecting it; but the communication must, I understand, be at all times tedious and difficult, and during

* Note 139.

a part of the year will be hardly practicable.* I shall, however, make arrangements as soon as possible for having it examined and taking possession of it.

1826.
10 Oct.

The Communication with Shark's Bay would be still more difficult; and would be attended with very serious expense.

I am informed that the Country around both Shark's Bay and King George's Sound is perfectly barren and destitute of vegetation. The French would, therefore, find it difficult to maintain themselves at either of these places; and I understand that the part of the coast about Shark's Bay is frequently under water.

Reports on
country.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

SUBSTANCE of a Report,† delivered to the late Governor King in January, 1805, on Western Port.

Report by
J. Oxley on
Western port
and
neighbourhood.

WESTERN PORT, discovered by Mr. Bass in 1798, was examined and surveyed by Captain Grant and Mr. Barrallier in 1801. Their report was unfavorable, as respected the adequate supply of fresh water and convenient access to its shores. Captain Tuckey, in 1804, examined the Northern shore, which he describes as very broken and covered with Timber and Brush; the shores were inaccessible, except at one place, by reason of a very heavy surf and stony flats. He found plenty of Limestone between Port Phillip and Cape Schank, but no coal, of which it had been stated there was abundance. When it was decided to abandon Port Phillip in 1804, Western Port did not appear to Captain Collins to afford such advantages as to induce him to attempt a Settlement in it, preferring the River Derwent in Van Diemen's Land.

When Port Dalrymple was settled in 1804, it was considered an object by the late Governor King to have a Settlement on the North side of Bass's Straits; the report of Col. Collins and his objections to Port Phillip were conclusive on that point; but a more minute examination of Western Port was directed with a view to immediate Settlement.

In January, 1805, the late Lieut. Robbins and myself were directed to proceed from Port Dalrymple in the Integrity Cutter, and make such observations on Western Port and the adjacent country, as would place Governor King in possession of more detailed information on the principal points, necessary to insure a successful settlement of the country, than he was in possession of at that period. In this excursion, the eastern part of the Port, from the Fresh water Rivulet near the East entrance, was walked round; no permanent Fresh water was found except in

1826.
10 Oct.

Report by
J. Oxley on
Western port
and
neighbourhood.

two very small Rivulets at the head or northern part of the Harbour, not accessible before *half tide* in Boats. The Fresh water stream near the entrance was only accessible at *half water*; and I do not remember a single point, where a boat could land except at or near high water in any part of the Harbour. The Country on the East side was low, well timbered with Eucalyptus, intermingled with Brush and Scrub. As our distance inland from the shores of the Harbour never exceeded two miles, I cannot perfectly describe the soil or country; but the portion seen did not convey a favorable impression of its fitness for the purposes of the Cultivator or Grazier.

At the head of the Port (or northern part), there is a small insignificant stream of Fresh water, not accessible at low water. The country in that quarter was so open, that it may be described as being destitute of Timber. Of its area, I can form no present recollection; the soil I thought far from good; and, as we had experienced considerable difficulty in finding our way in a boat through the mud shoals from the place, where it was necessary to anchor the Vessel (a distance of more than ten miles), we never for a moment considered the head of the Port as affording any situation eligible for a primary Settlement, as the Communication with any Vessels, which might visit the Port, would necessarily be precarious and difficult from the remoteness of the anchorage.

The rise and fall of the tide is from 9 to 12 feet, leaving the coasts of the Harbour at low water covered round with mud flats, extending in many places above a mile and in few less than a quarter. The two principal Islands may be considered destitute of water, although in rainy seasons there is a small lagoon on the N.W. side of Phillip Island. On the large Island, I do not remember to have found any. The Harbour is extremely spacious, but is quite open to the S.W. winds; and there are projecting points, round which ships can find shelter from the heavy sea, caused by an ebb tide, when the wind is in that quarter. The N.E. side of Phillip Island appeared to afford the securest anchorage, and its proximity to the *first* Fresh Water would seem to point out the country in its vicinity, as the best adapted for Settlement in the first instance, as, from a station on the banks of this stream, the country would be more conveniently explored than from any other part of the Harbour within my recollection. The situation of the Harbour in a deep bight was considered by no means favorable, and the dangers of making the Port with a strong southerly gale must always be considerable; and this circumstance had considerable weight in causing the abandonment of Port Phillip.

We had little or no intercourse with the Natives; but there was every appearance that the shores of the harbour were much frequented by them at some particular seasons, most probably during the winter, when fresh water may be more plentiful than was found to be the case in January.

The above imperfect account is to the best of my recollection the substance of the report, delivered to Governor King; and I have not since that period had any opportunity to correct or verify the impressions, made on my mind by the observations, I was then enabled to make, and which, as respected the eligibility of Western Port for a Settlement, might in some slight degree be influenced by the situation of the parent Colony at the period, which did not admit of the establishment of distant Settlements, unless the natural advantages they presented more than counterbalanced any consideration of the expense, attendant on the first foundation of an uninterrupted intercourse with Head Quarters.

J. OXLEY, S. General.

Sydney, 9th October, 1826.

1826.
10 Oct.

Report by
J. Oxley on
Western port
and
neighbourhood.

[Enclosure No. 2.]

MR. HAMILTON HUME TO SIR THOMAS BRISBANE.*

Sir,

Appin, 24th January, 1825.

I have the honor to acquaint your Excellency that last evening I arrived safe home, in company with Mr. Hovell, who accompanied me in the Expedition, Your Excellency was pleased to entrust to my care, for the purpose of exploring a passage thro' the Interior to Western Port.†

Report by
H. Hume on
his expedition
of discovery.

I feel much pleasure in informing Your Excellency that we have discovered, adjoining to that extensive Harbour, one of the finest parts or tracts of country yet known in Australia.

It is chiefly immense Downs and Forests, partially wooded; the whole of which is easy of access and well watered by the different streams that run into the *Tweed*. I have so taken the liberty to name the River, that falls into Western Port; and I think I may venture to say that there is, around and adjoining the *Tweed*, from 80 to 100 miles of a square country, that is fit for any purpose of agriculture or grazing. The Downs extend from E.N.E. to W.S.W. full 80 miles, and they are upwards of 40 miles in breadth in S.E. and N.W. directions.

The Soil over the whole of these immense Plains is good, but of different qualities, samples of which I have brought that were procured about ten miles distant from one another, together with the different kinds of stones, which I will forward for Your Excellency's Inspection.

* Note 142. † Note 139.

1826.
10 Oct.

Report by
H. Hume on
his expedition
of discovery.

On Tuesday, 16th November, when in Lat. $36^{\circ} 20'$, Long. $147^{\circ} 25'$, we came to an extensive River, running at about 3 miles an hour to the Westward; it was upwards of two fathoms in depth, nearly 100 yards in width; and, for want of a boat, it was not in my power to cross; and we proceeded down along its Banks in hopes of finding a ford, where we might cross; but, after travelling upwards of 20 miles down the River in a Westerly direction, the River became much wider and deeper than when we first fell in with it, and not the least likelihood of there being any Shoal or Ford, that was possible for us to cross it.

We then determined returning up the River to the Eastward, until we could get above some of the streams, that fell in from the Southward; and, on Saturday, 20th November, at 3 o'clock in the afternoon, when we had got above the 2nd junction, we succeeded in crossing the Major Branch with a temporary boat, made of tarpaulin, which answered the purpose of taking our Provisions across and such of the men, as could not swim. The River, where we returned from on the 17th, was then running W.S.S., and was about the size of the Hawkesbury at Windsor. On the 24th November and 3rd December, we fell in with and crossed two more considerable streams; the former of which is in Lat. $36^{\circ} 24'$, Long. $147^{\circ} 10'$, and the latter, the last stream we crossed before we arrived at Western Port, is in Lat. $37^{\circ} 22'$, Long. $146^{\circ} 25'$. They run to the westward at $1\frac{1}{2}$ mile per hour, and take their rise to the Eastward among the Snowy Mountains. We came in sight of those Snowy Ranges on the 8th November; the east end of them then bore from us due south; their general course is N.E. and S.W., which obliged us to keep considerably to the westward to avoid them.

I will do myself the honor of waiting on Your Excellency in a few days, and trust I shall be able to render a satisfactory acct. of our Journey to Bass's Straits.

I have, &c.,

HAMILTON HUME.

GOVERNOR DARLING TO UNDER SECRETARY HAY.

(Despatch marked "Private." per brig *Fairfield*.)

My dear Sir,

Sydney, 10th October, 1826.

Unnecessary
references re
commutation of
death sentences.

I am sorry to find I have been troubling you and tiring myself very unnecessarily, from time to time since my arrival here, with Letters and statements respecting the Men, whose Sentences, being Capittally Convicted, were Commuted for

Transportation to a Penal Settlement. I now find, on referring more particularly to my Commission and Instructions,* that a reference to the Secretary of State is necessary only in the Case of Men found Guilty of *Murder* or *Treason*, whose lives there may be a desire to spare, and not in that of Men sentenced to suffer death for other offences. I have hitherto reported the whole; but, having discovered my Error, I shall take care to save both You and myself such unnecessary trouble in future. I am sorry to say there has been much irregularity of late, and the Trials have been very numerous. It is rather singular they should persevere, as they do, in the Commission of Crime, as generally speaking they are almost immediately taken. The last of a Party of Bushrangers, which had infested Bathurst, has within the last few days surrendered himself; his Comrades, Seven of whom are now in Jail, having been just Convicted; four are to suffer and three are respited. Mr. Bannister, though informed that his resignation has been accepted, is still pursuing his former Courses; it is my intention in consequence to inform him, as his resignation has been accepted, that his services are no longer required. I shall appoint Mr. Moore, who has assisted him, to Carry on the Duties, but hope his successor will soon come out. The Archdeacon, who has heard from Mr. Horton on the Subject of the Douglas Investigation, appears very ill at ease, and speaks positively of returning Home early next Year. In appointing a successor, I would suggest his not having a Seat in Council, though Mr. Scott has most Cheerfully Assisted on all occasions. The Clergy in this place had much better be left to their own immediate Duties, as their mixing in Politics must have a bad effect. The Archdeacon's Connexion with Mr. Bigge was ruinous to his popularity here; and his Constant Association with the Macarthurs has left him without a chance of possessing the situation, as the Head of the Church, which he ought to hold in the estimation of the Public. Though the same objections might not exist in the Case of another, I must still think it would be better on every Account that the Archdeacon should not be a Member of Council.

I am quite puzzled what to do in the present insufficient state of the Survey Department. It is impossible to permit of Mr. Oxley's proceeding to any of the proposed Settlements, or the general Survey must be at a stand; the only expedient, that presents itself, is the employment of Captain Dumaresq as Deputy Surveyor General; but it is impossible at this moment to provide in a proper manner for the performance of his other duties. This obliges me to repeat, how essential an Engineer

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Unnecessary
references *re*
commutation of
death sentences.

Prevalence
of crime.

Proposed
dismissal of
S. Bannister.

Appointment of
W. H. Moore.

Proposed return
of T. H. Scott.

Exclusion of
archdeacon
from council.

Unpopularity
of T. H. Scott.

Inefficiency
of survey
department.

* Note 143.

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is to the proper Conduct of the Public Works; and I cannot express how much I should be gratified by seeing Lt. Colonel Buchanan here, who would be invaluable to the Government.

Draft for new
N.S.W. bill.

The Chief Justice leads me to hope that the Draft or suggestions for the New Bill* for this Colony will be Completed to-morrow; and, Conceiving it of importance You should receive it as early as possible, I have detained the Ship that he may be enabled to forward it.

I remain, &c.,

RA. DARLING.

Non-arrival of
warrant for
appointment of
J. Stephen.

P.S.—I think it necessary to mention to You that Lord Bathurst's Despatch of the 13th of March last, No. 24, enclosing a Warrant, Appointing Mr. Stephen second Judge of the Supreme Court, has not Yet been received. The Duplicate Despatch arrived last month; but the "Chapman," on board of which I suppose the original to be, has not Yet been heard of; the Arrangements must Consequently be suspended until the Warrant is received.

R.D.

GOVERNOR DARLING TO UNDER SECRETARY HAY.

(Despatch per brig Fairfield.)

Sir,

Government House, 10th October, 1826.

Return of stolen
property found
on convict.

I forward herewith a small packet, containing sundry Articles, Watches, and Jewellery, found in possession of a prisoner of the Crown, named Henry Herring, on his arrival from England. This man was first transported for Life under the name of Henry Millson in 1807. He ran from the Colony, and was again convicted at the Devon Assizes on the 30th July, 1814, and sentenced to be transported for Life under the name of Henry Herring. He again ran away from the Colony, and was returned on board the Minstrell in August, 1825.

The Packet was lodged in the New South Wales Bank on Herring's arrival; and orders were given in the month of October last year that the contents should be examined by the Police Magistrate in the presence of the Prisoner Herring, who claimed it as his property. There can be no doubt of the Articles having been stolen; and I have in consequence forwarded the packet with a view to the Articles being advertised and restored to the owners, should they be able to identify their property. I beg at the same time to observe that it is of some importance, if only for the sake of example, that Herring should not be allowed to retain the Articles, as I am assured that in many cases the Prisoners appear perfectly indifferent, whither they are sent, if they are only permitted to keep possession of the proceeds of their villany.

* Note 165.

I enclose a Copy of a Letter from the Superintendent of Police with a statement of the Articles, found in the Packet on its being examined.

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I have, &c.,

RA. DARLING.

P.S.—I have been informed, since closing this letter, that Herring has not less than *Five Hundred* Pounds lodged in the Savings Bank here.

Money
possessed by
H. Herring.

[Enclosure No. 1.]

CAPTAIN ROSSI TO COLONIAL SECRETARY MCLEAY.

Sir, Police Office, Sydney, 28th August, 1826.

I have the honor to inform you that, in pursuance of an Order contained in a letter addressed to me from the late Colonial Secretary, dated 26th October, 1825, that an inspection has taken place, before William Wemyss, Esq., J.P., F. Hely, Esq., J.P., and myself, on some watches and Jewellery found in the possession of Henry Herring, a Prisoner of the Crown; and herewith I beg leave to transmit you the statement thereof required for the information of Government.

Examination
of Jewellery.

I have, &c.,

F. ROSSI, Superintendent of Police.

[Enclosure No. 2.]

PROCEEDINGS OF POLICE COURT.

Police Office.—Before F. Rossi, Esq., P.S.; Wm. Wemyss, Esq.; Fredk. Hely, Esq.

IN consequence of a Letter from the Colonial Secretary, dated 26 October, 1825, addressed to Captn. Rossi, Supt. of Police, directing that certain Articles of Watches and Jewellery, found in the possession of a Prisoner of the Crown named Henry Herring, might be inspected in order to report to the proper authorities in England a Description of the said property.

Police court
proceedings re
jewellery
found on
H. Herring.

This day, a sealed Package was produced before the Bench, which was acknowledged by Henry Herring to be in the same state as when lodged in the Bank of New South Wales; and

Mr. James Robertson, Watchmaker of George Street, being called for the purpose of giving a description of the several watches and Articles of Jewellery, produced to him, saith

That No. 1 is gold Engine turned Hunting Watch, with double bottom and glass cover, with a detached Escapement and Compound Curb, hard enamelled Dial Plate, maker's name Thomas Moss, Ludgate Street, London, No. 1891.

No. 2 is a gold French repeating Watch, with gold dial, open at the back, without name or number; but there is a number in the case No. 2202.

No. 3 is a silver Patent alarm watch, with a double bottom, maker's name, "Collier, Strand, London," No. 6435.

No. 1 is a two row gold chain, Belcher pattern, with barrel slide.

No. 2 is ditto ditto

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Police court
proceedings *re*
jewellery
found on
H. Herring.

- No. 3 is a two row diamond cut gold chain with diamond cut slides. gold.
No. 4 one gold lady's neck chain, with Turquoise snaps, worked pattern.
No. 5 one ditto ditto
No. 6 one ditto with gold snaps, etc.
No. 7 one ditto ditto
No. 1. *Gold Seals*. Nineteen large gold seals, chased with red and white Cornelian stones, not engraved.
No. 2. Thirty smaller sized gold seals, chased with cornelian and various other stones not engraved.
No. 3. Sixty small gold seals with various engravings and devices.
No. 4. 5 small gold seals for wafers.

F. ROSSI, J.P., Superintendent of Police.

WM. WEMYSS, J.P. FREDK. HELY, J.P.

UNDER SECRETARY HAY TO GOVERNOR DARLING.*

15 Oct.
Land to be
granted to
J. G. Pyne.

Sir,

Downing Street, 15th Octr., 1826.

The enclosed letter from Mr. J. G. Pyne will put you in possession of his wishes respecting a Grant of Land in New South Wales, and he having been recommended by Lord Mount Cashel, I am to request that you will afford him every facility in the selection of his Grant that may be compatible with your arrangements.

I am, &c.,

R. W. HAY.

[Enclosure.]

MR. J. G. PYNE TO UNDER SECRETARY HAY.

Sir,

Haymarket, 14 Octr., 1826.

Application for
land grant from
J. G. Pyne.

in consequence of Lord Mt. Cashell's application for me, and Mr. Wilmot Horton's assuring him you would pay every attention to it, I am encouraged to take the liberty to beg you will consider the following. I have four hundred pounds a year, which I will immediately dispose of, if I get sufficient inducement to emigrate to New South Wales, and will of Course be worth over five thousand pounds ready money; besides three hundred a year will come to me by the death of my Mother, who is over Seventy years of age. I am in the habit of farming, which requires perseverance and habit, particularly so in reclaiming woods and such ground as New South Wales. I intend to get the best Stock of Spanish Sheep, united with Agriculture, with Stock of Sheep, increasing as it is to be supposed; twelve thousand Acres is what I think I would be able to Stock and cultivate in a short time; as I am not acquainted with any District, to make a choice of, never being there, I beg to get the grant of Ground in four different lots, or in two, or altogether, as it may Suit me, and three years to make a choice of

* Note 64.

the unappropriated ground there; it will take such a length of time to go there and to allow for other accidents. I came twice from Ireland for this purpose, and cannot but feel a great Anxiety for a favourable answer. I inclose Richard Wilmot Horton, Esq., answer to Lord Mt. Cashell's application for me; it refers to Lord Mt. Cashell's letter, which you have, whose letter agrees with my statement above as to my capital in money as above stated.

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15 Oct.

Application for
land grant from
J. G. Pyne.

I have, &c.,

JOHN GEORGE PYNE.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 78, per ship Regalia; acknowledged by Viscount Goderich, 1st June, 1827.)

My Lord, Government House, 16th October, 1826.

16 Oct.

I have the honor to acknowledge the receipt of Your Lordship's Dispatch, dated the 28th of January last, No. 4, directing that extra Rations of Spirits may not in future be issued on days of Public Rejoicings to the Troops, Artificers and Labourers in the immediate employ of Government, and to acquaint your Lordship that the necessary orders have been given to this effect.

Despatch
acknowledged.

I have, &c.,

RA. DARLING.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 79, per ship Regalia; acknowledged by Viscount Goderich, 1st June, 1827.)

My Lord, Government House, 17th October, 1826.

17 Oct.

I have the honor to acknowledge the receipt of Your Lordship's Dispatch, dated the 1st of February last, No. 5, with a Commission of Judge in Vice Admiralty for Francis Forbes, Esqr., Judge of the Supreme Court of this Territory, and to acquaint your Lordship that the necessary notification has been made of Mr. Forbes's appointment, who has paid into the Colonial Treasury the fee of thirteen pounds for the purpose pointed out in Your Lordship's Dispatch.

Appointment
of judge in
vice-admiralty.

I have, &c.,

RA. DARLING.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 80, per ship Regalia; acknowledged by Viscount Goderich, 1st June, 1827.)

My Lord, Government House, 18th October, 1826.

18 Oct.

I have the honor to acknowledge the receipt of your Lordship's Dispatch of the 2d of February last, No. 6, on the subject of the addition, which had been made to Mr. Crawford's salary as first clerk in the Colonial Secretary's Office; and I beg

Despatch
acknowledged.

1826.
18 Oct.
Lands granted to
R. Crawford.

leave to refer you to the Dispatch, which I had the honor to address to your Lordship, marked "Separate" and dated the 1st Ultimo. In alluding to Mr. Crawford's situation, I ought to have mentioned that he has received a Grant of 2,000 Acres of Land from the Government, and an extensive Town Allotment in Sydney, on which he has built a very good House. I mention these circumstances with no other view than to show that the remuneration of Mr. Crawford's services has not been confined to the income of his official situation.

I have, &c.,
RA. DARLING.

Land claimed
and purchased.

P.S.—Mr. Crawford has also claimed 1,300 acres for the maintenance of Convicts, and has purchased 3,000 acres.

R.D.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 88, per ship Guilford; acknowledged by Governor Darling, 11th October, 1827.)

19 Oct.
Report on
female orphan
school.

Sir, Downing Street, 19th October, 1826.

I have the Honour to acknowledge the receipt of your dispatch, marked "Separate," and dated the 5th of February last, enclosing the report of a Board, whom you had appointed to examine into the state of the Female Orphan School at Parramatta; and it will afford me much pleasure to hear that the recommendations of the Board have produced the desired effect. The Revd. Mr. Cartwright having declined to accept the Mastership of that Establishment, I have appointed the Revd. Mr. Wilton to fill that situation, who will proceed to the Colony in the course of this year.

Appointment
of master at
school.

Status of
archdeacon as
King's visitor.

With respect to that part of your dispatch, which relates to the Visitorial Functions exercised by the Archdeacon, I do not deem it necessary to make any observation, further than to state that, whatever difficulties might have existed previously to your issuing the Letters Patent appointing him King's Visitor, the Archdeacon, in the absence of the Bishop, has had subsequently the authority to act as Visitor in all the Schools, which are or shall be supported and maintained under the authority of those Letters Patent, taking it for granted that the Female Orphan School at Parramatta, although in existence before the issuing of those letters Patent, is one which will partake of the Funds created thereby, so as to bring it within the description of the Schools contemplated therein.

I have, &c.,
BATHURST.

EARL BATHURST TO GOVERNOR DARLING.

1826.
19 Oct.

(Despatch No. 89, per ship Guilford; acknowledged by Governor Darling, 7th August, 1827.)

Sir, Downing Street, 19th October, 1826.

I have the honor to acknowledge the receipt of your dispatch, No. 26 of the 5th May, reporting the names of the persons, whom you had selected for the purpose of a Land Board, for the objects pointed out in my dispatch of the 16 July, 1825; and I beg to acquaint you in reply that the arrangements connected with that Establishment, as well as those connected with the Board "for general purposes," of which the formation is also reported in your Dispatch, are approved by His Majesty's Government.

Approval
of boards
appointed.

With respect to the latter Board, however, although you cannot fail to receive great assistance from the Individuals composing it in the reorganization of the different Public Departments, I deem it necessary to inform you that I cannot sanction any allowance to be made to them for their extra Services on this occasion, should it be your intention to assign to them any remuneration.

Board for
general
purposes to
receive no fees.

With reference to your observations, relative to the want of a competent Civil Engineer to superintend the several Public Buildings and other works, I do not feel myself at liberty, as there appears to be an Engineer already borne on the Establishment, to burthen the Colonial Fund with a double Salary for the performance of the same duty; and I, therefore, hope that, by the Assistance of those Officers who are at present on the Spot, you will be able to carry on this branch of the Public Service without the necessity of my making any additional Appointment.

No engineer to
be appointed.

I have, &c.,

BATHURST.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 81, per ship Regalia; acknowledged by Viscount Goderich, 1st June, 1827.)

My Lord, Government House, 19th October, 1826.

In acquainting your Lordship that I have reduced the remuneration of the Commissioners, appointed by Sir Thomas Brisbane to assist the Surveyor General in valuing the Crown Lands, to the sum of one pound a day, as directed in your Lordship's Dispatch, No. 7, I beg to be permitted to point out that, although the Surveyor General's Salary is only *Three hundred and sixty five* pounds a year, the income of his Office is considerably augmented by the fees, he receives, which latter amounted last year to *Fifteen hundred* pounds, as stated in my

Nominal and
actual income
of surveyor-
general.

1826.
19 Oct.
Salaries of land
commissioners.

Dispatch, marked "Separate" and dated the 5th Ultimo. I am, therefore, of opinion, if the Commissioners apply themselves as they ought and give up their whole time and attention to this duty, that *Five hundred pounds* a year is not too large an allowance, either with reference to the Surveyor General's Income, or their own immediate duties, though hitherto they certainly have had no claim to any such remuneration.

I have intended for some time past to institute an enquiry into the Salaries and Incomes of some of the Officers, with a view to submitting to your Lordship some better regulation in this respect; but other matters of paramount importance have pressed themselves with so much earnestness on my attention, that I have not yet had it in my power to enter on the subject.

I have, &c.,

RA. DARLING.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 90, per ship Guilford; acknowledged by Governor Darling, 2nd August, 1827.)

20 Oct.
Royal assent to
acts of council.

Sir, Downing Street, 20th October, 1826.

With reference to Sir Thomas Brisbane's dispatch, dated the 25th June, 1825, I do myself the honour of acquainting you that His Majesty has been graciously pleased to approve of the several Acts, therein alluded to, passed by the Legislative Council of the Colony of New South Wales in the months of September, 1824, January, February, March, April and June, 1825, entitled—

[*Here followed a recapitulation of the titles of the first twelve acts, as published in the "Public General Statutes of New South Wales."*]

I am, &c.,

BATHURST.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 82, per ship Regalia; acknowledged by Viscount Goderich, 1st June, 1827.)

My Lord, Government House, 20th October, 1826.

Vice-admiralty
of Tasmania.

I have the honor to acknowledge the receipt of Your Lordship's Dispatch No. 8 with a Commission of Admiralty, appointing me Vice Admiral of the Island of V. D. Land, and to acquaint your Lordship that I have forwarded to Lieutenant Governor Arthur the necessary Instrument, appointing him as my Deputy and Surrogate in that Island, which I presume to have been the intention of His Majesty's Government.

I have, &c.,

RA. DARLING.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

1826.
21 Oct.(Despatch per ship Guilford; acknowledged by Governor Darling,
2nd August, 1827.)

Dear Sir, Downing Street, 21st October, 1826.

With reference to Mr. Horton's letter to Sir Thos. Brisbane of the 28th February, 1825, in favor of Mr. Hoddle, I should be obliged to you to inform me what situation that Gentleman holds in the Surveyor's Department, and likewise the amount of his Salary and Emoluments; and, if in the mean time you should have any opportunity of advancing Mr. Hoddle in his Department without injustice to those Surveyors, who have been confirmed by Lord Bathurst, it will afford me much pleasure to be enabled to communicate the same to Lord George Cavendish, who is interested in his welfare.

Report required
re R. Hoddle.Recommendation in his
favour.

I am, &c.,

R. W. HAY.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch marked "Separate," per ship Regalia; acknowledged by
Viscount Goderich, 12th June, 1827.)

My Lord, Government House, 21st October, 1826.

In acknowledging the receipt of your Lordship's Dispatch of the 1st of January last, marked "Circular," transmitting a Commission as Collector of the Customs for the Naval Officer of this Port, I have considered it my duty, previously to my placing Captain Piper in the situation of Collector, to ascertain more satisfactorily, than I have yet been enabled to do, the manner in which he has discharged his duty, and whether he is deserving the appointment, which the Commission would confer on him. In expressing any doubt of this, I am bound to observe, in justice to Captain Piper, that his Establishment has been totally inadequate to the due discharge of the duties of his office; and I am, therefore, unwilling to impute to him any criminal dereliction of duty, though I cannot but think he has been guilty of great neglect, and that the revenue has been materially diminished in consequence.

Inquiry
ordered into
administration
of naval office
by J. Piper.

I have appointed a Board to Enquire into the conduct of the Naval Office and the subject generally of the Customs Department; and I do myself the honor to transmit for your Lordship's information a copy of the Instructions, prepared for their guidance, and shall lose no time in communicating the Proceedings for your Lordship's information.

In forming the Board, I judged it advisable to appoint two of the Merchants, and have selected Messrs. Wollstonecraft and Jones, as possessing much general and local information; the

1826.
21 Oct.

former of whom was besides recommended as being Chairman of the Chamber of Commerce. I have put these gentlemen in possession of my views, and I am happy to say they have evinced the best disposition to give effect to what is proposed.

I have, &c.,

RA. DARLING.

[Enclosure.]

MINUTE BY GOVERNOR DARLING.

Government House, 12th October, 1826.

Instructions
to board of
inquiry on
administration
of naval office.

THE Department of the Naval Officer appearing to require revision, in order to that important Branch of the Public Service being rendered competent to the object of its institution, I am induced to submit the subject to the consideration of a Board to be formed of Gentlemen, whose information and experience will ensure, what is sought for by the Government and is so important to the Colony, A judicious regulation of the measures and details consequent on the Acts and ordinances relating to its Trade and Commerce.

I have with this view selected the following gentlemen, vizt.—

The Honble. A. McLeay, Esqre.; William Lithgow, Esqre.; H. G. Douglas, Esqre.; E. Wollstonecraft, Esqre.; R. Jones, Esqre.;

and request they will assemble at their earliest convenience, and consider and report on the several points, which follow, vizt.—

1st. The present mode of conducting the duties, connected with the Naval Office, and to suggest such Improvements as may be considered necessary.

2nd. To propose such Forms of Registers to be kept, as may be judged advisable, keeping in view the obtaining correct data for working up annual Returns of all Imports and Exports, and of establishing an effectual check on the collection of the Revenue.

3rd. To consider and propose what Establishment may be requisite to enable the Naval Officer to execute his duties efficiently and correctly, together with the Expense, which may be judged adequate, and the due appropriation of the funds at present set apart for the purpose.

4th. To consider whether it would be preferable that any part of such Establishment should be remunerated by Fees; or the Fees paid into the Treasury and fixed salaries substituted.

5th. To suggest any modifications that may be considered desirable in the existing Duties, Fees, Pilotage, or Harbour dues, and any points which may require to be provided by Legislative enactments.

6th. A Report of the Auditor of Accounts on the examination of the Accounts of the Naval Officer for the year 1825 accompanies this Minute, and is recommended to the attention of the Board as containing much useful information.

7th. The copy of a Letter from the late acting Naval Officer at Van Diemen's Land to the Lieutenant Governor, with three enclosures, also accompany this Minute, and will be found useful in considering the subject.

1826.
21 Oct.

Instructions
to board of
inquiry on
administration
of naval office.

RA. DARLING.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Guilford; acknowledged by Governor Darling.
2nd August, 1827.)

Sir, Downing Street, 22nd October, 1826.

22 Oct.

I am directed by Earl Bathurst to transmit to you the accompanying letter, which has been received from Mr. Hamilton Hume, stating the Services performed by him in exploring the Country about Western Port* in New South Wales; and I am to desire that you will pay such attention to his Application, as the nature of his Services may appear to deserve.

Application
from
H. Hume.

I have, &c.,

R. W. HAY.

[Enclosure.]

MR. HAMILTON HUME TO EARL BATHURST.

My Lord, Sydney, New South Wales, 20 April, 1826.

The prompt attention of Your Lordship to the claims any individual may have the necessity of submitting to Your Lordship, and the impartial disposition, which so much characterize Your public conduct, emboldens me at this time to intrude, thus, on Your Lordship's notice.

Request from
H. Hume for
land grant at
Western port
for services
rendered.

The increased emigration and population of this Territory in the year 1824 arose to such extent, and the then known boundaries of eligible land thus being much circumscribed, the established colonists' means of extending their pursuits were of course proportionably confined, and in many instances the late emigrants were quite unable to select land either for Agriculture or that of depasturing Stock, etc., in the vicinity of any accessible safe harbour for Shipping.

These circumstances loudly called for the services of some person or persons, who were qualified to explore those hitherto unexplored regions, which, from their geographical situation, were best calculated to remedy the evil, and give present facility to the Colonists; and Sir Thomas Brisbane, ever anxious to promote the interest and welfare of this extensive and interesting Colony, expressed a wish for some person to undertake a Tour, of 4 or 500 miles into the interior.

* Note 139.

1826.
22 Oct.

Request from
H. Hume for
land grant at
Western port
for services
rendered.

Presuming myself (altho' an Australian*) capable from experience of undertaking such an expedition, I represented my willingness to do so to His Excellency, who promised his sanction and protection; and, under this impression, I, in company with Captain Hovell, prepared and purchased at our private expence such convenience and necessaries, as were suitable for an undertaking of the kind.

Accordingly in the month of October, 1824, we took our departure from the most remote southern point of the County Argyle, then known, and explored all that tract of country lying between our point of departure (Lake George) and Western Port, Bass's Straits, with more success than exceeded our most sanguine expectations; an account of which I presume has before now been honoured by Your Lordship's notice.†

As a remuneration for those services, I have received a grant of twelve hundred acres of Land,* a quantity which the late Governor Sir Thomas Brisbane did not feel justified in exceeding, but promised to recommend me to Your Lordship's consideration.

I respectfully beg leave to impress on Your Lordship's mind the great expence, attending the fitting out such an expedition, the losses, hardships, dangers, and privations, attending so perilous a pursuit for the period of seventeen weeks, and the incalculable benefit, that must arise at a future period to the public, as the discovery of so good and extensive a tract of Land adjoining Western Port, which promises to be a real and invaluable acquisition to this and the mother country, inasmuch as its advantages for Shipping, Agriculture or the depasturing of Stock, etc., are much superior to any discoveries yet known in New South Wales.

Should there at some future period be a Settlement established at Western Port, I hope Your Lordship will be pleased to take my Services into Your Lordship's kind consideration, and extend the grant already made by an additional Grant at Western Port.

I have, &c.,

HAMILTON HUME.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Guilford; acknowledged by Governor Darling, 2nd August, 1827.)

23 Oct.

Application for
land grant from
J. McBrien.

Sir,

Downing Street, 23rd October, 1826.

I am directed by Earl Bathurst to transmit to you the accompanying Application for a Grant of Land, which has been received from Mr. James McBrien, together with the reply, which has been addressed to him; by which, you will perceive

* Note 144.

† Note 142.

that no expectations have been held out to Mr. James McBrien that he will receive a Grant upon any other conditions than that specified in the printed Memorandum.

I have, &c.,

R. W. HAY.

1826.
23 Oct.

[Enclosure No. 1.]

MR. J. MCBRIEN TO EARL BATHURST.

Nelson's Hotel, Aldgate, High Street,

London, 17th Octr., 1826.

My Lord,

I most respectfully beg leave to address your Lordship and state, that I was appointed Assistant Surveyor of Crown Lands to the Surveyor General of the Territory of New South Wales (John Oxley, Esqr.) at the resignation of Mr. James Meehan, formerly Deputy Surveyor General, and that I have acted in that capacity during the administration of His late Excellency Sir Thomas Brisbane, K.C.B., to whom I beg leave to refer your Lordship for a testimony of my zeal and faithful discharge of my duty in that department.

Application of
J. McBrien for
land grant
exempt from
quit rent.

But, family circumstances rendering it imperative on me to return to Europe, and now being disposed to return to that Colony, I hope your Lordship will be pleased to cause a grant of land to be made to me of such extent, as your Lordship shall think fit. I beg to state to your Lordship that I have property in that Colony to the value of fifteen thousand Spanish dollars. I have, therefore, to request that your Lordship may be pleased to order me a grant of Land, and entertain a hope that, from my services, you will be pleased to exempt such grant from the Conditions relative to the payments of quit Rent, that is to say, five pr. Cent. per Annum on the estimated Value of the land selected, which payment amounts nearly to the purchase of the fee simple inheritance.

Relative to my services for a period of four years and six Months, I can confidently refer your Lordship to Sir Thomas Brisbane or Frederick Goulburn, Esqr., lately Colonial Secretary.

I further beg leave to request that your Lordship may be pleased to grant me permission to purchase from the Colonial Government five thousand acres of Land in New South Wales Territory.

I have, &c.,

JAMES MCBRIEN.

[Enclosure No. 2.]

UNDER SECRETARY HAY TO MR. JAMES MCBRIEN.

Sir,

Downing Street, 26th Octr., 1826.

I am directed by Earl Bathurst to acquaint you, in reply to your letter of the 17th Instant, that your application for a Grant of Land in New South Wales will be forwarded to the

1826.
23 Oct.
Refusal of
special land
grant.

Governor of that Colony, who will no doubt make to you such a Grant as will be in proportion to your Capital; but I am, at the same time, to observe that your Services in the Surveyor's Department can by no means be considered as entitling you to a Grant of Land upon any other terms than those specified in the enclosed Memorandum.

I am, &c.,

R. W. HAY.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 83, per ship Regalia; acknowledged by Viscount Goderich, 1st June, 1827.)

My Lord, Government House, 23rd October, 1826.

Necessity for
maintaining
Phoenix hulk.

I have the honor to acknowledge the receipt of your Lordship's duplicate Dispatch, No. 9, on the subject of the Phoenix Hulk, and expressing a hope that it may not be necessary to continue that Establishment. I regret that it is not in my power to hold out to Your Lordship any prospect of its being dispensed with, before another Jail is built, the present one being totally inadequate to the accommodation of the Prisoners, detained for Trial, and those under sentence of Transportation to the Penal Settlements. The Hulk is, under this circumstance, a most useful auxiliary to the Jail, being set apart for the reception of Transports, until they can be forwarded to their destination. The want of accommodation for these people had rendered it necessary, some time since, to order the lower deck of the Hulk to be prepared for their reception. When completed, this Vessel will contain about two hundred prisoners. They are not, however, kept on board a moment longer than is necessary, the small craft (now reduced to two small Brigs, in consequence of the *Isabella* and the *Mermaid* having been sent to Melville Island), being almost constantly employed in conveying them to the Penal Settlements.

Capacity of
hulk.

Expense of
upkeep.

I am not, however, aware that the expense of the Hulk is great; I should say it is inconsiderable with reference to the extent of the accommodation it affords. From the nature of the Establishment, the number of persons employed is small, and the Prisoners could not be more securely lodged, which is an object, when they are so numerous and so dexterous. The Executive Council proposed some time since, when a difficulty was experienced in disposing of the Female Transports, that a Hulk should be purchased for their accommodation; but I waived the proposition, conceiving that the addition of a few cells to the Factory, on a larger scale than those for mere temporary purposes, would answer as effectually and be infinitely less expensive.

Proposed hulk
for females.

I have, &c.,

RA. DARLING.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 84, per ship Regalia : acknowledged by Viscount Goderich, 1st June, 1827.)

1826.
24 Oct.

My Lord, Government House, 24th October, 1826.

I have the honor to acknowledge the receipt of Your Lordship's duplicate Despatch, No. 19, and to transmit in consequence two copies of the several Acts (specified in the Enclosure), passed by the Legislative Council since the commencement of the present year, which will complete the number (four) required by Your Lordship. This number shall in future be regularly transmitted; and I beg to acquaint your Lordship that orders have been given that all Acts and Ordinances, passed during the year, shall be printed and bound up, as directed, in order to their transmission to your Lordship. I shall do myself the honor to forward the Acts of the last year, as soon as they shall be completed.

Transmission
of copies of
acts of council.

I have, &c.,

RA. DARLING.

[Enclosure.]

[*This consisted of acts, numbered I to V of 7 Geo. IV, as printed in the "Public General Statutes of New South Wales."*]

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 85, per ship Regalia : acknowledged by Viscount Goderich, 1st June, 1827.)

My Lord, Government House, 25th October, 1826.

25 Oct.

I have the honor to acknowledge the receipt of your Lordship's duplicate Dispatch, No. 21, directing that no Convict above the Labouring Class shall receive a Pardon, unless he enter into a condition to quit the Colony, immediately on receiving such pardon; and I beg to acquaint Your Lordship that His Majesty's Commands shall be strictly attended to.

Instructions
re pardons to
educated
convicts.

I have, &c.,

RA. DARLING.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 86, per ship Regalia : acknowledged by Viscount Goderich, 1st June, 1827.)

My Lord, Government House, 26th October, 1826.

26 Oct.

I have the honor to acquaint your Lordship, in reply to your duplicate Dispatch, No. 23, that the course, directed to be observed in the case of Convicts bringing money or property to the Colony, appears to have been the practice here for some time past. Their money is invariably lodged in the Savings Bank, where it is kept, until they obtain a "Ticket of Leave" or become "Free," when it is returned to them, as they are then supposed to be in a condition, in which its possession may be

Custody of
money or
property of
convicts.

1826.
26 Oct.
Custody of
property.

useful to their pursuits. The same course would be pursued with respect to property, supposed to have been honestly acquired; but the reference, to which I had the honor to make in my Dispatch of the 10th Instant, addressed to Mr. Hay, respecting the Jewellery taken from Herring, was to prevent his deriving any benefit from those Articles, which there could be no doubt he had obtained through dishonest means; and I shall in all such cases make a point of depriving the prisoners of such property, as far as it can be legally done.

I have, &c.,
RA. DARLING.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 87, per ship Regalia; acknowledged by Viscount Goderich, 1st June, 1827.)

27 Oct.
Despatches re
ship Almorah.

My Lord, Government House, 27th October, 1826.

I have the honor to acknowledge the receipt of your Lordship's Dispatches, No. 33 of last year, and No. 2 of the present year, the former on the subject of the "Almorah," and the latter with respect to the Officers of the Commissariat as connected with the proceedings in the case of that Vessel.

Status of
commissariat
department.

Without troubling your Lordship with any detailed remarks on the course pursued here, I take the liberty of observing that it appears to have been too much the practice to consider the Commissariat in this command, as an independent body not under the immediate control of either the Civil or Military Authority. As this opinion must have originated in error, and could not be too soon checked, I have already taken the necessary steps to place the Department in its proper situation, and shall consider myself responsible for its conduct and the proceedings of its Officers.

I have, &c.,
RA. DARLING.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch marked "Separate," per ship Regalia; acknowledged by Viscount Goderich, 13th June, 1827.)

My Lord, Government House, 27th October, 1826.

Appointment
of acting
attorney-
general.

I have the honor to acquaint your Lordship, in reference to your Despatch No. 30, that I have appointed Mr. Moore, the Government Solicitor, to carry on the duties of Attorney General, until the arrival of Mr. Bannister's successor. The circumstances, which have led to this measure, are briefly as follows.

Reasons for
immediate
suspension of
S. Bannister.

Mr. Bannister, on the receipt of your Lordship's Despatch informing him that his resignation had been accepted, wrote to intimate his wish to leave the Colony in the course of the present month. I was not aware at the moment that the duties of his

Office could be conveniently provided for, and I informed him that I had received no instructions from Your Lordship on the subject, and, therefore, concluded that his departure, before the arrival of his successor, had not been contemplated.

A short time after, he applied for leave to be absent for three weeks; on which occasion, as I conceived his continuing here might be irksome to him, I proposed relieving him from his duties, as your Lordship will perceive by the enclosed copy of my reply to his application.

He, however, declined availing himself of this Offer, and repeated his application to be permitted to go into the Country, which I assented to, as soon as some trials of importance, which were then proceeding, should be disposed of.

A few days after this, I received a third Application from him for him to go to Van Diemen's Land, which I also assented to; when he wrote to me on the subject of the enclosed copy of a Government Order, which, under the circumstances of the moment, I had felt it necessary to issue, signifying it had appeared to him more than once to be necessary to notice the inconvenience arising from matters of Law and Police being imperfectly administered in this Colony. It is unnecessary to make any remark on such a communication from the Attorney General to the head of the Government, as Mr. Bannister has retired from Office.

As to the Order, it speaks for itself; and I shall not trouble Your Lordship with any observations respecting it, further than to state that the men had made a full acknowledgment to the Magistrates of the facts, before the Order was issued.

Judging, from the inconsistent nature of Mr. Bannister's application (first to be permitted to return Home, twice for leave to go into the country on important private affairs, then to Van Diemen's Land on affairs of still more importance, all within the short space of eighteen days), of the unsettled state of his mind, coupled with the temper evinced by his Letter of the 6th instant (No. 8), that the service would derive no benefit from his continuance in Office, I wrote to inform him that, in consequence of the resignation of his appointment having been accepted, as communicated to me by Your Lordship, I should make immediate arrangements for placing the duties of Attorney General in other Hands. I beg leave to enclose a copy of Mr. Bannister's reply, and of the notification of the temporary appointment of Mr. Moore.

In troubling your Lordship with so detailed an account of this proceeding, it is hardly necessary to state that I have not done so from any idea of its importance. Mr. Bannister is

1826.
27 Oct.

Reasons for
immediate
suspension of
S. Bannister.

1826.
27 Oct.
Grievances
alleged by
S. Bannister.

desirous of being considered an injured man, and threatens to appeal to *Parliament* and the *Throne*, and, though he resigned his appointment, would fain make it appear that he has been treated harshly and forced to retire. If this were the fact, it would be attributable solely to his own conduct; and Your Lordship will judge whether this Letter does not contain sufficient evidence in itself of his total unfitness for public employment.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

MR. SAXE BANNISTER TO GOVERNOR DARLING.

Sir,

Sydney, 15th September, 1826.

Request for
permission to
leave colony.

In reference to the enclosed communication of my successor being appointed in April last, I have to request to be informed, if I may consider myself at liberty to endeavour to sail from the Colony in October.

It may be of importance to me to do so, and the Act of Parliament empowers Your Excellency to nominate a substitute for me in the Courts.

But, as long as I remain in New South Wales, I shall be ready to perform all the duties of my former office.

I have, &c.,

S. BANNISTER.

[Enclosure No. 2.]

GOVERNOR DARLING TO MR. SAXE BANNISTER.

Sir,

Government House, 16th September, 1826.

S. Bannister to
await arrival
of successor.

I have to state, in reply to your Letter of the 15th Instant, with its Enclosures from the Earl Bathurst, herewith returned, that I understand it to have been his Lordship's intention, in accepting your resignation, that you should continue to exercise the functions of Attorney General, until the arrival of your successor, as I have not received any Instructions to make other arrangements for the performance of the duties of that Office.

I have, &c.,

RA. DARLING.

[Enclosure No. 3.]

MR. SAXE BANNISTER TO GOVERNOR DARLING.

Sir,

Sydney, 22nd September, 1826.

Request for
leave of absence.

I have occasion to be absent from Sydney about three weeks on important private affairs, for which I have to request Your Excellency's sanction.

I am not aware of any public business, requiring my immediate pressing attendance, the Criminal cases of this day closing the Trials for the present.

I have, &c.,

S. BANNISTER.

[Enclosure No. 4.]

1826.
27 Oct.

GOVERNOR DARLING TO MR. SAXE BANNISTER.

Sir, Government House, 22nd September, 1826.

I have just now received Your Letter, requesting leave to be absent from Sydney for three weeks on important private affairs. Coupling this application with the wish, expressed in your Letter of the 18th, I shall not oppose your returning to England next month; and, being aware you must have many private matters to attend to, I shall make arrangements for the performance of the duties of Attorney General, until the arrival of your Successor, which will leave you at liberty to devote the remainder of your time to your private concerns. This will be attended with the less inconvenience, as the trials of the Criminal cases have closed for the present.

I have, &c.,

RA. DARLING.

Permission
to return to
England.

[Enclosure No. 5.]

MR. SAXE BANNISTER TO GOVERNOR DARLING.

Sir, Sydney, 25th September, 1826.

I have been favoured with your Excellency's letter of Saturday last, stating that arrangements shall be made for the performance of the duties of an Attorney General; and I have to submit that this is a trouble, which need not be taken, inasmuch as it is my intention not to resign my office before my successor arrives, or specific instructions on the subject are received from England.

S. Bannister to
await arrival
of successor.

But I trust that your Excellency will sanction my absence of about three weeks from Sydney, pursuant to my application.

I have, &c.,

S. BANNISTER.

[Enclosure No. 6.]

GOVERNOR DARLING TO MR. SAXE BANNISTER.

Sir, Government House, 25th September, 1826.

I have received your Letter of this date, and have to state in reply that mine of the 23rd, signifying that I should make arrangements for the performance of the duties of Attorney General, was in consequence of the desire, expressed in your Letter of the 15th instant, to return to England in the course of next month. As you now inform me, it is your intention to wait the arrival of Your Successor, I beg to acquaint you that, previously to granting your leave to be absent from Sydney for three weeks, I am desirous the Trial of the Prisoners should take place, who are concerned in the proceedings at Burwood on Saturday night; and I request to be informed, when you will

Leave of
absence with-
held pending
criminal trials.

1826.
27 Oct.

be prepared for this Trial, that I may communicate with the Chief Justice, considering it of importance that it should take place with as little delay as possible. I have, &c.,

RA. DARLING.

[Enclosure No. 7.]

MR. SAXE BANNISTER TO GOVERNOR DARLING.

Sir, Sydney, 3rd October, 1826.

My intention of going into the interior for about three weeks being changed by circumstances to the more important one, to my private affairs, of visiting Van Diemen's Land, I have to request Your Excellency to sanction my going thither.

An opportunity has occurred in the Fly sailing to Hobart Town, which will render my absence for more than a month extremely improbable. I have, &c.,

S. BANNISTER.

[Enclosure No. 8.]

MR. SAXE BANNISTER TO GOVERNOR DARLING.

Sir, Sydney, 6th October, 1826.

It has appeared to me more than once to be my duty to notice to Your Excellency the serious inconvenience, arising from matters of Law and Police being improperly administered in this Colony; and, unpleasant as it is to me under the circumstances, in which I am placed, I cannot forbear mentioning another important instance.

I allude to the extreme inaccuracy of the Statements, on which the Government Notice of the 29 of September, relative to an attack on Dr. Dalhanty's family, is drawn.

Yesterday I reported to Your Excellency what seemed to me the nature of the crime, and who the perpetrator was, as proved in the Supreme Court. The transaction, I am convinced, was very different from that set forth in the Notice.

I do not mention this to extenuate the crime of the Offender, Thomas Mustin, or to depreciate the conduct of Dr. Dalhanty, who with his family were shown to have acted in an exemplary manner.

But it is of infinite importance in the administration of Justice not to confound crime, and that a prejudice should not before Trial be raised against any accused parties.

Common rumour is apt to create a difficulty of this kind to Courts; but, if the Governor of the Colony interposes his authority out of time and incorrectly, the safe course of Law is in danger of being perverted. I have, &c.,

S. BANNISTER.

Request for
leave to visit
Tasmania.

Criticism of
accuracy of
government
notice.

[Enclosure No. 9.]

GOVERNMENT NOTICE.

1826.
27 Oct.

Colonial Secretary's Office, 29th September, 1826.

HIS EXCELLENCY the Governor cannot permit the events of last Saturday Night at Burwood, the residence of Dr. Dalhanty, to pass without expressing his admiration of the spirited conduct of that Gentleman and his family, which has led to the apprehension of the Ruffians, who made a sanguinary attack on their persons. The result would be highly important, if only in proving how much may be effected by a cool and determined resistance against men, even of the most desperate characters; while, at the same time, it holds out an example, which under similar circumstances may be useful in exciting others.

Government
notice re
apprehension
of certain
criminals.

His Excellency avails himself of this opportunity of thanking Captain Rossi for his unwearied assiduity in the superintendence and conduct of the Police of Sydney. The duties of the Office, which he fills, must ever in a Colony of this description be of the most arduous nature; and he has evinced a zeal in their performance, highly creditable to himself and beneficial to the Public, in whose behalf it has been exerted.

The exertions of Mr. Harris, the Police Magistrate of Parramatta, to apprehend the Banditti on the Western Road on Saturday night last, and the zeal, with which he has on all occasions discharged the duties of his Office, demands His Excellency's best acknowledgements. The intrepidity of Mr. Thorn, the Chief Constable, and the subordinate officers of the Constabulary in carrying into effect the orders, they had received, is a proof of their determination to root out the bad characters, which infest that District, and to perform their duty even at the risk of their lives.

The Governor regrets that one of the Constables should have been wounded severely upon the occasion, alluded to. The good conduct of those employed is duly appreciated, and the services, they have rendered the Public, will not be forgotten by the Government.

His Excellency the Governor has been pleased to appoint John Dalhanty, Esqre., to be a Magistrate of the Territory of New South Wales.

By His Excellency's Command,

ALEXANDER MCLEAY.

[Enclosure No. 10.]

GOVERNOR DARLING TO MR. Saxe BANNISTER.

Sir, Government House, 12th October, 1826.

I have been so much occupied preparing my Dispatches for England, and in other matters of consequence, that it has not been in my power before this moment to attend to your Letter of the 6th Instant.

Cause of delay
in reply.

I shall make no observations on it, though I cannot but express my surprize, as you are aware of the situation in which you stand in relation to the Government, that you did not avail yourself of the opportunity, intentionally afforded you by my letter of the 22d of last month, of retiring from an office, which you had already resigned.

1826.
27 Oct.
Dismissal of
S. Bannister.

As you have not done so, I have now to apprise you that, the acceptance of the resignation of your Office having been notified by the Secretary of State, I shall make immediate arrangements for placing the duties in other hands. I have, &c.,
RA. DARLING.

[Enclosure No. 11.]

MR. SAXE BANNISTER TO GOVERNOR DARLING.

Sir, Sydney, 12th October, 1826.

Recapitulation
of
correspondence.

I have the honor to acknowledge the receipt of Your Excellency's letter of this day, stating that—

[Here followed a repetition of Governor Darling's letter, dated 12th October, subject to the alteration of the personal pronouns.]

In reply, I take the opportunity to refer to your Excellency's letter of the 16th of last month, which states—

[Here followed a similar repetition of Governor Darling's letter, dated 16th September.]

and, therefore, declining to accede to my request that I might be allowed to go home immediately.

To this intimation, I sacrificed my wishes and obtained only temporary leave of absence, whilst the criminal cases were suspended.

On the 16th of last month, Your Excellency perceives that the intention of enabling me to go to England did not exist; and I am not aware of the circumstances, which occurred between that day and the 22d of last month, to create that intention which is spoken of in the foregoing letter.

But I am too conscious of having served the Crown faithfully to withdraw from any Trial of my conduct, either in regard to the letter of the 6th instant, which your Excellency mentions, or to other matters, and to the present announcement of removing me from my Office. I take the liberty of stating to Your Excellency that I shall exercise such right of appeal to His Majesty, as I may be found to possess by Law.

I have, &c.,
S. BANNISTER.

[Enclosure No. 12.]

GOVERNMENT ORDER.

Colonial Secretary's Office, 13th October, 1826.

Appointment of
W. H. Moore
as acting
attorney-
general.

HIS MAJESTY having been pleased to accept the Resignation of Saxe Bannister, Esqr., Attorney General of this Colony, His Excellency The Governor has appointed Mr. William Henry Moore. Government Solicitor, to carry on the duties of Attorney General, until the arrival of Mr. Bannister's Successor.

By His Excellency's Command,

ALEXANDER MCLEAY.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Guilford: acknowledged by Governor Darling,
2nd August, 1827.)

1826.
31 Oct.

Dear Sir,

Downing Street, 31st October, 1826.

With reference to Lord Bathurst's dispatch of the 26 of July last, No. 51, in reply to yours of the 3rd February, upon the subject of an agreement, which is stated to have been entered into with Mr. Winder for securing to that Individual a monopoly of the Coals obtained from Newcastle, I am to acquaint you that Sir Thomas Brisbane, upon being called upon to explain the nature of this transaction, states that the impression upon his mind is that no lease to any Individual has been granted, and that such measure was only in contemplation. Sir Thomas Brisbane further states that, upon visiting the Coal Establishment, he was convinced that it was not worked on anything like scientific principles, and that his object was, therefore, to find a person, who could do justice to it and pay a Lordship to the Government, as is done in this Country; but nothing definitive was ever done in the business, nor has any trace of any document been found to establish an agreement.

Denial by
Sir T. Brisbane
of agreement
with T. W. M.
Winder.

I remain, &c.,

—————
R. W. HAY.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Guilford; acknowledged by Governor Darling,
2nd August, 1827.)

My dear Sir,

Downing Street, 1st November, 1826.

1 Nov.

Mr. Spiers Gordon, who will have the honour of delivering this letter to you, has resided in Van Diemen's Land for the last three years, as Farming Bailiff to Mr. Michael Steele, and, his term of agreement having expired with that Gentleman, he is now desirous of becoming a Settler himself. I am, therefore, to request that you will make to Mr. Gordon a Grant of Land in proportion to his Capital, and, having been strongly recommended by His Grace the Duke of Beaufort, Lord Bathurst is anxious that he should receive such facilities in the selection of his Grant as may not be inconsistent with the General Regulations.

Recommendation of
S. Gordon for
land grant.

I remain, &c.,

—————
R. W. HAY.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch marked "Separate," per ship Regalia: acknowledged by
Viscount Goderich, 14th June, 1827.)

My Lord,

Government House, 1st November, 1826.

I have the honor to transmit to Your Lordship the Copy of a Letter, which Mr. Bannister addressed to me, requesting I would authorize, on the part of the Crown, the prosecution of

Prosecution of
R. Howe
for libel.

1826.
1 Nov.

Prosecution of
R. Howe
for libel.

the Editor of the Sydney Gazette for a Libel,* which appeared in that Paper, under date the 14th Ultimo. I have also the honor to enclose a Copy of my Answer; and I beg to add Mr. Bannister proceeded on his own account, and that the Defendant was acquitted.

Request by
S. Bannister
for prosecution
of R. Wardell.

I further beg leave to forward to Your Lordship Copies of two Letters, addressed to me by Mr. Bannister, desiring the interference of the Government in consequence of an Article, which appeared in the "Australian" of the 18th of October, as likewise of my answer declining on the grounds, stated therein, to interfere in the matter.

Criticism of
S. Bannister
in *Australian*
newspaper.

Though the Article,* alluded to, is of no ordinary character, and is written with extreme intemperance, I have not been able to persuade myself that the Government was bound to interpose on behalf of Mr. Bannister. The object of the Article is evidently to prove Mr. Bannister's unfitness for the Office of Attorney General, which he had just then resigned; and I am not satisfied that it was either necessary or possible to controvert this position, however unpalatable to the person against whom it was directed. Besides Mr. Bannister had voluntarily retired from the Service of the Crown; and he must have known that Officers, with fully as much pretention to its protection, have been assailed by the News Papers, and that it has not been the practice of Government to step forward on such occasions and defend them.

Hostility
between
R. Wardell and
S. Bannister.

I might add that the rancour of the Editor and Mr. Bannister against each other appears unparalleled, resulting perhaps in some degree from their former intimacy. Mr. Bannister, in his communications with me, appeared to cherish the most vindictive feelings against Dr. Wardell; and the Article alluded to shows that the latter was influenced by sentiments equally hostile to Mr. Bannister.

I have felt it necessary to say thus much in explanation of the line of conduct, I have pursued, in order to show that, in declining to prosecute the "Australian," I have no intention to advocate its conduct in the instance alluded to. In adopting this course, I persuade myself I have not acted inconsistently with my public Duty. That the matter between the parties originated in *private* feeling has in some degree been proved by the result; and the departure of Mr. Bannister from the Colony, whom the Public has considered as attached to a Party, will I am satisfied be an important step to its general tranquillity.

I have, &c.,

RA. DARLING.

* Note 145.

[Enclosure No. 1.]

1826.
1 Nov.

MR. SAXE BANNISTER TO GOVERNOR DARLING.

Sir, Woolamoola, 16th October, 1826

The leading Article of the Sydney Gazette of Saturday last contains imputations on my conduct, as the King's Attorney General in this Colony, which I have no doubt are libellous. Libel action commenced by S. Bannister.

They may be most fatal to my reputation; and I have instituted prosecutions against the Author, if given up, and, if the Author be not given up, against the Proprietor of the Newspaper, Mr. Howe.

I am prepared with the clearest and the fullest proofs that the Allegations are utterly false, and that I have always exercised my office uninfluenced by any parties whatever.

I take the liberty to tender these proofs to Your Excellency, and to request that the Prosecutions may be carried on at the expence of the Crown on my behalf, as having been His Majesty's Attorney General. Request for expenses.

I have, &c.,

S. BANNISTER.

[Enclosure No. 2.]

GOVERNOR DARLING TO MR. SAXE BANNISTER.

Sir, Government House, 17th October, 1826.

I have received your letter of Yesterday, informing me that you have instituted a Prosecution against the Sydney Gazette, in consequence of the imputations on your conduct, as the King's Attorney General, contained in that Paper of Saturday last, and requesting that the Prosecution may be carried on at the Expence of the Crown. Refusal of interference by government.

In reply to which, I am to observe that, as the Article to which you allude did not appear until the resignation of Your Appointment was notified, I conceive the Government could not interfere in such case without establishing a precedent, which might subject it to serious inconvenience.

I have, &c.,

RA. DARLING.

[Enclosure No. 3.]

MR. SAXE BANNISTER TO GOVERNOR DARLING.

Sir, Woolamoola, 18th October, 1826, 5 O'clock.

I have seen the Australian Newspaper of this day only within the last half hour. It is a Paper, which I rarely see except for Official purposes. Criticism in Australian newspaper.

My Appointment is spoken of in it in terms so utterly false, my conduct in a manner so malignant and slanderous, that contemptibly, as I think of the Editor either as an English Barrister or as a Man, no choice is left to me.

1826.
1 Nov.

In the name of the King, therefore, whom alone I have served, I call again on Your Excellency for protection by the due course of law being pursued against this Editor.

Testimonials.

Earl Bathurst holds testimonial papers of my appointment, written by Lieutenant General Sir Alexander Hope, by Sir Herbert Taylor as the Private Secretary of the Duke of York, by the Head of my College at Oxford, by my Tutors at College, by Mr. Shadwell and Mr. Bellenden Kar, my legal Tutors, and by Mr. Lloyd a Member of the House of Commons, the Colonel of my County Militia, in which I served, and by other persons all testifying to my good name.

Favor I had none to support me in offering to serve the Crown here. None was wanted; but the principles of my whole life have been Alien to advancement by favor.

My Family is not without friends; my youngest Brother's Company in the 15th Regiment of Infantry was paid for by the Earl of Egremont in pure personal kindness; and Men of the highest estimation in the Political and literary World know well of me; and I am sure they will not desert me.

Claim for
protection of
government.

I am determined on my course, and I again call on Your Excellency to do Justice, as in these points the King's Ministers in England do justice.

I offer proofs of my independence and my integrity, and I claim to have the King's protection at Your Excellency's hands.

I have, &c.,
S. BANNISTER.

[Enclosure No. 4.]

MR. SAXE BANNISTER TO GOVERNOR DARLING.

Sir,

Woolamoola, 19th October, 1826.

Slander
published in
newspaper
in London.

On the 12th of October, 1823, a slander was published in the Sunday Times, a London Newspaper, upon the King's Government and on me in regard to my appointment.

Mr. Wilmot Horton called me forward on the occasion.

I had already taken steps in the matter; and, on the 19th of the same Month in the same paper, the slander was repaired by the Editor in a manner satisfactory to the Secretary of State.

As the news of the attack had reached the Colony at my arrival, the reparation and the slander were both published at my own instance in the Sydney Gazette* in April, 1824.

This calumny is repeated substantially in the Australian Newspaper of Yesterday.

* Note 146.

It is false that interest was made for my appointment. It is false that the Minister of the Crown failed in his duty by yielding to solicitations in my favor.

1826.
1 Nov.

Falsity of
statements in
Australian
newspaper.

I refer to my letter of yesterday for the names of those, who vouched for my good reputation; on my reputation alone I stood. To His Majesty, my entire service belongs by every tie; gratitude, I owe to no man; and I have no "Masters" but that King and the law of the land.

Earl Bathurst is slandered in this Newspaper; and I submit that it is due to his Lordship and to the Crown and to the People, as much as to me, that justice be done.

Falsehood upon the administration cannot be one of your Excellency's jurisdiction.

In this point of "Interest," Earl Bathurst and Mr. Horton know the truth of what I now declare, and which I can prove even here in part.

I call, therefore, for a prosecution of this libel upon the King's Government. It strikes at the peace of the Colony. If the People believe that the King's Officers are selected for the "interest," they possess, and not for their capacity, discontent will prevail.

Request
for public
prosecution.

On other points of the slander, as on the Black people and the Bushrangers, your Excellency is aware how wickedly untrue are the assertions upon my advice; and it must be looked to how this Paper possesses any knowledge of my having given advice at all on these subjects.

Further points
of slander.

Upon the state of parties here, your Excellency also knows how faithfully my opinions have been given. The instances upon the distresses of the Old Bank is remarkable. I was specially sent for by Your Excellency before eight o'clock in the Morning, and, in the presence of the Colonial Secretary, I distinctly and repeatedly advised that the New Bank (composed of Mr. McArthur and the opponents of the Emancipists party chiefly) should not be the organ of the liberality of the Crown, because party feelings might defeat your Excellency's intentions.

Upon the Indemnity act and the alleged Torture cases, the Sydney Gazette of Saturday last and the Australian Newspaper of yesterday contain the most outrageous mis-statements. I have twice offered explanation of the transactions; I now repeat the offer.

The truth is long since known in England, if the Documents, which I have sent home, have arrived; and in England I shall have ample redress; but I now make this offer again, because

1826.
1 Nov.

I would have your Excellency's good opinion, if possible, and because I would avoid if possible the appeal to which events are driving me.

I shall leave the Colony in a few days; but I solemnly warn your Excellency to be no longer deceived; a change must come; the dreadful perversion of truth by the public press of this unfortunate community cannot prevail long.

Decision to
appeal to the
King.

For my own safety, I am determined to appeal to my King. The Parliament of England will not permit audacious fraud to triumph. The fatal example upon the weak and the young by the excess of intrigue and malice must be checked by increased exertions; and I pledge myself to be true to the commissions, which I have borne as a Soldier and as a humble representative of my Sovereign.

I have, &c.,

S. BANNISTER.

[Enclosure No. 5.]

GOVERNOR DARLING TO MR. SAXE BANNISTER.

Sir,

Government House, 20th October, 1826.

Reasons for
declining
a public
prosecution.

I have to acknowledge the receipt of your Letters of the 18th and 19th instant. Without repeating the reasons, which induced me to decline instituting a public prosecution in the case of the "Sydney Gazette," which equally apply to the "Australian," I might ask whether on reflection you consider it expedient that the Government should prosecute the Editor of the latter paper on the grounds stated in Your Letter.

For my own part, I cannot think the assertion that an appointment was obtained through the means of private interest is of a nature to justify the Government in prosecuting the parties, who make such assertion.

With respect to the advice you are supposed to have given in the cases of the Black People and Bushrangers, as you state it is "wickedly untrue," it is of little importance (though you observe "it must be looked to") how the Newspapers came to possess any Knowledge of Your having given advice on these subjects.

As to the "Indemnity Act," and the Explanations you have offered, the reasons for my declining to receive them are I think obvious and should be satisfactory. It is a question, in which the present Government is in no way concerned; and there can be no reason that it should interfere in a matter, which is already disposed of. But, if I do not misconceive the object of the "Australian" on this point, it is intended to shew your unfitness for the situation of Attorney General. This may be libellous. But there is no want of proof that it is not the

practice of His Majesty's Government to interpose on such occasions, and it does not appear to me that there is anything in the present case, which renders a deviation from that practice necessary.

1826.
1 Nov.

These, Sir, are the grounds, on which I consider it inexpedient that the Government should interfere; and I must, therefore, leave you to take such steps as you may think proper.

I have, &c.,
RA. DARLING.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 91, per ship Guilford; acknowledged by Governor Darling, 2nd August, 1827.)

Sir, Downing Street, 2nd November, 1826.

2 Nov.

Having brought under the consideration of the Secretary of State for the Home Depart't your dispatch of the 30th April last, with its enclosures, respecting the case of William Curtin, convicted of Murder, I do myself the honor of transmitting to you the enclosed conditional pardon, which His Majesty, in consequence of the circumstances stated by you touching the case of the Prisoner, has been graciously pleased to grant to him; and I am to desire that you will take the necessary measures for carrying His Majesty's Intentions into effect.

Conditional
pardon for
W. Curtin.

I have, &c.,
BATHURST.

UNDER SECRETARY HAY TO GOVERNOR DARLING.*

Sir, Downing Street, 3rd November, 1826.

3 Nov.

I am directed by Earl Bathurst to acquaint you that Major Elrington, the Bearer of this letter, is proceeding to New South Wales with the view of settling in that Colony under the Regulations, which have been promulgated by His Majesty's Government in the general Order† of the 8th June last; and I am to desire that you will cause a portion of Land to be allotted to that Officer in conformity with those Regulations.

Recommendation of major Elrington as military settler.

Major Elrington has deposited the Sum of one thousand and sixty six pounds, thirteen shillings, and four pence in the hands of the Colonial Agent, being one third of the value of his Commission; and I have to request that you will give directions for the repayment of the amount of his deposit Money, in conformity with Earl Bathurst's Instructions of the 1st Ultimo.

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

1826.
8 Nov.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Guilford; acknowledged by Governor Darling.
10th July, 1827.)

Sir, Downing Street, 8th November, 1826.

Confirmation of
appointment of
J. Nicholson.

Sir Thomas Brisbane having brought under the favorable consideration of Earl Bathurst the name of Mr. Nicholson, who at present fills the situation of Harbour Master at New South Wales, his Lordship has been pleased to confirm him in that appointment. I am, therefore, to desire that you will issue to Mr. Nicholson a Salary not exceeding the amount of his present emoluments of every kind, which should be paid to him in lieu of all Fees and Allowances whatsoever. I am, &c.,

R. W. HAY.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 92, per ship Guilford; acknowledged by Governor Darling, 20th March, 1828.)

12 Nov.

Sir, Downing Street, 12th November, 1826.

Transmission of
legal opinion.

With reference to Sir Thomas Brisbane's Dispatch, dated the 4th of March, 1825, reporting the circumstances attending the seizure of the Ship "Almorah" and her Cargo by Captain Mitchell of His Majesty's Ship "Slaney" at New South Wales, I do myself the honour of transmitting for your information a Copy of the Report, addressed by The King's Proctor to the Lords Commissioners of His Majesty's Treasury, respecting this Seizure; and I am to desire that you will give such orders therein, as may appear to be necessary. I have, &c.,

BATHURST.

[Enclosure.]

COUNSEL'S OPINION ON THE SEIZURE OF THE SHIP ALMORAH.

Legal opinion
on seizure of
ship Almorah.

To the Rt. Honble. The Lords Commissioners of His Majesty's
Treasury.

May it please your Lordships,

I was duly honored with Mr. Herries' Letter of the 21st of September, 1825, transmitting to me, by Command of your Lordships, five Letters from Deputy Commissary General Wemyss, and their Enclosures, dated the 5th, 18th and 26th of March preceding, respecting the Seizure of the Ship Almorah and her Cargo by Captain Mitchell of His Majesty's Ship Slaney at New South Wales, and signifying your Lordships' directions that I would lay the same before His Majesty's Advocate and the Attorney and Solicitor General for their opinion, as to the Legality of the Seizure, and as to the

Measures which, if the Seizure is not legal, should be taken for securing the Restoration of the Property belonging to His Majesty; and I have also since received the further References on the Subject, made by your Lordships' directions, under the several Dates following, Vizt., 23d and 24th December, 1825, and 4th January, 24th February, 22d April and 3d May, 1826, which several papers are returned herewith.

1826.
12 Nov.

Legal opinion
on seizure of
ship Almorah.

In obedience to your Lordships' directions, I prepared a Case, containing the substance of the several Documents transmitted, so far as they appeared to relate to the material Circumstances of the Seizure and the proceedings thereon, which I submitted to the Consideration of His Majesty's Advocate and the Attorney and Solicitor General; and I have the honor to report to your Lordships the following, as their opinion upon the Question proposed.

"We are of opinion that the Vessel in this Case was liable to Seizure, the Master or the Purser having, as it is stated, shipped on Board at Batavia 24 half Chests of Tea contrary to the Statutes, by which the Trade in that Article is prohibited; the part of the Cargo, purchased on account of the public and which is the property of the Crown, will not be forfeited. It appears to have been regularly claimed; and an Information at the Suit of the Crown will lie against all or any of the parties, by whom it has been detained, to recover the property itself or Compensation for the loss arising from such detention; we presume that such or other equivalent proceedings have been long since instituted. We incline to think that the powers, given by the 51 Geo. 3d, Cap. 96, S. 1, to the Commissioners of the Customs, do not apply to a Case of this description, relating to the exclusive Privilege of the East India Company; and, even were it otherwise, as the Property of the Crown has of course long since been landed, and there is no pretence in point of Law for detaining it, we do not perceive any necessity for the proposed order, or that any material advantage would arise from it; with respect to the Vessel itself and the 24 half Chests of Tea, shipped by the Captain or the Purser, to these we think the order of the Commissioners, if they had Jurisdiction in this Case, could not with propriety be applied, because there is nothing to shew that such Tea was shipped in ignorance of the Law, or without any design of Fraud; and it certainly was not shipped in consequence of any order or direction of the Governor of New South Wales, which are the only cases, in which the Commissioners are authorized to interfere."

1826.
12 Nov.
Legal opinion
on seizure of
ship Almorah.

For the more convenient reference of your Lordships to the circumstances, attending the original Seizure of the Almorah, I also transmit a Copy of the Case, in which the material facts relative thereto appear.

All which I do most humbly submit to your Lordships' wisdom.

ILTID NICHOLL.

Doctors Commons, 10th August, 1826.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Guilford; acknowledged by Governor Darling, 3rd November, 1827.)

13 Nov.
Reinforcements
for veteran
companies.

My dear Sir, Downing Street, 13th November, 1826.

With reference to my letter of the 8th of August last, accompanied by one from Sir Herbert Taylor, on the subject of the New South Wales Veteran Companies, I beg to acquaint you that Lord Bathurst has determined upon at once making an addition of Twenty Men to each of these Companies; but, upon the expediency of a successive discharge of a portion of the men, as proposed by Sir Herbert, his Lordship will not decide until the receipt of the Report on that subject, which you have been requested to make.

I am, &c.,

R. W. HAY.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 88, per ship Regalia.)

14 Nov.
Shipment of
timber on the
Regalia.

My Lord, Government House, 14th November, 1826.

I have the honor to transmit for Your Lordship's information Copies of two Letters from the Master Attendant of the Dock Yard to the Colonial Secretary, containing a description of two Logs and one Spar of the Moreton Bay Pine, which has been shipped on board the "Regalia," addressed to the Commissioners of His Majesty's Navy, and expressing his opinion that this Timber is well adapted for the purposes of Masts and Yards.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

MR. JOHN NICHOLSON TO COLONIAL SECRETARY McLEAY.*

Sir, H.M. Dock Yard, Sydney, 4th July, 1826.

In reply to Your Letter of the 1st Instant, directing me to report for the information of His Excellency the Governor the dimensions and quality of the Pine Spars and Logs, brought from Moreton Bay on the Isabella,

* Note 147.

I have to inform you that the Spars are from Thirty to Sixty five feet in length, and in my opinion of excellent quality for Masts; the Logs are from Fourteen to Eighteen feet long, and from two to three and a half feet in diameter, apparently very good, and I think equal to the Riga Pine; in proof of which, the brig Amity has now two Topmasts of the same sort of Wood, one of which she has had upwards of Twenty Months, which does not yet shew any symptoms of decay. I had occasion to report on the first spars and Logs, that arrived from that Settlement, when I called to my assistance two experienced persons whose opinions with my own very favorable.

1826.
14 Nov.
Description
of timber.
Trial of timber
in brig Amity.

I have, &c.,

JOHN NICHOLSON, Master Attendant.

[Enclosure No. 2.]

MR. JOHN NICHOLSON TO COLONIAL SECRETARY MCLEAY.

Sir, Master Attendant's Office, 13th November, 1826.

In reply to your Communication of the 8th Instant, requesting to be acquainted for the information of His Excellency the Governor the measurement of the two Logs and one Spar of Moreton Bay Pine, shipped on the Regalia for England,

Dimensions of
timber shipped.

I have the honor to acquaint you their dimensions are as appears on the margin,* and that their total measurement is Two hundred and fifty two Cubic Feet, ten inches.

With reference to the quality of the Wood, I have to inform you the Moreton Bay Pine is considered by Persons, acquainted with the qualities and nature of Timber, a very desirable kind of Wood, as will appear on reference to my report of the 4th July last, being well calculated for Masts and Yards, as also for House and inside Ship Work; some trials have been made of Spars for Masts, the whole of which have answered very well. There are two sorts of this Timber, Red and White; the latter is in my opinion the best.

Quality of
timber.

I have, &c.,

JOHN NICHOLSON, Master Attendant.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 93, per ship Guilford; acknowledged by Governor Darling, 2nd August, 1827.)

Sir, Downing Street, 15th Novr., 1826.

15 Nov.

I have received and laid before The King your despatch, dated the 8th of May last, with which you have transmitted to me two Instruments of Pardons in favor of Persons, whose

* *Marginal note.*—No. 1, Length, 18 Feet, 9 in.; Girth, 1 Foot 8 In.; No. 2, Length, 16 Feet, 3 in.; Girth, 2 Feet; No. 3, Length, 60 Feet, 4 In.; Girth, 1 Foot 5½ In.

1826.
15 Nov.
Approval of
pardons.

names are enumerated in the Margin,* for His Majesty's Approbation and Allowance, in conformity with the Statute, made in the 4th year of His Royal Reign, Cap. 96, Sec. 35; and I have received His Majesty's Commands to signify to you that, in pursuance of the before mentioned Statute and in exercise of the authority thereby vested in Him, His Majesty is graciously pleased to approve and allow the pardons, transmitted with the before mentioned dispatch, and that the same are approved and allowed accordingly.

I have, &c.,

BATHURST.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 89, per ship Regalia; acknowledged by Viscount Goderich, 15th June, 1827.)

My Lord, Government House, 15th November, 1826.

Report on police
establishment.

I have the honor to transmit for Your Lordship's information, Copy of a Report on the Police Establishment, which has been given in by Captain Rossi, the Principal Superintendent; and, having submitted the same to the Executive Council, I have the honor to acquaint Your Lordship that I have, at their recommendation, as expressed in the Minute of Proceedings, herewith enclosed, given orders that the Establishment be augmented, as suggested by the Superintendent.

Augmentation
of staff and
their salaries.

I beg to observe that Captain Rossi has repeatedly represented to me, since my arrival, the inefficient state of the Police of Sydney, arising, as he stated, from the impracticability of procuring Men, whose Services could be depended on, at the Salary which was allowed. Conceiving however that it should not be increased on slight grounds, I resisted his application, until recent events have pointed out the necessity of employing additional means, and enabling him to procure a better description of Persons; and, the Council fully concurring in Captain Rossi's views, the report was adopted, and the proposed augmentation of the Numbers and Salaries of the Individuals was ordered accordingly.

Necessity for
high pay.

The remuneration to Individuals, such as the class of Constables is composed of, may possibly appear high. The experiment to procure competent persons at a lower rate has, however, been ineffectually made for more than twelve Months, which may serve as a confirmation of the opinion, I have on other occasions expressed to Your Lordship, that the Services of respectable Individuals are no longer to be obtained on the moderate terms, on which people in the employ of Government have been heretofore engaged.

* *Marginal note.*—James Watsford, Free Pardon; Henry Russel, Conditional Pardon.

The enclosed comparative statement of the Old and New Establishment shows that an additional Expence of £1,220 a Year will be incurred. I beg leave to add the Copy of a Minute, which I have issued in order to give effect to the recommendation of the Council.

1826.
15 Nov.
Cost of
increases.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

CAPTAIN ROSSI TO COLONIAL SECRETARY McLEAY.

Sir, Police Office, Sydney, 7th October, 1826.

I have the honor to transmit a Report in reference to the Inefficiency of Constables at present in the Police Department, and other matters connected therewith; and I have to request that you will be pleased to submit the same for His Excellency's earliest consideration.

Transmission
of report.

I have, &c.,

F. ROSSI, J.P., Superintendent of Police.

[Sub-enclosure.]

REPORT ON THE POLICE.

Report by
F. Rossi
on police
establishment.

THE numerous Robberies, desperate and alarming depredations and Outrages, committed within the last few Months in the Town of Sydney and its Vicinity, and other places in the interior, have attracted my most serious attention; and, in tracing the various causes, to which they may be attributed, the following appear to me to be the most prominent.

1st. A Number of Persons, who daily become free by the expiration of their Sentences, are in the habit of coming to Sydney to obtain their Certificates of Freedom; and, being generally of loose, dissolute, and frequently of a desperate description of Character, abandoned to Idleness and Profligacy, they remain at Sydney as a place, where they can with greater facility commit Robberies, and have always at hand some of their old associates and confederates, ready to aid and assist them in carrying into effect their nefarious plans and contrivances.

These evils must necessarily increase as Persons of this description become Free; and nothing short of the strict operations of a Vagrant Act, aided by a strong and active Police, will check the progress of such dangerous combinations.

2nd. Another source or cause of these evils arises from the great influx of Prisoners, lately returned from Port Macquarie, who are generally Men of the most depraved Habits and character, and find no difficulty in obtaining the aid of some of their former Confederates, or others disposed like themselves to watch for and to seize every opportunity to perpetrate the most dreadful Outrages; perhaps, however, this is only a temporary Evil, as it applies to Sydney; as by the wise Measures of Government several of these Men have been distributed in small working Parties in the Country.

3rd. The want of an effective intercourse and connexion between the Police of Sydney and that of the Districts in the interior. No one is more ready than myself to appreciate and acknowledge the Zeal and Activity of the Magistrates on all occasions; at the same

1826.
15 Nov.

Report by
F. Rossi
on police
establishment.

time, it would not be reasonable to expect that those Gentlemen should gratuitously devote the whole of their time to the Public Service in this line of Duty.

I understand that it is only on certain fixed days that the Magistrates assemble to enquire into and determine on cases, occurring within their Districts. It appears to me, therefore, that the Appointment of a *Police* Magistrate in every populous District would render essential Service to the Public, as, in such cases, a Magistrate would be ready to attend to complaints and to pursue the necessary enquiries into the circumstances. He would also superintend the Constables in the execution of their duties, receive the Reports, and instantly apprise the other Police Magistrates of all Murders, Robberies and outrages, committed within his District; at the same time forwarding a description of the Offenders, whereby the chance of apprehending them would be considerably facilitated. The good Effects, already experienced in those Districts, where Police Magistrates are appointed, will show at once the Expediency and Utility of the measure, I have suggested, and thus establish a general System of Police throughout the Country, the centre of which will be at Sydney.

The last cause, and upon which I am anxious to bespeak the particular attention of Government, takes its rise from the insufficiency of Constables, a circumstance too well known to persons of bad character, and who, therefore, find their plans and schemes of depredation more practicable. On this important point, I beg to enter into a detail.

A great deal of late has been written and said on the expediency of increasing the number of Constables. I have seriously considered all that has transpired on this subject; and, from the knowledge of the means heretofore at my disposal, I have no hesitation in asserting that a small addition to the Number of Constables, already authorized to be entertained in this Department, will answer and be adequate to the exigencies of the Service, provided that the Establishment of a Water Police, the lighting up of the Streets, and the strict enforcement of the Police Regulations (all which subjects I have before recommended) shall be acted upon.

The addition, I would suggest as necessary to be made to the present *authorised Establishments*, is, First, In obtaining and swearing in a certain number of special or honorary constables, selected from amongst decent Tradesmen, Dealers and Mechanics in the Town, to the Amount of Forty; their duty would be promptly to apprehend or aid and assist in the apprehending of offenders *flagrante delicto* in the streets. I am induced to cherish the Hope that many persons would be found, ready to come forward to perform this duty, as well with a view to the Public advantage, as to themselves individually, without expecting any remuneration. Second:—The next addition, I would propose, is that of entertaining an auxiliary Force, composed of Sixteen night Constables: this number of Men, though inconsiderable, would enable me to add two Patroles of four Men each on the night duty of the Town, which, together with the Patroles of the Police Office, the Wardsmen, and Patrole Men in their respective Districts, would certainly afford the utmost protection to the Town, and moreover enable me, when the Service required it, to dispatch parties of regular Constables into the interior without the risk of exposing the Town to Depredations, Robberies and Plunders.

As the Duties, required from the Night Constables, will be only for Six Hours attendance in the Night, I consider that a Salary of £25 per Annum to this class of Constables would be an ample requital for their Services. I am led to believe that many persons of fair character would offer themselves for this Situation; and, as the Expences that might be incurred by the adoption of this measure would not exceed £400 per Annum, I am persuaded that the good, that would result from it to the Public, would fully justify the Expence.

The most important object in my opinion is the obtaining fit and proper persons to fill the Situation of regular Constables; and I should be wanting in my Duty, if I concealed from the Government the Fact, that this object will never be accomplished, until the Situations are ameliorated and considered *worth preserving*.

In my first Report to Sir Thomas Brisbane, made a Month after I had taken charge of the Department, at which time I could not be supposed to possess much experience, I suggested that the Wardsmen should each receive per annum £65; Conductors, £57 10s.; Patrole Men each £45.

In recommending which, I felt bound to keep in view the economy prescribed by the Government. By the Instructions of Sir Thomas Brisbane of the 30th August, 1825, published for general Information, the Pay was fixed as follows Vizt. :—

To the Wardsmen, £60; Conductors, £52; Patrole Men, £40, Sterling per Annum; and each class was to receive an increase of £5 after Five Years continued Service; and it was further held out, as an Encouragement to them, that, after Twenty One Years Service, the Wardsmen should be permitted to retire upon two Shillings per diem, the Conductors on one Shilling and Six pence, and the Patrole Men on one Shilling per day; and, moreover, it was signified that no discharge should take place under Fourteen Years Service, when the Pension should be one Half of the rate above stated.

The present rate of Pay has been in operation since the 1st Sepr., 1825; and I am sorry to say that it has been so inadequate as to discourage and prevent persons of good character from entering into the Department, whilst it has been the means of others of some respectability, who were in the Service, to retire.

By the accompanying Return of Mutations in the Constables, since the 19th May, 1825, it will appear that no less than Twenty five have resigned on the plea of the inadequacy of the Pay; and I have been compelled to discharge Fifty Seven for misconduct; these are facts which will bear me out in my opinion that the present Rate of Salary is not sufficient to obtain and preserve an efficient and respectable Police.

Hence follows the Question whether the proposed Amelioration (which is admitted to be necessary) is to be effected by an increase of Salary, or by holding out large Rewards for the Apprehending of Bushrangers or Felons of every description. I have consulted with and tried to obtain from Persons of Intelligence and Experience the most correct information on this point; and the result is that I do most decidedly give the preference to the first alternative, inasmuch, as whilst the Constables are placed *above want*, I should presume therefore above temptation, they will not relax in their exertions to apprehend Felons, although only small Rewards were held out to them for such Services.

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Report by
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With this impression on my mind, I can venture to recommend that the Constabulary Establishment may hereafter consist of the Number of Persons, as stated in the accompanying Return, and to receive the Salary, therein stated; and I beg leave to observe that, before I made up my mind to recommend these Salaries, I strove to procure the best information, I could collect, on the subject; and the general opinion of the most intelligent persons in the Colony, in which I cordially agree, is that no Man *worth* entertaining in the Police could be obtained under £52 per Annum.

In respect to the difference of Pay between the several gradations, I have followed the same principle, as referred to in my former Reports; and, as the Wardsmen are generally older than other constables, and therefore, likely to be employed but seldom in the apprehending of Felons, and under the consideration that greater responsibility is attached to them, I am decidedly of opinion that £72 per annum will not be too great a remuneration for their Services.

I have ventured to recommend that an increase of £20 per Annum be allowed to the Salary of the Chief Constable; the Duties of this Officer are extremely arduous, and the zeal, activity and exertions of Mr. Dunn have been such, as to merit my warmest approbation; his Informations have always proved correct and faithful; and, in Justice to his Deserts, I beg to recommend him to the favorable consideration of His Excellency to grant him this additional remuneration.

In adverting to the subject of Rewards for the apprehending of Felons and Runaways, I would recommend that the present system should be continued to be acted upon; and, with a View to encourage the Constables and all other persons to exert themselves on this particular duty, I am led to believe that the sum of £5 should be paid for the apprehending of every Person, charged with a Capital Crime, and £3 for offenders of every other description; this, I think, will not fail of proving a sufficient stimulus, as well to the constables as others, who may use their exertions in this Service.

The System of Rewards for the apprehending of Runaways, as enacted in the Proclamation of the 30th March, 1825, appears to me to require some modification, as it now stands; a Reward of Four Dollars is paid for each Runaway, who hath absconded for above Seven Days; Eight Dollars for every Runaway absconded for above thirty Days. The Result is that the constables and others will not take any trouble to apprehend these offenders, until the Reward becomes due from the length of time they have absconded; and by these means, they are left at large to commit their deprivations on the Public.

During the time, I have had the Honor to preside at this Bench, I have felt my mind daily strengthened in the belief that these Facts, have existed; and, in some instances, I have discovered that there has been an apparent connivance on the part of the Constables in this respect, particularly those stationed at the Barracks; from which, I have deemed it my Duty to refuse signing an Order for the payment of Rewards on those occasions; it appears to me, therefore, expedient that the Reward of Four Dollars for the apprehending of Runaways should be paid after Forty eight Hours absence of the Runaway, and that no mention should be made in future as to the length of time a Prisoner may

have absconded; and I would recommend that it be left to the discretion of the Magistrates to reduce even the Amount of this Reward, according to the Character of the Runaway and the Exertions that have been made to apprehend him.

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I have the Honour to transmit herewith a Return of Constables, doing duty with several Departments and Public Offices, and who receive Pay from the Police under the denomination of stationary constables; these Men, as I have already stated to Government, do no duty with the Police; and, as their Names appear in our Abstracts and necessarily swell the Expenditure of the Department. I beg leave to recommend that, with the exception of the Constables on duty on the Parramatta Road, Lane Cove, and Broken Bay (who may be included in the regular Establishment), the remainder, being in fact useless to the Police, may be struck off from the Police Office, and be attached to and receive their Pay from the Departments and Public Offices, where they are actually doing duty, and their Services are required.

In my Second Report to Sir Thomas Brisbane, made, as I have before observed, after I had been a very short time in this Department, I stated that three Clerks would be sufficient for the *present* to carry on the duties of the office. I beg leave now to observe that the constant accumulation of Business, together with the many Returns, Abstracts, and other documents, necessary to be kept in consequence of a more improved System, established in the Department, rendered it indispensably necessary to have the assistance of a Fourth Clerk; the accompanying Statement of the common and daily duties, required from the Clerks, will, I trust, shew the absolute necessity and expediency of attaching another Clerk to the Office; there are several arrears of Entries, Records and Documents, which, on my taking charge of the Department, I found to exist, and which require attention and perseverance to make good, so as to bring the Proceedings of the Office into a Compact, Regular and Systematic Form; whilst the daily Business will go on with due method and Facility.

Should my suggestion on this Head be complied with, I beg to recommend Mr. William Love to the appointment of Second Clerk in the Office, as a Person fit and well adapted to perform the duties of it. Mr. Love has officiated for Mr. Robinson, the Principal Clerk, during his late illness, which compelled him to be absent from the office; but, as he is now become convalescent, I hope he will be able to resume his duties next week. In respect to the Salary for Mr. Love's Services, I recommend that it be £120 per Annum.

The Police Office is very ill provided with every description of Arms, with the exception of ten unserviceable Musquets, Eight Swords, and Four Brace of Pistols; and I have, therefore, to suggest the necessity and expediency of having an issue of Twenty good Musquets, and as many Pistols, in order to Arm the Parties, dispatched in pursuit of Bushrangers; so very ill and scantily have we been heretofore provided with Arms, that we have been obliged to borrow them of the Inhabitants.

In my letter of the 20th of February last, I reported on the very inconvenient, the insalubrious, uncomfortable, and altogether inefficient state of the Police Office; and I have now no hesitation in declaring and pronouncing it to be altogether unfit, and by no means calculated for a Court of Justice, not only as destitute of

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accommodation for the Magistrates and Attendants, but inconvenient to all persons, who have Business to bring before it. No place could be worse constructed for the intended purpose; and several of the Magistrates, apprehensive of the bad effects likely to affect their Health from the foul and confined air, have been deterred from rendering me their assistance on the Bench; this is a subject, which I cannot too strongly press upon the attention of Government, who will, I trust, admit the expediency of forthwith directing a proper place to be prepared and fitted up with the necessary and official appendages, required in an Office of this importance.

F. ROSSI, J.P., Superintendent of Police,
Police Office, Sydney, 7th October, 1826.

[Enclosure No. 2.]

Recommendations by
executive
council.

EXTRACT from Minute No. 21 of the Executive Council, dated
Wednesday, the 1st November, 1826.

HIS EXCELLENCY then submitted a Report, drawn up by the Superintendent of Police, on the inefficient state of his Department, and the inadequacy of the present rate of Pay to the Subordinate Officers and the Constabulary; the fact of its having been found impossible to procure Constables at the rate of Pay, now fixed, was strongly adverted to.

The Council, after mature deliberation, was unanimous in opinion that the increased rate of Pay and other Changes, proposed by Captain Rossi, should be adopted; and that, instead of providing Cloaths for the persons employed in the Police, as stipulated in the present Regulations and found to be impracticable, the increased rate of Pay should be considered in lieu of every allowance; and that, for the purpose of distinction, the Constables and others employed in the Police Department shall wear a particular Band round their Hats, or some other badge to be fixed on.

A true Extract:—H. DUMARESQ, Clerk to the Exec. Council.

[Enclosure No. 3.]

Changes in
staff of police.

[No. 1] RETURN of Mutations of the Constables in the Police
Department at Sydney, since 19th May, 1825.

Number of Constables, retained in the Department on the 1st of September, 1825	40
Now in the Department, 15. Resigned, 6. Dismissed, 18. Promoted, 1	40
Number of Constables, who have entered the Department since 19th May, 1825	92
Now in the Department, 34. Resigned, 19. Dismissed, 39. .	92

F. ROSSI, J.P., Superintendent of Police.
Police Office, Sydney, 7th October, 1826.

[No. 2.]

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Return of the Police Department, as authorised by Government on the 1st September, 1825.			Proposed Establishment.		
	Rate per Annum. £ s. d.			Rate per Annum. £ s. d.	
One Chief Constable at	130 0 0	One Chief Constable at	150 0 0		
Police Officer at	183 0 0	Police Officer at	183 0 0		
do	183 0 0	do	183 0 0		
Eight Wardsmen at £60 each	480 0 0	Eight Wardsmen at £72 each	576 0 0		
Sixteen Conductors at £52 ,,	832 0 0	Sixteen Conductors at 60 ,,	960 0 0		
Forty Eight Patrole Men at 40 ,,	1920 0 0	Forty Eight Patrole Men ,, 52 ,,	2496 0 0		
		Sixteen Night Constables ,, 25 ,,	400 0 0		
Total Amount per Annum	£3728 0 0	Total Amount per Annum	£4948 0 0		
		Making an Increase	£1220 0 0		

Return of actual and proposed establishments.

F. Rossi, J.P., Superintendent of Police.
Police Office, Sydney, 7th October, 1826.

[No. 3] RETURN of the Constables, employed on Stationary Duties at Sydney and its Vicinity.

Return of police employed on stationary duties.

No. at each Station.	Name.	Where Stationed.	Annual Salary.
1	James Allcorn	Colonial Secretary's Office	£40 Sterling each.
2	Samuel Bowyer		
1	Emanuel Delprado	Colonial Treasury	do
2	Thomas Kinselo		
1	James Lyons	General Hospital	do
2	Thomas Tynning		
1	William Morey	Tread Mill	do
2	John Roberts		
3	Maurice Raile	Court of Request's Office.	do
1	John Knock		
1	Joseph Craddock	Naval Office	do
2	Richard Partridge		
1	James Holland	Chief Justice's Office	do
2	George Kelly		
3	*John Pearce	Attorney-General's do.	do
1	Joshua Allott		
2	*William Farrell	Parramatta Road	do
1	John Brown		
1	George Dowling	Lane Cove	do
1	Thomas Bolton	Broken Bay	do
20			

N.B.—The Constables marked thus* are borrowed from the Police Constabulary, until proper persons are found to fulfil those Situations.

F. Rossi, J.P., Superintendent of Police.
Police Office, Sydney, 7th October, 1826.

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Statement
of duties of
clerks in police
department.

[No. 4] STATEMENT of the Duties, performed by the Clerks in the Police Department of Sydney.

TAKING Depositions in all Cases, brought before the Bench; keeping a Diary Book of all proceedings at this Office; Collecting and Keeping an Account of all Fees and Fines, and making a Quarterly Return thereof to the Colonial Treasurer; making out all Special Warrants of Levy, or Attachment, or Search Warrants, and all Bonds for appearance or keeping the Peace; Writing all Letters and Keeping a Book, containing a Copy of them; keeping a Book of all Letters received; a Book of the Sentences of Fines; and another of all Fines paid; a Book of all Permits, issued for the removal of Spirits; a Book of all Property in Custody; making out all Orders for Rewards, given to Constables and others, for apprehending of Runaways, Prisoners of the Crown; keeping a Book of them; and making Monthly Returns of the same to the Colonial Secretary; keeping a Book of the appointment and dismissals of the Constables, and making Returns thereof to the Colonial Secretary; making out temporary Abstracts for, and paying all the Constables their advance of Pay, every fourteen Days; making Quarterly Abstracts in Triplicate of the Pay and Allowances of the Persons, composing the Police Department, the Constables on Stationary Duties, and the Pensioners; making a Monthly Return of the Trials of Prisoners in a summary way to His Majesty's Attorney General; making Returns of the extension of Sentences of the Prisoners of the Crown, and of the Tickets of Leave, Cancelled, to the Colonial Secretary; making out all Requisitions; keeping a Record Book, containing Copies of all Depositions in Cases of Prisoners of the Crown (except those on Capital Charges); making out all Summonses and Warrants for carrying into effect the different Sentences; attending the Watch-houses every morning, and making Reports in Duplicate of the Prisoners confined therein; making a Daily Report of all Proceedings at this Office to His Excellency the Governor; making out Lists of all Articles reported to the Police, as being stolen, for dispersing among the Constables; and enclosing all Warrants, Summonses, etc., to be sent up the Country.

Books kept in the Office.

One Day Book, in which all Proceedings are entered. One Record Do., containing all Depositions against all Prisoners of the Crown. *One Letter Book. *One Book of the Sentences of Fines. One Book of all Fines Paid. One Book of the Property in Custody. One Book of Permits, issued for the removal of Spirits. One Book of Rewards for apprehending Runaways. *One Book of appointments and dismissals of Constables. *One Book of Cart Licences. One Book of Amounts of Quarterly Abstracts and Contingent Expenses. Two small Books for Fees and Fines received. One Do. for Requisitions. One Do. Articles Received.

The Books noted thus * were kept in the Office, previous to the 19th May, 1825.

F. ROSS, Superintendent of Police.
Police Office, Sydney, 7th October, 1826.

[Enclosure No. 4.]

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MINUTE No. 155 BY GOVERNOR DARLING.

Government House, 13 November, 1826.

1st. Let the Principal Superintendent of Police be informed that the arrangements, proposed in his Report, dated the 7th of last Month, are generally approved, and desire he will immediately prepare to carry them into effect, reporting, as he proposes to proceed, that he may receive a specific Authority for each particular object.

Instructions to make recommendations of F. Rossi effective.

2nd. Inform him, in reference to the 3rd Article of his Report, that the necessary intimation will be made to the several Benches of Magistrates, that they may communicate with him, and generally with each other, on all occasions, when it may appear likely to lead to the detection or apprehension of offenders, or to any other objects of Police. Let a Circular to this effect be prepared accordingly for the different Benches.

3rd. Let it further be signified that the following Establishment for the Police of Sydney has been approved as a temporary arrangement, with a view to ascertaining by experience whether it may be necessary to adopt it as a permanent Measure, Viz:—

Per Annum.		Per Annum.	
1 Chief Constable at	£150	16 Conductors at 3s. 3d.	
2 Police Officers each	183	Sterling per diem	£59 6 3
8 Wardsmen at 4s. Sterling		48 Patrole Men, 2s.	
per diem	78	10d. do.	51 14 2
		16 Night Constables	
		1s. 3d. do.	22 16 3

4th. The above is to be in lieu of Clothing and all other Allowances. Desire he will consider what Kind of *Badge* can be adopted, as it is desirable that the Police Establishment should be distinguished by something conspicuous, in order that they may be immediately known.

5th. A Reward of £5 Sterling will be given to a Constable, who shall apprehend any Person, charged with a *Capital Offence*. But it is considered that the Sum of £3 is too high a reward under the vague designation of *every other description of offenders*. I should think in most cases that a Reward of *Twenty Shillings* would be ample as the Pay is increased. Let him, therefore, prepare for consideration a Scale of Rewards to be paid for the apprehension of Persons guilty of minor offences.

6th. Let an order be prepared with reference to the Reward for the Apprehension of *Runaways*, adopting the suggestions contained in his Report. See pages 12, 13 and 14.*

7th. Signify that the Constables, included in Return No. 3, which accompanies his Report, are to be discontinued on the

* Note 143.

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Instructions
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mendations of
F. Rossi
effective.

Police Establishment from the end of the present Month, with the exception of the three employed on the *Parramatta Road*, *Lane Cove*, and *Broken Bay*.

8th. Inform the heads of the several Departments accordingly, and signify to the Chief Justice and the Treasurer that an additional Sentry will be posted, so as to supply the place of the constables, who are to be withdrawn.

9th. Special arrangements, if necessary, must be made in the other cases. When Messengers are employed, they should reside on the spot, which will answer all the purpose of a Constable.

10th. Desire that the Unserviceable Arms may be returned in to the Ordnance Store, and apply to the Major of Brigade that Twenty Firelocks and Twenty Pistols may be issued to the Superintendent of Police.

11th. The appointment of William Love at a Salary of *One Hundred Pound* is authorized; but it is expected that a fourth Clerk will not be necessary, when the Chief Clerk is perfectly able to resume his duty; if he should not be able to do so in a reasonable time, some other arrangement must be made.

12th. Let a Government Order be prepared to notify such parts of the foregoing arrangements, as it may be proper to publish. It will be the more satisfactory, the sooner it is made known.

RA. DARLING.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 94, per ship *Guilford*; acknowledged by Governor Darling, 2nd August, 1827.)

16 Nov.

Sir, Downing Street, 16th November, 1826.

In my dispatch of this day's date, I have signified to you His Majesty's Gracious approbation and allowance of Two Pardons, which you have transmitted to me with your dispatch of the 8th of May last.

Legal value
of pardons.

A question of doubt having arisen at Van Diemen's Land, as explained in the enclosed Copy of a Report from the Acting Attorney General of that Colony, upon the construction of the clause of the New South Wales Bill, respecting the effect of Pardons of this description, I deem it advisable to transmit to you for your guidance the extract of a dispatch, which I addressed to Colonel Arthur, and which will put you in possession of the opinion entertained by His Majesty's Government upon that subject.

I have, &c.,

BATHURST.

[Enclosure No. 1.]

1826.
16 Nov.

REPORT BY ACTING ATTORNEY-GENERAL.

I HAVE perused the 35th Section of the Act 4 Geo. 4, C. 96, which directs that all Instruments of Remission, signed by the Governor in pursuance of the Act of 30 Geo. 3, C. 47, shall be transmitted to His Majesty; and that in case His Majesty shall, as therein mentioned, signify his Approbation thereof, then and then only the same shall have, within the Colony and not elsewhere, the same effect as a General Pardon under the Great Seal containing the Name of the Offenders.

Opinion by
acting attorney-
general in
Tasmania.

I have at times thought that the Legislature meant to give to His Majesty the Right of disallowing these Colonial Remissions, but not being able to discover anything repealing the Act of 30 Geo. 3, C. 47, and not doubting that it must have been the intention of the Parliament to relieve Persons, whose conduct meets the Approbation of the proper Authorities, from the obstacles and Difficulties, heretofore experienced, I am of opinion that (notwithstanding the Act, 4 Geo. 4, Cap. 96) the Act of the late King, before alluded to, is still in force; and that, as the Law now stands, in all Cases where Governors authorized by Commission under the Great Seal shall in exercise of the power remit, either absolutely or conditionally, and immediately transmit in regular form Duplicates of the Remissions to one of His Majesty's principal Secretaries of State, the Names of the Offenders therein contained will be included in the then next General Pardon under the Great Seal, for I perceive that the Words in the 2nd Section of the unrepealed Act are extremely plain and intelligible, and render such insertion imperative.

JOSEPH HONE.

Hobart Town, 18th April, 1826.

[Enclosure No. 2.]

EXTRACT of a Dispatch No. 50 from Earl Bathurst to Lieut. Governor Arthur, dated Downing Street, 1st November, 1826.

Legal points
raised *re*
procedure in
granting
pardons.

It now becomes necessary that I should advert to the question of Law, to which you have directed my attention in that Dispatch.

It appears that the acting Attorney General of Van Dieman's Land is of opinion that the Statute, 30 Geo. 3, Chap. 47, is still in force, and that, in pursuance of that Statute, all remissions of the Sentences of Convicts, which may be granted by the Governor or Lieut. Governor of the Colony, must be included in the next general Pardon, which may pass under the Great Seal.

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 Legal points
 raised *re*
 procedure in
 granting
 pardons.

It must of course be admitted that the Statute, 30 Geo. 3rd, Cap. 47, is in force, since it is recognized and referred to in the 35th Section of the 4th Geo. 4th, Cap. 96, as the act under the authority of which all remissions of Sentence are to be issued; but it does not, therefore, follow that the method of proceeding, prescribed by the 30th Geo. 3, Cap. 47, is now to be followed; and it may, therefore, be convenient to enter into the following explanation of the reasons, by which Parliament was influenced in passing the recent Statute.

The 30th Geo. 3rd, Cap. 47, by requiring that the remissions of Sentence granted by the local Government should be perfected in the next general Pardon under the great Seal, had given rise to great Difficulties.

The habit of issuing general Pardons having latterly fallen into Disuse, the pardons granted by the Governors of New South Wales continued in many cases incomplete from the want of this additional Solemnity; the Convict consequently remained an attainted Person, and laboured under all the Legal disabilities incident to that condition.

From this cause, embarrassing questions had arisen respecting the title to Lands and the power of a numerous body of persons to hold certain Civil Officers and even to give evidence in Courts of Justice.

The object of the 35th Section of the Statute, 4th Geo. 4, Cap. 96, was, therefore, to provide a simple and convenient method, by which persons pardoned in New South Wales and Van Dieman's Land might, within those Colonies, be restored to the enjoyment and exercise of all Civil rights, notwithstanding any previous attainder in England. That method is the signification of His Majesty's pleasure through one of the Principal Secretaries of State, and that course has, therefore, been pursued at present, and will be followed on all future occasions.

Considering the great importance of preserving an authentic record of the names of all persons, who may thus receive a complete remission of their Sentences, you will transmit a Copy of my Dispatch of this date, No. 50, to the Chief Justice of the Colony, with an Instruction conveying my desire that it should be deposited and preserved in the Registry of the Supreme Court. A transcript of the same Dispatch must also be registered in the Office of the Colonial Secretary.

I have, &c.,
 BATHURST.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 90, per ship Regalia; acknowledged by Viscount Goderich, 16th June, 1827.)

1826.
16 Nov.

My Lord. Government House, 16th November, 1826.

I have the honor to acquaint Your Lordship, in reference to my Despatch, marked Separate, dated 8th September last, submitting for Your Lordship's consideration the proposed Establishment of the Colonial Secretary's Office, that I have appointed an Assistant Secretary and discontinued the Chief Clerkship, Mr. Crawford, who held that appointment, having resigned.

Alterations in establishment of colonial secretary.

The constant employment of the Colonial Secretary on Boards and Committees for the better regulation of the various public measures, which are in progress, have rendered it necessary to afford that Officer some competent assistance in carrying on the Details of his own Office; and it has appeared to me that an Appointment of more importance and responsibility than that of Chief Clerk was essential to this object. I have in consequence nominated Mr. J. T. Harrington as Assistant Secretary, with a Salary of £450 Sterling, that of the Chief Clerk having been £360.

Appointment of J. T. Harrington as assistant secretary.

The Establishment of the Colonial Secretary's Office will now be as follows, Vizt.

Establishment of colonial secretary's office.

1 Assistant Secretary, £450; 2 Clerks, 2nd Class, £200 each; 7 Clerks, one Vacancy at present, 3rd Class, £100 each.

Besides these, there are four Extra Clerks,* who will be discontinued as soon as their Services can possibly be dispensed with. But Mr. McLeay, whom I have consulted on the subject, assures me that, at the present moment, any smaller number would be inadequate to the business of the office.

I am aware that this Establishment may be considered large; but Your Lordship will not suppose there is any desire on my part to add unnecessarily to the Expences of the Government. The efficiency of the public Departments is essential to the regularity and to the due despatch of the Business of the Government. I am obliged to repeat, which I do without any wish to assume merit to myself, that the confusion and disorder of the Government, when I took charge of it, was unparalleled and inconceivable. But I may be permitted to instance it, as a proof, that something more than common means are necessary to place it on a proper footing.

To urge those to further exertion, who so cheerfully devote their whole time and attention to the public Service, would be

* Marginal note.—1 at £95; 1 at £75; 2 at £52 each.

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16 Nov.
Office hours.

unjust and unavailing. The Office Hours in the Colonial Secretary's Office are from Nine to Six; during which period, Nine Hours, the Clerks are all closely employed. The Public Boards, at which the Secretary usually presides, meet at *Six* in the Morning; and Mr. McLeay's employment, I have reason to know, extends much beyond the period of his Office Hours.

Clerks in
governor's
office.

I have recently been obliged to add a Clerk to my own Office, where two are now employed at a Salary of £100 a Year each. For the last three Weeks, I have been deprived of the Services of Colonel Dumaresq, my private Secretary, whose Health has suffered from Confinement and the exertions he has made.

Your Lordship will not, I trust, suppose that I trespass on your attention inconsiderately with unimportant details. In proposing Expences, when the observance of a just economy is so necessary, I am anxious to show that they are not lightly or hastily suggested.

I have, &c.,
RA. DARLING.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 91, per ship Regalia; acknowledged by Viscount Goderich, 17th June, 1827.)

17 Nov.

My Lord, Government House, 17th November, 1826.

Appointment of
J. Clements to
charge of civil
stores.

I have the honor to report to Your Lordship that I have provisionally authorized the issue of an allowance of *five* Shillings sterling a day to Mr. Clements, who has been appointed to the charge of the Stores of the Civil Government, subject to Your Lordship's confirmation.

Mr. Clements is a Deputy Assistant Commissary General, and receives Nine Shillings and Six pence a day as his Military Pay. The respectability of his private character and his correctness as a Man of Business pointed him out to me as a desirable person to have charge of the Public Stores, which are necessarily on a very extensive Scale; and, from the want of proper Superintendence, it is to be apprehended have heretofore been plundered to a considerable extent. Mr. Clements has also the sole charge of the Stores of the Military Department, which are inconsiderable in comparison with those of the Civil Government. By uniting the two in the same person, the Expence will be less than if a second person be employed, while the Security of the Stores will at the same time be as effectually provided for.

I have, &c.,
RA. DARLING.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 92, per ship Regalia; acknowledged by Viscount Goderich, 18th June, 1827.)

1826.
18 Nov.

My Lord, Government House, 18th November, 1826.

I have the honor to acknowledge the receipt of Your Lordship's Despatch No. 13 notifying the recall of Mr. Therry, the Roman Catholic Clergyman. On communicating to him the Orders of His Majesty's Government, he informed me he had received a similar intimation from Dr. Poynter; but, though deprived of Salary which he observed he had intended to relinquish, he should consider it incumbent on him to continue his assistance to the Roman Catholics, until the arrival of some accredited Clergyman from Home.

Recall of Rev.
J. J. Therry.

Decision to
await arrival
of successor.

He stated that it was not his intention to leave the Colony, though, if required to do so, he should not resist the Orders of Government. It has not, however, appeared to me advisable to give such an order, as I do not anticipate any evil consequences from his continuing his assistance, until the arrival of his successor; and any order for his immediate removal would in all probability have called forth some expression of the public opinion in his favor, which is as well avoided and might for the moment have excited an unpleasant sensation.

I have, &c.,
RA. DARLING.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 93, per ship Regalia; acknowledged by Viscount Goderich, 19th June, 1827.)

My Lord, Government House, 19th November, 1826.

19 Nov.

I have the honor to transmit for Your Lordship's information Copy of the Proceedings of a Court of Inquiry, which I appointed in consequence of the Orders, conveyed to me in Your Lordship's Despatch, No. 31, as the best means of ascertaining whether Lieutenant King had offered Mr. McIntosh a pecuniary consideration as an inducement to resign the Situation of Barrack Master. The fact of his having done so is so clearly established by the Proceedings of the Court, that I have, in obedience to Your Lordship's Commands, removed Lieutenant King, and appointed Mr. Jackson to act as Barrack Master, until Your Lordship's pleasure shall be known. I beg to observe that I am not personally acquainted with Mr. Jackson, and am not particularly interested in the confirmation of his appointment, having placed him in the situation more from a desire to assist his family than from any other consideration. He has presented himself to me, as a Man with a large family,

Inquiry re
conduct of
E. King.

Dismissal
from office of
barrack master.

Appointment
of Jackson.

1826.
19 Nov.

without any means of supporting them. He was lately a Major in the 72nd Regiment, and once possessed a valuable paternal Estate in Scotland. He came here as a Settler; but his means and his prospects have vanished, and he is consequently desirous of employment, in order to obtain bread for his Family.

Allowance in lieu of rations to C. McIntosh.

With respect to Mr. McIntosh, I beg to acquaint Your Lordship that Sir Thomas Brisbane does not appear to have authorized his receiving a Pension, as seems to have been supposed. Some time since, I sanctioned his drawing an allowance of five Shillings a day, in lieu of Rations for himself and Family, which is numerous, conceiving the practice of issuing Rations to persons not immediately in the Service to be highly objectionable, and which will now be discontinued generally, in consequence of the orders recently received from Your Lordship.

I have, &c.,

RA. DARLING.

[Enclosure.]

Proceedings at inquiry re corrupt practices of E. King.

PROCEEDINGS of a Court of Enquiry, held by Order of His Excellency Lieutenant General Ralph Darling, Commander of the Forces, etc., etc., etc.

Sydney Barracks, 13th November, 1826.

Bt. Lieut. Col. Cameron, Buffs, President; Bt. Lieut. Col. Shadforth, 57th Regt.; Major McPherson, 39th Regt., Members.

THE Court, having assembled in obedience to General Orders, dated 7th November, 1826, No. 85, proceeded to investigate the Allegation of Mr. Charles McIntosh, that Lieutenant King made him an illegal offer to purchase the appointment of Barrack Master; and an extract of a Letter (No. 1), addressed to Major General Sir Thomas Brisbane, K.C.B., by the Right Honble. Lord Bathurst, one of His Majesty's Principal Secretaries of State, dated Downing Street, 27th January, 1825 (No. 12), being read, together with the Memorial and other documents, therein referred to, forwarded by Mr. McIntosh to the Under Secretary of State for the Colonies, Mr. Charles McIntosh informs the Court that the Memorial and other documents, which he had now heard read is a true copy of that which be transmitted to the Under Secretary of State for the Colonies.

WM. BLAND, Medical Practitioner, Sydney. Dr. Bland informs the Court that, about three or four years ago, Lieutenant King spoke to me, relative to purchasing of Mr. McIntosh the situation of Barrack Master, Mr. McIntosh's health being at that time much disordered; at the express wish of Lieut. King, I conveyed this proposal to Mr. McIntosh, when it appeared that this proposal had already been made to him, also with an understanding that it had emanated from the Governor, and had the fullest approval and concurrence of the local Government; some days, however, elapsed, and, no definite arrangement having been made, certain suspicions arose, both in the mind of Mr. McIntosh and myself. Lieut. King, at this time, called on Mr. McIntosh, when, in my presence, a desire was expressed by Mr. McIntosh that he should see either the Governor or Major Goulburn on the subject. Mr. King also

stated, in my presence, that he had just left Major Goulburn or the Governor, and that he might call on Major Goulburn. I proposed to go with Mr. McIntosh, which proposal was assented to; we called accordingly, when, to our infinite surprise, Major Goulburn informed us that the proposal, made by Lieut. King, could not be fulfilled by the Government, and that in fact he knew nothing of the matter. I now, without consulting Mr. McIntosh, took a legal opinion on the subject, when I discovered that any sale of the description in question would be illegal, and, therefore, immediately waited on Mr. McIntosh, told him that, as the thing was of itself illegal and therefore certainly could not be entertained without the fullest knowledge and concurrence of the Government here, and further, as I had strong doubts that the Government were fully informed of it, or had given it their concurrence and sanction, that it would be altogether improper and must be no more thought of. The second time of Lieut. King's communication with me on this subject was subsequently, I think, to his return from Newcastle in the latter end of December, 1823. Lieut. King met me in the street on this occasion, and begged I would again speak to Mr. McIntosh relative to the sale of his situation of Barrack Master. "I replied any application of mine on this subject will I know be ineffectual and contrary to my own expressed opinion"; upon Lieut. King's again pressing the subject, I replied, I don't pretend to decide for other persons, but I think I can give you Mr. McIntosh's answer, before I see him; "he will decline your proposal; for your proposal, unless with full concurrence and approbation of the Government, appears to me to be impracticable." I saw Mr. McIntosh soon afterwards, and the same evening conveyed to Lieut. King at his own house Mr. McIntosh's reply, "a positive refusal."

Question by Lieut. King to Dr. Bland. Can you call to your recollection the time the subject was first spoken of between you and myself? *Answer.* I have not a perfect recollection of the time.

2nd Question. When you first spoke to Mr. McIntosh on the subject, did he tell you that he was already aware of it; and how did you know that the proposition did not originate with him? *Answer.* When I called on Mr. McIntosh, I discovered that Mr. McIntosh was aware of it; but, from whom I got this information, I do not positively recollect, but that the proposal proceeded from Lieut. King. I am certain, inasmuch as Lieut. King authorised me with his own lips to make it, Mr. McIntosh never having spoken to me on the subject before that period; and further it was mentioned to me at Mr. McIntosh's house as a proposal of Mr. King's.

3rd Question. Did Mr. McIntosh ever to your knowledge propose the sale of his situation to any one else? *Answer.* Never.

4th Question. Did he ever tell you he spoke to Mr. Murray, Paymaster, 48th Regt., on this subject, stating the particular sum he would take? *Answer.* Never.

5th Question. Did it come to your knowledge what sum Mr. McIntosh would take for his situation? *Answer.* Never; but the proposal, made to me by Lieut. King, with an understanding that it had the full knowledge and concurrence of the Government, was that he would give a certain consideration in Money. I think Two Hundred Pounds, and that the Government would give a consideration in Land and would ration Mr. McIntosh and his family from the Government Stores for life, as well as make him some

1826.
19 Nov.

Proceedings at
inquiry re corrupt
practices
of E. King.

1826.
19 Nov.

Proceedings at
inquiry re cor-
rupt practices
of E. King.

other indemnity, but which was not (very clearly) defined by Lieut. King if Mr. McIntosh would secede from his Appointment in his favour.

Question from Lieut. King to MR. C. McINTOSH. State the particulars of every conversation with me on the subject of the alleged offers to purchase the situation of Barrack Master. *Answer.* In August, 1822, Lieut. King came to me, and told me that he was not going on with the Regiment to India; that he expected a situation in the Colony, which His Excellency The Governor promised him; he asked me the annual value of my situation as Barrack Master; I told him it was fully Two hundred a Year; he then asked me, if I wished to dispose of it; I told him I could not, unless the Government gave me an equivalent; some days afterwards, Mr. King came to me and told me that he had seen the Governor, Sir Thomas Brisbane, and that His Excellency would be in Sydney the next morning, and that I had better wait upon the Governor; the next day, Mr. King came to my house and told me that the Governor wanted to see me immediately. Mrs. McIntosh and myself went to Government House, waited there upwards of an hour, when Lieut. Fennel, the Aid de Camp, informed me that the Governor was engaged, and could not see me. I then asked the Aid de Camp, whether the Governor had sent for me; he replied *no*, "he was sure he had not."

2d Question. Did you call at Mr. Murray's house and speak to him on the subject, making a proposal of the sum you would take for the situation of Barrack Master? *Answer.* Never.

3d Question. Did you offer the situation to any one else particularising the sum you would take? *Answer.* Never.

4th Question. Did I ever give you any Money for the situation of Barrack Master, or promised to give you Money on that Account? *Answer.* No, you never gave me any money, but promised to give me Two hundred Pounds in the event of my disposing of my situation as Barrack Master.

5th Question. If I promised to give Money, and, having obtained the appointment, why did you not ask for it, and would you have received it, if offered? *Answer.* He promised me Money, but I received none, and would not receive any if offered, it being illegal.

6th Question. Can you call to your recollection the exact time you became acquainted with the illegality of such proceeding? *Answer.* To the best of my recollection, I think it was in August, 1822, that Dr. Bland informed me of its illegality, as he had taken legal advice on the subject.

LIEUT. WYLD, Half Pay, 48th Regiment. Lieut. King calls upon Lieut. Wyld, Half Pay, 48th Regiment.

1st Question. Was the probability of Mr. C. McIntosh's losing his appointment long spoken of, previous to my getting it? *Answer.* It was.

2d Question. From the strong report of his losing his appointment, did you or any one for you apply for the situation? *Answer.* I had a letter from Lieutenant Vandermeulen of the 48th Regiment stating that he had applied to the late Brigade Major Ovens for the situation of Barrack Master on my account, I think in the latter end of 1823; and the reply made was that the situation was promised to Mr. King.

3d Question. Did any other person ever apply for the appointment in your presence, and what answer did he get? *Answer.* In my presence Mr. Uniacke made application to the late Brigade Major Ovens for the appointment, and received for answer that it was promised to Mr. King, if he did not proceed with his Regiment to India.

4th Question. Did Mr. McIntosh propose to you, and tell you he would take Three hundred Pounds for his appointment as Barrack Master? *Answer.* He never proposed it; but, on my asking the question, he told me he would take Three hundred Pounds for it.

5th Question. At what time, did this Question take place? *Answer.* In the year 1822.

CHAS. CAMERON, Bt. Lt. Col., President.
T. SHADFORTH, Lieut. Colonel.
D. MCPHERSON, Major, 39th Regiment.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 94, per ship Regalia; acknowledged by Viscount Goderich, 20th June. 1827.)

My Lord, Government House, 20th November, 1826.

I have the honor to report to Your Lordship that, in the Month of July last, I brought under the consideration of the Executive Council the circumstance of the Magistrates in general receiving an allowance, under the head of commutation, in lieu of Rations for themselves, and of Rations and Clothing for four Servants each; and, the Council having concurred in the propriety of the discontinuance of that allowance it has been ordered accordingly, by which measure a saving of £2,200 a Year has been effected. I had thought it right to prepare the Magistrates for this measure, by not granting the Allowance to any of those, who have been appointed since my assuming the Government; and I am glad to state it has been carried into effect without occasioning any apparent dissatisfaction.

I took the opportunity of submitting to the Council, on the same occasion, Your Lordship's Despatch, No. 21/1825, authorizing the employment of a Stipendiary Magistrate at two or three of the principal Towns. The Council, after full consideration of the Matter, have recommended the employment of Police Magistrates at the following places, Vizt.

Liverpool, Newcastle, Bathurst and Penrith,

and have stated their opinion in the Minute of Council, herewith transmitted, that a less Salary than £300 Sterling a Year cannot be offered to Persons of respectable condition in Life, who are competent to the duties of the office. These Duties are very Troublesome, and require constant attention. I might add generally that the description of Persons, formerly employed in the different Situations of Government, were satisfied with small Salaries, being willing, as I presume, to take their chance

1826.
19 Nov.

Proceedings at
inquiry re corrupt
practices
of E. King.

20 Nov.

Stoppage of
rations for
magistrates.

Appointment
of police
magistrates
recommended.

1826.
20 Nov.

of making their Employment answer their purpose; but Men of Character will not serve at present, unless properly remunerated.

Former report
on police
establishment.

In bringing this subject under Your Lordship's consideration, I do myself the honor to refer Your Lordship to the Despatch, which you addressed to Sir Thomas Brisbane on the 5th November, 1824, No. 43, with Copy of a Letter from Archdeacon Scott on the subject of the Police Establishment of the Colony; and I beg to add that the Archdeacon was present at the deliberations of Council on this subject, and fully concurred in the arrangements recommended.

Police
magistrates at
Parramatta
and Windsor.

The Police Magistrates at Parramatta and Windsor were appointed by Sir Thomas Brisbane, in pursuance, as I presume, of Your Lordship's Dispatch, above referred to. They receive £300 Sterling a Year each, and are provided with a residence; so far from the Situation being sought for by those, whom it is desirable to employ, the Magistrate of Parramatta has been anxious for some time past to resign his situation, and I have only delayed filling up the appointment from a desire to procure a competent successor.

Appointments
at Liverpool
and Newcastle.

It is my intention immediately to appoint Police Magistrates at Liverpool and Newcastle. At the latter, I shall discontinue the situation of Commandant, intending to appoint Captain Allman (now on the half Pay), who has held it, to take charge of the Police Establishment. This arrangement would meet the Expence of the new appointment; but I beg to be permitted to grant the Officer, in the immediate command of the Troops, an Allowance of five Shillings a day, which is necessary in that Situation.

Allowance to
officers detached
for suppression
of bushranging.

I avail myself of this opportunity of reporting to Your Lordship that, in consequence of the arrangements for the suppression of Bushranging, I have been obliged to employ two or three of the Officers, who are detached, as Magistrates, to whom I have given an Allowance of five Shillings a day on account of the contingent Expenses, they are subject to. This allowance affords no remuneration for the duties, imposed on them; and I take leave to recommend its being increased to Seven Shillings and Sixpence.

I have, &c.,

RA. DARLING.

[Enclosure.]

EXTRACT from Minute No. 16 of the Executive Council, dated 8th July, 1826.

THE Governor's Minute of this date was read, as likewise a Despatch from the Secretary of State on the subject of Stipendiary Magistrates; and the Council, having considered the

several points referred to them, were of opinion that Stipendiary Magistrates should be appointed at the following places in addition to those already nominated; vizt.

Liverpool, Bathurst, New Castle, Penrith.

And the Council was further of opinion that £300 a Year will be a very Moderate Salary to be allowed to each, it being distinctly understood that the constant attention of the Person, so appointed, will be required to the Duties of this Office.

The Council was likewise of opinion that the Allowance to Magistrates, in Commutation for Rations, should be entirely abolished; and they recommended to His Excellency that orders should be forthwith given to this effect.

A true Extract:—H. DUMARESQ, Clerk to the Council.

1826.
20 Nov.

Police magistrates recommended by executive council.

GOVERNOR DARLING TO THE COMMISSIONERS OF THE NAVY.

(Despatch per ship Regalia.)

Sir, 23rd November, 1826.

23 Nov.

I have the honor to transmit to you a Bill of Lading for three Spars (or two Logs and One Spar) of the Moreton Bay Pine, which have been Shipped to Your address on board the "Regalia," now under despatch for London. I beg leave to add Copies of two Letters, addressed by the Master Attendant of the Dock Yard to the Colonial Secretary, communicating his Opinion as to the fitness of this Timber for Naval purposes.

Shipment of timber per Regalia.

I have, &c.,

RA. DARLING.

[Enclosures.]

[These two letters were also forwarded with the despatch to Earl Bathurst, numbered 88; see pages 676 and 677.]

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 95, per ship Regalia; acknowledged by Viscount Goderich, 1st June, 1827.)

My Lord, Government House, 24th November, 1826.

24 Nov.

I have the honor to acquaint Your Lordship, in reference to my despatch, No. 77, that His Majesty's Ship Fly, with the Colonial Brigs Amity and Dragon, sailed on the 9th of last Month* for Western Port and King George's Sound.

Departure of colonising expeditions.

The Expedition for each of these places consisted of two Officers and 18 Rank and file, with 20 Convicts, who have been sent for the purpose of assisting in establishing the Settlements; Six Months Provisions for the use of the Troops and Prisoners, after their Landing, were embarked, with a proportion of other necessary Stores and Supplies.

* Note 149.

1826.
24 Nov.

Instructions to
commandants.

I do myself the honor to enclose, for Your Lordship's information, a Copy of the Instructions, with which the officers, appointed to command, have been furnished. As soon as I receive Major Lockyer's report, I shall be able to determine as to the expediency of establishing King George's Sound as a Penal Settlement, when I shall have the honor of communicating with Your Lordship on the subject and requesting Your Lordship's further Instructions.

I have, &c.,

RA. DARLING.

[Enclosures Nos. 1 and 2.]

[These instructions were contained in letters from colonial secretary McLeay to major Lockyer, 57th regt., and to captain Wright, 3rd regt., each dated 4th November, 1826. Copies will be found in a volume in series III.]

GOVERNOR DARLING TO EARL BATHURST.

(Despatch per ship Regalia; acknowledged by Viscount Goderich, 1st June, 1827.)

My Lord,

Government House, 24th November, 1826.

Secret
instructions to
commandants.

I have the honor, in reference to Your Lordship's Private Letter of the 1st of March last, and to my Despatch, No. 95, of this date, to transmit to Your Lordship a Copy of the "Secret Instructions," with which Major Lockyer and Captain Wright were furnished, the former proceeding as Commandant of King George's Sound, and the latter of Western Port.

Territorial
jurisdiction
of governor
of N.S.W.

Your Lordship will observe the explanation, which I directed might be given, should any information be necessary with respect to the Western Boundary of this Government; though, as the published Maps are marked through the Centre from North to South, and my Commission adopts that line as the Western Boundary, it would be difficult to contend or to satisfy any Nation, desirous of making a Settlement on the Western Coast, that we have an indisputable right to the Sovereignty of the whole Territory.*

I, therefore, beg to repeat the Suggestions. Contained in my Private Letter to Mr. Hay, dated the 9th of October, that I may receive a Commission describing the whole Territory, as within this Government.

If generally known that we had actually assumed the Sovereignty, and were proceeding to Settle the Western Coast, it might possibly tend to prevent the interference of any Foreign Power and might set the matter at rest.

I have, &c.,

RA. DARLING.

* Note 150.

[Enclosure No. 1.]

1826.
24 Nov.

GOVERNOR DARLING TO MAJOR LOCKYER.

Sir, Government House, 4th November, 1826.

As the French Discovery Ships, which are understood to have been preparing for these Seas, may possibly have in view the Establishment of a Settlement on some part of the Coast of this Territory, which has not yet been colonized by us, I think it necessary to apprize you, confidentially, of what may possibly be their object; and I am to desire, in the event of their touching at King George's Sound, that you will be careful to regulate your language and Communications with the Officers, so as to avoid any expression of doubt of the whole of New Holland being considered 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.

Secret
instructions to
E. Lockyer.

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. But should it so happen that the French have already arrived, You will, notwithstanding, land the Troops agreeably to your Instructions, and signify that it is considered the whole of New Holland is subject to His Britannic Majesty's Government, and that orders have been given for the Establishment of King George's Sound as a Settlement for the reception of Criminals accordingly.

I have, &c.,

RA. DARLING.

[Enclosure No. 2.]

GOVERNOR DARLING TO CAPTAIN WRIGHT.

Sir, Government House, 4th November, 1826.

[The first paragraph and the first part of the second were similar to the corresponding parts of the letter to major Lockyer, with the substitution of the words "Western Port" for "King George's Sound." After the words "land the Troops, agreeably to your instructions," the second paragraph continued as follows:—] and signify that their Continuance, with any view of Establishing themselves or Colonization, would be considered an unjustifiable intrusion on His Britannic Majesty's Possessions; and you will warn them immediately to desist from any such attempt, as their perseverance must be attended with unpleasant consequences, and might interrupt that harmony, which it is so desirable should be preserved inviolate between the two Countries.

Secret
instructions to
S. Wright.

* Note 150.

1826.
24 Nov.

You will of course, in either of the events pointed out, inform me immediately of the result of your communications.

I have, &c.,
RA. DARLING.

GOVERNOR DARLING TO UNDER SECRETARY HAY.

(Despatch per ship Regalia.)

Sir, Government House, 24th November, 1826.

Report re
T. Lyons.

I return herewith, agreeably to the desire expressed in your Letter of the 5th of March last, the Letter from James Lyons to his Brother, who it appears, by the accompanying Memorandum, made his escape from the Colony about 14 Years since.

I have, &c.,
RA. DARLING.

[Enclosure.]

MEMORANDUM.*

Memorandum
re T. Lyons.

I HAVE carefully examined the Alphabetical Index to all the Indents of the Prisoners, who have arrived since the first formation of the Colony (1788) down to the year 1824, and also the General Muster records for the last three years, and the only Thomas Lyons, I can discover, is one, who has arrived by the Atlas in 1816, an Englishman. Having some knowledge of a man, named James Lyons, who is a Constable stationed at the General Hospital, I sent for him and interrogated him as to his having any knowledge of Thomas Lyons, alluded to: to which he replied, "I knew him well; he came out with me in the Friendship in 1799 from Waterford, where he had a Brother, named James, and an old Father," and that *Tom Lyons* escaped from this Colony about 14 years ago to America.

I know not how to account for the Absence of his name from the Indents of the Friendship, excepting its not being original, but merely a Copy.

T.R.

Colonial Secy.'s Office, 21st Novr., 1826.

True Copy:—T.G.E.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 95, per ship Guilford; acknowledged by Governor Darling, 24th September, 1827.)

1 Dec.

Sir, Downing Street, 1st December, 1826.

Despatches
acknowledged.

With reference to your dispatch, No. 32 of the 20th of May, and to your two separate letters of the 5th and 22nd of the same month, respecting the embarrassment of the "New South Wales Bank," and the measures which you had in consequence

adopted, I now do myself the honor of communicating to you such observations, as I deem it necessary to offer after an attentive perusal of the several papers, which you have brought under my notice; from the contents of which, it appears that the primary cause of the difficulties, in which this Establishment has involved itself, is to be attributed principally to the very improvident manner in which, with reference to the amount of their active Capital, the Directors of the Bank had conducted their business.

1826.
1 Dec.

Mismanagement
of bank of
N.S.W. by
directors.

With respect to the application made by the Directors to be permitted to augment the amount of their original Capital by creating an additional number of shares, I beg to call your attention to the letter, which I addressed to the late Governor Macquarie, dated the 29th October, 1818, in which it is stated, on the opinion of the Law Officers of the Crown, that, the Governor not being empowered to Grant to the Bank a Charter, it was consequently null and void; its renewal, therefore, in 1823 by Sir Thomas Brisbane was equally invalid; so that the several Subscribers or Proprietors of the Stock of the Bank are separately and individually liable for the whole amount of the debts and engagements of the Company. If, however, the situation of the Proprietors of the Bank in this respect is clearly understood by the Inhabitants of the Colony, who are likely to become Subscribers, His Majesty's Government see no objection whatever to the proposed increase of the Capital and number of Share Holders; but such an increase of Capital should not be permitted to be raised under any false impression that the Subscribers were only individually liable for the amount of their respective Subscriptions.

Collective and
individual
liability of
shareholders.

Proposed
increase of
capital.

As it appears that great and extended alarm and distress would have been occasioned in the Colony, if the Stoppage of the Bank had taken place, you acted with great propriety in endeavouring to prevent the mischief. The persons, whom you appointed to investigate the affairs of that Establishment, seem to have conducted their enquiry in a very able and satisfactory manner; and, although the impression caused by this Report is that the Directors of the Bank had managed their concerns upon very unsafe and improper principles, yet, considering that the whole of the Subscribers were individually responsible for the whole amount of the debts of the concern, there does not seem to have been any reason to apprehend that they would not ultimately be able to perform the whole of their obligations; and, under this impression, you were justified in granting them the assistance you did. The conditions also, on which this advance was made, were equally judicious and proper.

Approval
of governor's
action *re* bank.

1826.
1 Dec.

Disapproval of
appointment of
W. Lithgow
as director.

Proposed
supervision by
W. Lithgow.

I am sorry, however, that I cannot approve of the Appointment of Mr. Lithgow as a Director of the Establishment; and, as I observe that you doubted of its propriety and refused your concurrence, when a similar application was made to you on the part of the Australian Bank, I am rather surprised that you did not adopt the same course upon the present occasion. The appointment of Mr. Lithgow as a Director under the circumstances, in which it took place, may appear to convey an impression that the Government are in some way or other participators in the affairs of this Bank, and that they would ultimately protect them, who dealt with it, from loss, should the Bank fail in the performance of their Engagements; and it will, therefore, be desirable that Mr. Lithgow should resign this Office, as soon as may now be practicable; but, if the whole of the debts due to the Publick, as well as to the Publick Officers on Publick Account, vizt. The Treasurer and Naval Officer, shall not have been finally liquidated, it may be expedient to require that, during the time any such debt may exist, Mr. Lithgow should be appointed to inspect and controul their affairs (for which service he appears, by his knowledge, experience and discretion, to be particularly qualified), and that no measures of importance should be undertaken by the Directors without his sanction.

An appointment of this description will not, it is conceived, either give the Bank on the one hand an appearance of Government protection, or on the other cast any additional doubt upon its credit, since the aid, which the Government have afforded to the Bank must, I imagine, be well known in the Colony; and it is but reasonable, therefore, to suppose that, during the existence of this debt or obligation to the Government, they would take care that the funds of the Bank were not misapplied or misconducted.

Shipments of
British silver.

With respect to your observation upon the quantity of British Silver, required for the use of the Colony, I am to acquaint you that, in addition to £40,000 shipped in July, 1825, of which £30,000 was sent to Sydney, about £20,000 was shipped in May last, and a further quantity will be shipped so soon as a proper opportunity shall offer.

Practice re
public funds
in hands of
collecting
officers.

I beg further to acquaint you that the proceedings of Mr. Balcombe, the Colonial Treasurer, as connected with the affairs of the Bank, have led His Majesty's Government to consider the inconvenience, which may possibly arise from the practice of leaving the whole of the Funds belonging to the Publick in the charge of the Government Officers, by whom it is collected, and which they may employ either in affording accommodation to Merchants or others, or by Deposits in the Bank; both of

which courses would appear to have been adopted by the Colonial Treasurer, as is to be inferred from the circumstance that the Naval Officer gave to Mr. Balcomb a Draft upon the Bank for 20,000 Dollars in one check, and that Mr. Balcomb, in addition thereto, paid in one day into the Bank (vizt. on the 11th of May, 1826) upwards of 76,000 Dollars in Checks of different Merchants and in Bank Notes.

1826.
1 Dec.

Financial
accommodation
granted by
W. Balcombe.

I am, therefore, to direct that you will forthwith make the following arrangement for the future security of the Publick Treasure, vizt.

Instructions re
management of
public moneys.

First. That all Officers employed in the collection of the Revenue at Sydney be required to pay over the amount, collected by them respectively, to the Colonial Treasurer on a prescribed day in every week.

Secondly. That all the Collectors of Revenue at any distance from Sydney be directed to pay over to the Treasurer the amount, collected by them respectively, on a prescribed day in every month, or at such other fixed periods as may, with reference to the situation of the place and its distance from Sydney, be deemed most convenient.

Thirdly. That a secure fire proof Vault or Building should be erected either in the Office of the Treasurer or in some other secure and appropriate place; and that such Vault should have a door with three separate Locks; that the key of one of those locks should be kept by the Treasurer, of another by the Auditor of Colonial Accounts, and of the third by the Colonial Secretary or by some other Officer of the Colonial Government; and that the Vault should never be opened except in the presence of the three Persons, entrusted with the care of the Separate Keys.

Fourthly. That the Treasurer should be directed to keep an account at *each* of the *two* Banks, so long as they remain in Credit and their Notes are payable in Metallic Currency upon demand; and that he should pay all the Revenue received by him into those Banks, reserving only sufficient in his hands to make the current payment of demands upon him for sums of less amount than £5; and that he should so make his payments as to give a fair and equal share of business to both Banks; and that he be directed to pay all demands upon him exceeding £5 by Drafts upon those Banks.

Fifthly. That he should furnish for your information monthly a Copy of the account, which by his Instructions he is required to render on the 6th day of each month to the Auditor, shewing the Balance then due upon his accounts, whether of money received as Revenue, or temporarily deposited in the Treasury,

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1 Dec.

Instructions *re*
management of
public moneys.

subject to orders of the Courts of Judicature; and that he should state in these accounts the proportion of the Balance deposited in the respective Banks.

Sixthly. That, if such Balance upon the Treasurer's account should exceed the Sum of say £10,000, or if the Balance in either Bank should exceed the Sum of £5,000, the Treasurer should be required to deposit in Specie in the Vault, to be prepared for that purpose, the excess of his Balance above £10,000; and that such Deposit should be made in the presence of the Officers, entrusted with the separate Keys, and who should thereupon certify to the Governor the amount as deposited.

Seventhly. That, if the Balance left upon the Treasurer's monthly accounts should, with the accruing receipt of Revenue, be at any time insufficient to pay the whole of the demands upon him, he should make a representation of the same to you; and, if you shall be satisfied therewith, you will grant your Warrant, addressed to the three Officers in charge of the Keys, authorizing them to take out of the Vault and place in the hands of the Treasurer such sum in specie, as he may deem necessary for carrying on the Service.

Eighthly. That you should, whenever you may think necessary, and at least once in every year, appoint a Committee of Colonial Officers, not less than five, to count and ascertain the correct amount of money, lodged in the Vault, and report the same to you, and also report whether the contents agree or not with the amount which, according to an account to be previously furnished to them, should remain therein.

Ninthly. That the Sum of £10,000, which is to be suffered to remain as the Balance of the Treasurer's accounts in the two Banks, should be considered as the maximum, which should so remain; and that, if upon any monthly account the Balance should be reduced even considerably below that amount, the Vault should not be opened to make up the Balance to that or any other given amount, unless you shall be satisfied that the same will be actually wanted to pay the current demands upon the Treasurer before the commencement of the ensuing month.

I have, &c.,

BATHURST.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 96, per ship Guilford; acknowledged by Governor Darling, 2nd August, 1827.)

Sir,

Downing Street, 1st Decr., 1826.

Soon after Sir Thomas Brisbane's arrival in this Country, he addressed to me a letter, of which the enclosed is a Copy, accompanied by an Address, which had been presented to him

by the Council of New South Wales previously to his Departure, requesting that he would leave in the Colony certain Astronomical Instruments belonging to him, and consent to receive an Indemnification for the same.

I now do myself the honour of acquainting you that His Majesty's Govt., not deeming it advisable to lose so favorable an opportunity as the acquisition of those Instruments afforded for promoting the Interests of Science in that Quarter of the Globe, have consented to the purchase of them on account of the Publick for the Sum, at which they have been valued by Sir Thomas Brisbane, which you will perceive, on perusing the enclosed papers, amounts to one thousand, six hundred and fourteen Pounds, thirteen Shillings. It is desirable that this expense should be defrayed out of the Revenues collected in the Colony; and I have, therefore, to desire that you will take the necessary steps for remitting to the Colonial Agent in this Country the requisite funds to enable him to reimburse Sir Thomas Brisbane the Sum, which His Majesty's Government have agreed to pay to him for the Instruments in question.

I have, &c.,

BATHURST.

[Enclosure.]

SIR THOMAS BRISBANE TO EARL BATHURST.

My Lord, 4 Bennet Street, St. James, 11 August, 1826.

I do myself the honor to transmit to your Lordship the copy of an address, laid before me by the Council of New South Wales, before I quitted that Colony, requesting that I would leave behind me my Astronomical apparatus and consent to receive an indemnification from His Majesty's Government.

I now beg to call Your Lordship's attention to the grounds, upon which the Council have framed this application; and, as I fully concur with their Sentiments in the great importance of Astronomy in advancing the interests of Navigation and intellectual improvement of the human mind in that distant portion of the globe, I am induced, in conjunction with their unanimous wishes, to solicit Your Lordship's approbation to this measure, and assistance in carrying it into execution, and that your Lordship will be pleased to cause the amount of the instruments, books, etc., so left behind by me, to be repaid from His Majesty's Treasury. The valuation of them is herewith annexed, which is stated much lower than what I originally paid for them; and I beg to remark that, as they are in a most efficient state of performance, besides being under the able care of my late Assistant, Mr. James Dunlop, I feel every confidence that they will justify the value so placed upon them.

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1 Dec.

Purchase of
astronomical
instruments
from
Sir T. Brisbane.

Request from
council re
instruments.

1826.
1 Dec.

Reasons for
compliance
with request.

It becomes me to observe that, as this apparatus was only possessed by me for private recreation, I felt as much surprised by the unexpected communication of the Council, as I was honored by their allusions to myself personally; and, in consenting to their request, I was guided by the Instructions I had previously received from your Lordship through your Under Secretary, a copy of which is herewith transmitted, to give up my apparatus for the public benefit, as I was aware that these instruments are not only auxiliary but indispensable to carry the wishes of His Majesty's Government into execution for the measurement of an arc of the Meridian.

I have, &c.,

THOS. M. BRISBANE.

[Sub-enclosure No. 1.]

MEMBERS OF THE COUNCIL TO SIR THOMAS BRISBANE.

Sir,

Council Chamber, 11 October, 1825.

Address of
council *re* sale
of astronomical
instruments.

The Council, in being apprized of Your Excellency's intention to return to England, are reminded of the obligations, which Science is under for the great number of valuable observations, with which Astronomy has been enriched by Your Excellency—obligations, which are enhanced by the consideration that they have been incurred at Your Excellency's private expence. The Council cannot but feel the loss, which will be experienced in Your Excellency's knowledge and immediate care; but they hope that the culture of this interesting Science, which, under Your Excellency's auspices, has been transplanted to this part of the Southern Hemisphere, will not be neglected; and, with the view of future encouragement, they are induced to request that Your Excellency would allow your Astronomical apparatus to remain in the Colony, and consent to receive an indemnification for the Cost. The Council are encouraged in expressing this request to Your Excellency by Your Excellency's long experienced zeal in the cause of Science, and by His Majesty's Government having authorized Your Excellency to cause an Arc of the Meridian to be measured at the public expence. The splendid Zenith Sector, which in furtherance of the views of Government has lately been transmitted to the Colony, will be rendered useless for some time without the auxiliary instruments, which belong to Your Excellency; but, independently of every minor consideration, The Council are fully impressed with the opinion that the encouragement of a Science, so honorable to the human intellect and so importantly connected with the interests of mankind, as Astronomy in this interesting portion of the Earth, will be a sufficient reason to

induce His Majesty's Government to sanction the request, which the Council now make to your Excellency. The Council have deputed two of their Members, the Chief Justice and the Archdeacon, to wait on Your Excellency and receive Your Excellency's answer.

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1 Dec.

WILLIAM STEWART. F. GOULBURN.
FRANCIS FORBES. J. BOWMAN.
T. H. SCOTT.

[Sub-enclosure No. 2.]

VALUATION OF ASTRONOMICAL INSTRUMENTS.*

			Valuation of astronomical instruments.
Four Astronomical Clocks, best description	£490	0	0
Mural circle by Troughton	200	0	0
Transit Instr. 5½ ft. Do.	105	0	0
Repeating Circle 16 In. (Reichenbach)	130	0	0
Equat'l Telescope, etc. (Banks)	60	0	0
French Do.	42	0	0
Declination instrument, complete, by Dolland	30	0	0
Inclination do. Gemby, Paris	42	0	0
Borda's Pendulum, complete for determining the figure of the Earth	85	0	0
Magnetic transit by Jerker, Paris	15	0	0
2 Mountain Barometers by Troughton	11	0	0
Observatory Barometer and four Thermometers	10	0	0
Kater's Azimuth Compass	10	0	0
Pair 18 inch Globes, London	19	0	0
Levelling Telescope, complete	12	0	0
Astronomical books, etc.	353	13	0
	£1.614	13	0

True copy:—R. STIRLING.

[Sub-enclosure No. 3.]

[A copy of the letter and enclosure from under secretary Horton to Sir Thomas Brisbane, dated 23rd January, 1824, will be found on page 201, volume XI.]

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Guilford; acknowledged by Governor Darling, 22nd December, 1827.)

Sir, Downing Street, 1st Decr., 1826.

The Lieutenant Governor of Van Diemen's Land having complained of the quality of the Shoes, which are annually supplied from this Country for the use of that Colony, I enclose to you herewith the Copy of a Report, which has been made upon this subject by the Officer, whose duty it is to provide Articles of this description; and Lord Bathurst requests that you will communicate to him your opinion as to the expediency

Quality of shoes.

* Note 152.

1826.
1 Dec.

of employing Convicts at New South Wales in the manufacture of Shoes, required for their own use, according to the suggestion contained in the letter from the Ordnance Department.

I have, &c.,

R. W. HAY.

[Enclosure No. 1.]

MR. BYHAM TO MR. W. HILL.

Sir,

Office of Ordnance, 17 November, 1826.

Proposed
manufacture of
shoes in colony.

In reply to your letter of the 30th Ultò. relative to the Quality of the Shoes sent out annually to Van Dieman's Land,

I am directed by the Board to transmit to you a Copy of a letter, dated 7 Instant, from Mr. Stacey of the Military Depot, Tooley Street, on that subject; and I am to request you will acquaint me whether it is the wish of the Lords of the Treasury that the Shoes for New South Wales and Van Dieman's Land should hereafter be sent out in Materials.

I have, &c.,

R. BYHAM, for the Secry.

[Enclosure No. 2.]

MR. G. STACEY TO THE PRINCIPAL STOREKEEPER.

London Military Depot, Tooley Street,

Sir,

7 November, 1826.

Report on
shoes shipped
to colonies.

I return the Honorable Board's reference, dated the 1st Instant, of the letter received from the Treasury with its two Enclosures, respecting a complaint of the Lieutenant Governor at Van Dieman's Land of the badness of the Shoes, annually sent out to that Colony, upon which I beg leave to state as follows.

The Shoes, purchased for this Service, are the same as those purchased for the Army, previously to the Establishment of the Ankle Boot. But there have been supplied to New South Wales and Van Dieman's Land some thousands of Pairs, which were made by the Prisoners at the Penitentiary. There have also been occasionally sent out to these Colonies Shoes, that have been returned into Store from Sundry services and Stations, which were depreciated by Age. And, as at the end of the War, a very great Store of Shoes was on hand, these were to a large extent sent to New South Wales, and doubtless in part must have reached Van Dieman's Land, as it was not, until late Years, the practice to Ship Shoes direct to Van Dieman's Land.

Shoes are depreciated by time, and are materially affected after about 18 Months, particularly in the sewing. It has sometimes happened that Shoes provided for Van Diemans' Land, could not be issued for many Months after they were ready,

owing to the want of Ships; they then were stowed in the heated hold of the Ship during a very long voyage, and perhaps were some Months in the Colony before they were taken into wear; these causes are sufficient to account for even the best of the Shoes being much depreciated.

1826.
1 Dec.

Report on
shoes shipped
to colonies.

With respect to those made by the Prisoners at the Penitentiary, although the Materials were good, yet it may easily be conceived that, as many of the Prisoners employed to make them had never attempted it before, many Shoes, although serviceable, were very inferior in workmanship, and defective in parts owing to the want of skill in the arrangement of the Materials.

Until the present, I am not aware that any Complaint has ever been received of the Shoes sent to New South Wales and Van Dieman's Land; and I know no other Service, to which the Shoes above described could have been applied, except that of the Captive Blacks at Sierra Leone, the Demands for which are inconsiderable in number.

I can safely assert that the Shoes, expressly provided for this Service, were equal to the Pattern and to those formerly furnished by Army Clothiers with the Soldiers' Clothing. I beg leave to submit 6 Pairs, taken from the pile of accepted Shoes as they came to hand without selection, and also the Pattern. The last Contract Price was 4s. 7d. per pair. Whether Shoes of higher price are to be provided in future is for the Honble. Board's Determination; but I think it necessary to mention that the great length of time, before Shoes, purchased in England, can be taken into wear at so distant a Station as Van Dieman's Land, will always render the Shoes liable to depreciation before they can be taken into wear. I am of opinion this objection would in a great measure be done away, if the Shoes were sent in Materials, cut out and prepared for being made up in the Colony, particularly as the thread, with which the Shoe is sewed, is always the first to fail. The Penitentiary have ceased to manufacture Shoes, so that there would be no objection on that account to the employment of Prisoners in the Colony in the manufacture of Shoes.

I have, &c.,

G. STACEY.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 97, per ship Guilford; acknowledged by Governor Darling. 2nd August, 1827.)

Sir,

Downing Street, 2nd December, 1826.

2 Dec.

I do myself the honour to acknowledge the receipt of your Dispatch, No. 38 of the 20th of July last, enclosing the Copy of a Government Order, which you had issued with a

Despatch
acknowledged.

1826.
2 Dec.

Approval of
regulation *re*
pay of convict
overseers.

view of regulating the remuneration to be granted to the prisoners of the Crown, when employed as Overseers, and in other situations of responsibility in the service of the Colonial Government; and I beg to acquaint you in reply that the Regulations, which you have established with respect to this Class of persons, appear to His Majesty's Government to be exceedingly judicious and proper.

I have, &c.,

BATHURST.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 98, per ship Guilford; acknowledged by Governor Darling, 2nd August, 1827.)

3 Dec.

Despatch
acknowledged.

Sir,

Downing Street, 3rd December, 1826.

I do myself the honour to acknowledge the receipt of your Dispatch, No. 41 of the 20th July last, in which you submit that an allowance on account of House Rent should be granted to Mr. Balcombe, the Colonial Treasurer, and that he should be allowed to employ not less than two Clerks to assist him in carrying on the business of his Department.

Approval of
allowance
for rent to
W. Balcombe;

On a former occasion, when I declined to make any allowance for House Rent to Mr. Balcombe, it was from my conceiving that his Salary was fully adequate to defray all disbursements of this kind; but I was certainly not then aware that so considerable a part of the House, which he now occupies, and for which it appears that he pays an Annual Rent of £150, was appropriated to official purposes, thereby obliging him to hire a larger Building than would be necessary for the dwelling of himself and family alone.

Under these circumstances, I have to approve of your making to Mr. Balcombe an allowance (as recommended by the Committee) equal to one half of the Sum, which he now pays for House Rent; but this allowance can only be continued to him, so long as the Publick Building, which you inform me is now preparing as Offices for the Colonial Treasurer and other Departments, shall be ready to be so appropriated.

and of
appointment of
two clerks at
treasury.

I beg further to acquaint you that, as it appears from the Report of the Board, which you assembled for the purpose of enquiring as to what assistance the Colonial Treasurer required, that the employment of two Clerks are necessary in his Department, I am disposed to acquiesce in that arrangement, as well as in the amount of remuneration, which it is proposed to assign to them, vizt. to the first Clerk, a Salary of £300 per annum, advancing at the rate of £20 per annum, until it shall have reached the maximum of £360; and to the second Clerk, a Salary of £150 per annum, to be augmented at the rate of £10 per

annum, until it shall reach the maximum of £200. Such assistance, however, as may be required in addition to the Services of the two Clerks in question, must be defrayed out of the Emoluments, received by the Treasurer, or by a deduction from the Salaries of his Assistants, as I cannot sanction any further increase to the Establishment of his Office beyond that, which I have now authorized.

I am, &c.,

BATHURST.

1826.
3 Dec.

Additional appointments.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 99, per ship Guilford; acknowledged by Governor Darling, 2nd August, 1827.)

Sir, Downing Street, 3rd Decr., 1826.

I have the honour to acknowledge the receipt of your Dispatch, No. 45 of the 23rd of July last, reporting the arrival of the 1st Division of the Royal Veteran Battalion at New South Wales, and the mode in which you propose to dispose of the other Battalions, when they shall reach the Colony; and I beg to acquaint you that the arrangements, which you have adopted with respect to the distribution of the Military force, placed at your disposal, and to which the present tranquillity of the Colony may in a great degree be attributed, have received the Approbation of His Majesty's Government.

Approval of distribution of military.

I have, &c.,

BATHURST.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 100, per ship Guilford; acknowledged by Governor Darling, 23rd July, 1827.)

Sir, Downing Street, 4th Decr., 1826.

4 Dec.

In consequence of the representations, contained in your dispatch of the 27 of July last, on the inefficient state of the Surveyor's Department, and of your recommendation that a few practical Surveyors should be sent out to afford Mr. Oxley that assistance in his Department, with which alone he can carry into effect the arrangements, as directed by His Majesty's Instructions, for a more general survey and valuation of the Crown Lands in New South Wales, I do myself the honour of acquainting you that four Surveyors and two Draftsmen will be added to the Department of the Surveyor General. But, as some little time may elapse before I shall be enabled to find competent persons desirous of filling those situations, I must reserve for a future opportunity the announcing to you their names; and I shall, therefore, confine myself in this Dispatch to the arrangements, which I consider it necessary should immediately

Additional appointments to survey department.

1826.
4 Dec.

take place with the view of placing the Surveyor General's Department upon a more efficient footing than it hitherto has been.

Salaries in
surveyor-
general's
Department.

Nothing perhaps will tend more to that desirable object, after a sufficient number of Assistants shall have been appointed, than the assigning to them such remuneration for their Services, as to place them above temptation, and thus to hold out sufficient encouragement for the zealous performance of their several duties.

Salary of
J. Oxley.

As, in most of the other Departments of the Government, the system of fees has been discontinued, and a fixed Salary assigned to the Parties in lieu thereof, I see no grounds for not adopting a similar arrangement in the Office of the Surveyor General, by which the fees hitherto paid to him should be carried, as in the other cases, to the account of the Colonial Revenue. In deciding upon the amount of the remuneration, which should in future be assigned to Mr. Oxley, you will be guided by the average amount of Fees received by him during the last three or five years, taking care, however, in the new arrangement that his Salary should not exceed £800 per annum; and you will understand that it is not my intention that a permanent Salary of more than £600 per annum should be affixed to the Appointment of Surveyor General, whenever that office may be filled by a different person.

Pension for
W. Harper and
transfer for
J. Rodd.

With respect to Messrs. Rodd and Harper, as it appears that neither of them will be ever sufficiently effective to perform the duties required of them, I have no hesitation in directing their being discontinued from the Establishment, allowing Mr. Harper a retirement of 6d. per day, and removing Mr. Rodd, if possible, to some other employment of less arduous and active exertion.

In regard to the other Individuals composing the Department of the Surveyor General, the following arrangement as respects their Salaries will be adopted, vizt.

Salary of
H. Dangar.

Mr. Dangar should have an increase of Salary at the rate of £50 per Annum, which addition will commence from the time when the retirement of Mr. Harper, whom he will be understood to succeed, takes place.

Report
required *re*
P. Kavenagh.

The name which appears next to Mr. Dangar in the Returns,* which accompanied your dispatch of the 27th of July last, is that of Mr. Kavenagh; but I do not perceive any allusion made to him by the Surveyor General in his letter reporting on the efficiency of the persons attached to his Department. He enumerates the names of five Individuals, whom he considers able Assistants, and two who are rendered by illness or infirmity incapable of making themselves useful; but no mention is made of Mr. Kavenagh, either as being efficient, or unequal to his

* Note 153.

duties. I must, therefore, request that you will explain to me the circumstances attending his case, in order that I may either confirm him in his appointment, should it appear that he can be servicably employed in his present situation, or direct that he may be superseded.

1826.
4 Dec.

The case of Mr. Hoddle I have very recently had occasion to bring under your notice; and I am now happy to find his name brought forward by the Surveyor General in the favourable terms it has been. I have been induced to increase his Salary, as well as that of Mr. Richards, from their present amount to £200 per annum.

Salaries for
R. Hoddle and
J. B. Richards;

The only persons, whose names remain to be mentioned, are Messrs. Finch and Ralfe; and I only think it necessary to observe in respect of them that they will continue in the receipt of the same remuneration as formerly.

and for
H. Finch and
J. Ralph.

I have, &c.,

BATHURST.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch marked "Secret and Confidential." per ship Regalia; acknowledged by Viscount Goderich, 11th July, 1827.)

My Lord, Government House, 4th December, 1826.

I have thought it right, in my Public Letter of this date, not to advert to the supposed illegality of the Sentence,* passed by the Quarter Sessions on Sudds and Thompson of the 57th Regt. I have called on the Acting Attorney General for an opinion on the Case, and shall have the honor to transmit it by the next opportunity to Your Lordship.

Question of
legality of
sentence on
J. Sudds and
P. Thompson.

My own opinion is that, under the 5th Section of the Act in Council, which I herewith enclose, that the Quarter Sessions have exceeded their powers in Adjudging Men, who came free to the Colony, to be transported for their first offence to a Penal Settlement. But, having no reason to doubt the correctness of the Judgement of that Court, at which Mr. Carter presides, who is a Member of the Legal Profession, it did not occur to me to refer to the Act, further than to ascertain, which I did, whether I had authority to order Prisoners, sentenced to Transportation, to be worked on the Roads in Irons. The 6th Section of the Act left no doubt on my mind that I possessed that power; and I must still think so, though, if the Sentence was illegal, the subsequent proceeding founded on the assumption of its legality may possibly be illegal also.

I have, &c.,

RA. DARLING.

[Enclosure.]

EXTRACT from Act No. 5 of the Legislative Council, dated 16th of August, 1825.

[This comprised the 5th and 6th sections.†]

* Note 154. † Note 155.

1826.
4 Dec.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch marked "Separate," per ship Regalia; acknowledged by Viscount Goderich, 11th July, 1827.)

My Lord, Government House, 4th December, 1826.

An event, which has recently occurred here, having been misrepresented in the "Australian" of the 29th of last Month, and may consequently have an ill effect at Home, I feel it my duty to put Your Lordship in possession of the facts, which I shall do in as few Words as possible. Several Men of the 57th Regiment (Seven in Number) having committed Robberies, and Maimed themselves, with the avowed intention of obtaining their Discharge from the Service, I judged it necessary to take such steps as might have the effect of deterring others from any similar attempt. Accordingly, on the conviction of Sudds and Thompson (the last of those Men who were tried), I was induced, as a means of producing the greater effect on the Soldiers in general, to direct that, instead of being transported to a Penal Settlement for Seven Years, according to their Sentence, they should be Worked on the Roads in Chains; and I prepared an Order to be issued on the occasion, with a view of rendering their removal from their Corps as impressive as possible.

I do myself the honor to transmit, for Your Lordship's information, a Copy of the Order alluded to, which points out the proceeding that took place. As soon as the ceremony was over, the Men were marched back to the Jail, and the Newspapers then spoke of the occurrence as likely to have a good effect.

The Prisoner Sudds was sent to the Hospital the following Day, Thursday, the 23rd, and Died on Monday, the 27th Ultimo, which has led to the Animadversions in the "Australian," to which I have already alluded. However much the event is to be regretted, it cannot be imputed to Severity. None was practised or intended. Instances occur daily of Men Petitioning to be allowed to Work on the Roads in Chains, as those Men were ordered, instead of being sent to a Penal Settlement, the former punishment being preferred in all cases by the Prisoners. The only deviation from the usual course of proceeding, in the case of Sudds and Thompson, was that, instead of the Chains being put on in the Jail, the Act was performed in a more ceremonious manner in presence of the Garrison as a necessary example to the Troops. With respect to the Chains, which are designated Instruments of Torture, it will be sufficient to state that they weigh only 13 lbs. 12 oz.; and, though made with a view of

Report
on case of
J. Sudds and
P. Thompson.

Attempts to
obtain discharge
from military
service.

Punishment
inflicted on
J. Sudds and
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producing an effect on those, who were to witness the ceremony, the extreme lightness of their construction prevented their being injurious in any respect to the Individual.

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I do myself the honor to transmit a Copy of a Letter, written by my direction to the Editor of the Australian, with a view of correcting the misstatements in his Paper; and I beg to refer Your Lordship to his following Number, herewith enclosed, in which he admits that his statement was inaccurate.

Mis-statements
in *Australian*
newspaper.

As to the legality of the proceeding, which I ordered, I have only to refer to the 6th Section of the Act of the Legislative Council, No. 5, of the present Year, which I shall subjoin, and which authorizes the Governor "to withdraw any Person or Persons, now or hereafter to be transported or sent to any Penal Settlement, or place as aforesaid, and to Work either him, her or them, either in Irons on the Public Roads, or Works, etc."

Legality of
sentence.

It is now admitted by the Australian that the Irons were light in the extreme. The ceremony was intended to have an effect on the Troops; and it will not be doubted that example was necessary, when *Seven* of the Men (though *Six* only are mentioned in the General Order) had recently endeavoured to get rid of the Service by similar means. When I adverted to the extent, to which Desertion was carried in America after the Peninsular War, Regiments having lost fifty Men of a Night, being tired of the Service or desirous to get high Wages, I felt that my duty imperatively required that I should check, by every practicable means, the dangerous disposition, which had manifested itself in the Troops.

Reasons for
method of
punishment.

If this has been accomplished, as I trust it has, a great and important Service has been rendered the Country at large. As to the fate of Sudds, it can hardly be supposed that a Man, who could deliberately commit such an Act with so base an intent, could possess any sense of shame, or really feel the degradation, to which he had wantonly and wilfully subjected himself.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

EXTRACT from the "Australian" Newspaper. 29th November. 1826. Criticism in *Australian* newspaper on sentence passed on J. Sudds and P. Thompson.

THERE appeared to be something so contradictory and so self-evidently wrong in "The General Order," which was published on Saturday last with the Brigade Major's signature attached, that we resolved to examine its merits with rather more than ordinary scrutiny.

We were really so startled at seeing a notification "to commute the sentence," followed by the declaration of an intention to inflict additional punishment, that our mind involuntarily doubted for an instant, if the English vocabulary of law terms had been introduced into this Colony; if words were liable to the same interpretation here, as in England, or if indeed the law itself of England were

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really in force in this Colony. We had always thought that to commute was in effect to mitigate, and, for the first time discovered, on perusing the General Order, that there were those, who did not entertain precisely the same opinion. To commute is certainly to make a change; but it is to make a change for the better, a change, in which the culprit himself is so materially concerned, that it cannot take place without his consent. If he choose to bargain for exemption, when the choice is put to him, exemption he procures; if he likes to give a pecuniary consideration in preference to doing penance, he is allowed thus to purge himself of his spiritual offences. A sentence of death may be commuted for transportation for life, or for years; of transportation for banishment; but a prisoner may reject the alternative, refuse to avail himself of the Royal Clemency, and submit to the severer punishment.

It is quite clear then that the substitution of the punishment of hard labour in irons on the roads could not be a commutation; and it is equally clear that that substitution has not been by consent of the culprits. But terms might, we thought, be misapplied. Extreme accuracy is not always to be expected in General Orders; and we were about to attribute the confusion, which was obvious to a want of precision, when it occurred to us that there was something beyond looseness of expression to notice; and a nearer view of the Order convinced us that our suspicions were well founded.

The alteration in the sentence being made, as the General Order informs us, "in virtue of the power, with which the Lieutenant General is vested as Governor," we were naturally enough induced to examine the basis of this assumed power, in order to ascertain whence came it that the Governor of New South Wales possesses greater power in New South Wales than the King of England has in England; and, by what magic influence, the former can accumulate penalties upon a sentence, passed in Court, while the latter, though he may pardon, cannot even mitigate the force of a judgment without the authority of Parliament or the assent of the adjudged. We soon discovered that not only had the term "commute the sentence" been misapplied, but that the supposed authority did not exist.

We referred to the Act in Council, passed in the month of August last, and published in the *Australian* on the 19th and 23d of that month. A brief detail of the circumstances, which led to the passing of that Act in Council, and a brief explanation of the power, which it really vests in the Governor, will suffice to exhibit the error, which has been committed.

When the law, as it stood in England relative to convicted persons, was altered, and when transportation of offenders, took place of burning in the hand, etc., many regulations were necessary, which could not be adopted but on the authority of Parliament. How prisoners were to be disposed of on their arrival at the place, to which they were transported, became a serious consideration; and, ultimately by Statute, their services were vested in the King or the King's Representative, or in the assignees of either. It was thus that prison labour became employed by the local government, or by the inhabitants of this Colony. The law, which established this order of things, had only a limited force, and did not extend to persons, convicted in the Courts of the Colony. They had, however, been dealt with after the same fashion as those, who came from England; and, on this account, there required, therefore, first of all an indemnity for all Judges, Justices of the Peace, etc., inasmuch as these had exercised an authority, not delegated to them by any law; and next, for the peace and protection of the community, it became essential to put offenders, tried and convicted in the Colony, as nearly as possible on the footing of prisoners, convicted in England. There were two orders of people to deal with, those who had formerly been criminals in England, or criminals more than once here, and those who might be charged for the first time with the commission of offence. To meet all these exigencies, the Act in Council, we have previously alluded to, was passed, distinguishing, as we have said, between the two orders of offenders. We shall here transcribe the fourth, the fifth, and the sixth sections.

[Here followed sections 4, 5, and 6 of Act* No. V, 7 Geo. IV.]

It does not fall, within the scope of our remarks just now, to pronounce whether any of these three clauses are at variance with the Laws of England, or in what respect they trench upon them. We might compare some of their provisions with provisions, which are made in similar cases in England, and shew at least that, when a sentence of transportation to a penal settlement is transmuted into hard labour, or service in the Penitentiary, the period of its duration is shortened; five years are substituted for seven, seven years for fourteen, and ten for life. It is not the merits of the Act, that we have now to discuss; it is not the extra severities, which it imposes, that now demands our notice. We said nothing, when it was passed, because we were aware of the necessities, which called for a considerable portion of it; we had advocated the exercise of an extraordinary power to redress the dreadful calamities, which Bushranging entailed upon the Colony; and we were desirous of seeing them put down with a strong arm. But we must not be inattentive to the interpretation, which has been put upon the three clauses of this Act, or fail to make it appear most satisfactory that, "in virtue" of them, a power, which they do not give, has on the occasion in question been exercised; and that, in their supposed virtue, the two soldiers, convicted the other day, have been improperly doomed to work in irons on the public roads.

* Note 155.

Clause four puts convictions here, which may take place subsequently to the date of the Act, on an equality with convictions at Home, and further enables the Judges, etc., of the Courts to sentence prisoners to hard labour *in irons* on the high roads. The Governor, by the same clause, is required to carry the *said* sentences into effect. So that, if a prisoner be sentenced to a penal settlement, the Governor must order him thither; if to be imprisoned, the Governor must order him to prison; if to hard labour, etc., the Governor perfects the sentence. This clause makes no distinction of persons. If it stood alone, it would act upon all prisoners alike, whether they were maiden or old offenders; and the Governor would have no alternative, but to order the judgments to be fulfilled; a sentence of transportation could not be altered to hard labour in irons. The subsequent clauses, the fifth and the sixth, make a material inroad upon the sweeping provisions of the fourth; the sixth enlarges the power of the Governor; the fifth limits the power, first of the Courts, and next of the Governor. But for the fifth clause (admitting that the Act itself is quite in consonance with the Laws of England, and we are not now meaning to dispute its legality) it might, with some shew of reason, although with no reason in reality, be contended that The General Order of Saturday is supported by this Act in Council. The sixth clause gives the Governor, on the observance of certain ceremonies, a very largely discretionary power, a power more extensive in its operation than the power given to the King by the 56 G. 3, c. 63. This authorises his Majesty, "by an order in writing, to be notified by the Principal Secretary of State for the Home Department, to direct that any person, under sentence of transportation, etc., shall be removed to the Penitentiary, there to continue" (liable to hard labour) for five, seven or ten years, according as his sentence of transportation may be for seven, fourteen years or for life. But that allows the Governor to change the very nature of a sentence; and, without shortening the time of its endurance one moment, it allows him to remove a prisoner, who may be serving his time in the ordinary manner and under the ordinary sentence at a penal settlement, and impose upon such prisoner the extraordinary and severe punishment of hard labour in irons on the public roads, it enables the Governor to do this with the best conducted man in the penal settlement; if that man happens originally to have been transported from England, and re-transported to the penal settlement, or if he happen to be twice convicted in the Colony, having come free into or having been born within it.

We all know why this most extraordinary, this before-unheard-of discretionary power, was granted to the Governor of the Colony. It was to master the desperate set of fellows, who alarmed the Colony, and threatened the safety of the people; it was to control them by the force of manacles, and shackles, and collars, and any chains, which ingenuity could devise to secure, only to secure not to torture them; it was made to let people sleep in peace. Conferring such a power was a desperate expedient, a remedy revolting to Englishmen, who like not the treatment of persons, be they ever so bad, to be prescribed by *one*, only one; who like not to see their fellow creatures, though last on the graduated scale of respectability or iniquity, exposed to variations of temper, to mildness and cruelty, according to the variations in the thermometer of the human passions. It could only be excused on the best or the worst of pleas, necessity. The necessity for keeping violent characters in subjection existed. Our Legislators thought it best to lodge the power of meeting that necessity in the hands of the Governor. Such a power is at all times liable to abuse, to be mistaken. Abused, we hope it never will; mistaken, it already has been.

The spirit of the Act in Council has been obviously deviated from, and this too, if we throw out the fifth clause altogether. But the letter of the law has been forgotten; and this will appear plainly enough, if we do only read the fifth clause and terminating lines of the sixth. Thompson and Sudds came into the Colony free; the offence, of which they have been found guilty, is their *first* offence; and they were liable to be sentenced to a penal settlement, and kept in the ordinary service of the crown, or the assignee of the crown, or to imprisonment and hard labour within prison walls only; all the rest proceeds from error. "Reversing the sentence," as it has been called, is decidedly wrong, as well as the use of ponderous and fancy-made chains, and the Order to work in irons on the high roads.

We think it fortunate that such a conspicuous case as this has occurred. It may save other prisoners from an illegal doom, to which they might silently have been consigned under a most erroneous impression. It will be well to inquire, whether any sentences have been passed under a similarly mistaken notion, and in the belief that the Court, passing judgment, was enabled to order all or any indiscriminately to be worked in irons on the high roads. It will be well to revise the judgments of the Court of Quarter Sessions; for, of that Court, we have naturally the most apprehensions, and, in the soundness of its views, the least confidence; though, perhaps as at Windsor so in other places, the *legal* and *lawyerlike* expedient has been resorted to by the Sessions Court of *altering* its own judgments, after they have been pronounced.

A degree of severity, as we stated in our last, it may be thought is called for towards the soldiers. For the sake of example, and to deter others from similar

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conduct, it might be prudent to deal rigidly with them. But legal and prescribed bounds must not be passed. However odious their crime, they must not be visited with treatment, not fully sanctioned by the laws of their Country.

Here we should leave the *General Order*, satisfied that we had said enough to cause its obliteration from all official records and to be declared nugatory. It may not, however, be amiss to advert to the second paragraph, merely to state our opinion that it is not very wisely introduced. Having thus noticed that which is supposed to be a strong feature in the offence of these men, we shall not dwell much to consider whether committing "a robbery in open day, without even an attempt to conceal the fact," adds to its atrocity in this particular instance, or whether that circumstance does not rather tend to establish an allegation, which the men made on trial, or when taken into custody, and which, if believed, might have entitled them to acquittal. We should not be prepared to say that they were not guilty, though we might hesitate in pronouncing a verdict of guilty, if what, they confessed, had admitted of proof. They set out on their excursion not to steal, but to pretend to steal. Their intention, they alleged, was to be detected in order to divest themselves of their military character. The main ingredient to constitute a theft, an ingredient without which a theft cannot be committed, is the *animus furandi*, the intention to steal. The intention to be detected in pretending to steal, for the sake of avoiding some duties or violating some obligation, that intention being accompanied with the removal of property, is not quite so clear a case of felony, as proof of stealing for the value of the thing. It may well, therefore, admit of a doubt whether the absence of an attempt to conceal the fact can be considered as increasing the heinousness of this offence, or whether the circumstances do not reduce it simply to an atrocious attempt to get rid of the regiment, without incurring the danger of desertion. And, in that point of view, and seeing that this is recognised throughout the Order to be the intention of the men, the propriety of an apostrophising observation on the want of an endeavour at concealment may well be questioned.

The General Order did not reach our Office for publication. Probably the Major of Brigade thought that it was not a production, which required great publicity, and therefore forbore to forward it to us. We have given it a place in our front page to-day, because we have deemed it proper to make it the subject of serious comment.

We had scarcely finished the foregoing remarks, the ink was hardly dry, when the following announcement reached our Office:—

"Sudds, the private of the 57 regiment, who was convicted of petty larceny, and sentenced to seven years transportation to a penal settlement, and who was, after that sentence, publicly exposed on Wednesday last in a convict's dress at the barracks, and drummed out of the regiment (although at the time he was so ill, as to be scarcely able to stand) *died this morning!* His comrade, Patrick Thomson, who appears almost in a state of fatuity, and who, after his sentence by the Civil Court underwent a similar military punishment, has ever since continued loaded with chains of such a nature and form, as to prevent him from extending his body, and from lying on his back, belly or side, when he would endeavour to sleep. Surely this extreme rigor for an offence, allowed to have proceeded less from dishonest principle than from a wish to obtain dismission from the army, is incompatible equally with humanity and with the laws of that land of liberty, to which those unfortunate men owe their birth."

On reading it, we were appalled. Our feelings have scarcely yet subsided; and we dare not trust ourselves to make the comments, our heart and head would dictate. Good God! what painful emotions must this extinguishment of life awaken; how much must it be lamented that the plain judgment of a Court should be interfered with! How much does a single event prove the superiority of the equitable and placid decrees of a Civil Court over the impassioned emanations of man!

Sudds, we understand, became so ill on Saturday, that the Surgeon ordered the instruments, which tortured him, to be removed. He was disburthened of his cumbrous chains; all was unavailing. He sunk under his illness and affliction, owing no doubt his transition to another world to the overwhelming sorrows, which oppressed him in every shape.

As soon as his death was announced to the Governor, his Excellency ordered an inquiry to be made into the state of the gaol and the apartment, in which he was confined, etc.

The principal surgeon and an assistant accordingly reported that nothing touching the prison had contributed to hasten the man's exit from this life.

Previous to his death, he had been removed to the Hospital, and consequently no Inquest was held over the body.

Orders were issued, at the instance of the Lieutenant General on Monday last, for the conveyance, yesterday morning at six o'clock, of Thomson, the surviving soldier, under military escort to Parramatta on his way to the iron gang. He was removed accordingly.

[Enclosure No. 2.]

GENERAL ORDER.

1826.
4 Dec.General order re
punishment of
J. Sudds and
P. Thompson.

Head Quarters, Sydney, 22nd November, 1826.

THE Lieutenant General regrets it has become his duty to expose, to the indignation of the Troops, two Soldiers, who have committed an Offence under circumstances, which leave little doubt that their object was to obtain their Discharge from the Service.

Privates Joseph Sudds and Patrick Thompson of the 57th Regiment have been convicted of a Robbery in the Town of Sydney, committed in open day, and without even an attempt to conceal the Fact, and have been sentenced to be transported to a penal Settlement for a period of Seven Years.

The Lieutenant General, in Virtue of the Power with which he is vested as Governor in Chief, has thought fit to commute the Sentence, and to direct that Privates Joseph Sudds and Patrick Thompson shall be worked in Chains on the Public Roads for the Period of their Sentence, after which they will rejoin their Corps.

The Garrison has been assembled to witness the Degradation of these Men from the honorable station of Soldiers to that of Felons, doomed to labour in Chains.

It is ordered that the Prisoners be immediately stripped of their Uniform in presence of the Troops, and be dressed in the Felons Clothing; that they be put in Chains, and delivered in Charge to the Overseers of the "Chain Gangs," in order to their being removed to the Interior, and worked on the Mountain Roads, being drummed as roages out of the Garrison.

The Lieutenant General considers it unnecessary to enlarge upon the disgraceful conduct of these Individuals. The ignominious condition, in which they are now exhibited to their former Comrades, is the best Commentary on their proceedings; and the total failure of their Scheme will furnish a lesson, should it be necessary, to warn others against any similar attempt.

In thus drawing the attention of the Garrison to the fate of these Men, the Lieutenant General is induced to advert to the Cases of John Carney and Patrick Hogan of the 57th Regiment, who were lately found guilty of a Robbery at Emu Plains, and have been sent to Work on the Roads, in order that Soldiers, who wantonly sacrifice their Character, may not deceive themselves by a groundless hope of escaping Punishment.

In order to render the example still more complete, the Lieutenant General feels it necessary to refer to the Case of the two Men of the 57th, who maimed themselves some time since, with the intent of obtaining their Discharge. These also have been foiled in their Endeavour, and, by this time, will be enabled to judge, whether there is any thing in the employment of a Scavenger in a remote and insulated Settlement, allotted for the Confinement of the most atrocious Criminals, which can recompense them for the irreparable Injury, they have inflicted on themselves, and the diabolical Offence they have wantonly committed.

The Lieutenant General desires it may be distinctly understood that Pay, as a Soldier, is held to be incompatible with the Condition of a Felon. Soldiers, thus situated, are not allowed Pay for the Period they are absent from their Corps. They in like manner forfeit all claim to Pension.

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The 57th will congratulate itself on the removal, though only for a time, of these Men from the Corps. It is to be hoped that, by the disgrace they have now undergone, and the Punishment which awaits them (Seven Years Exile in Chains), they may be disposed to atone for the injurious effects of their Conduct.

The above Order to be forwarded to the several Detachments, and to be read to the Men at three successive Parades, that every one may be aware of the Ignominy, which attends Delinquents of the Character of Sudds and Thompson.

H. GILLMAN, Brigade Major.

[Enclosure No. 3.]

EXTRACT from the "Australian" Newspaper, 25th November, 1826.

Report in
Australian
newspaper on
execution of
sentence on
J. Sudds and
P. Thompson.

AN unusual scene was witnessed on the morning of Wednesday last in Sydney. The ceremony of drumming out of the regiments two privates, belonging to the 57th. These men had been convicted, at the last Sydney Quarter Sessions, of committing a theft in a public shop in Market-street in the day time, and had been sentenced by the Court to seven years transportation. At eleven o'clock, the whole of the troops in garrison were drawn up in a square with shouldered arms, when the two prisoners were brought before them, handcuffed and accompanied on either side by a Sheriff's officer. The Lieutenant Governor, as the Commanding Officer of the Regiment, and other Officers belonging to their respective Corps, were present. Colonel Stewart addressed the men on the occasion. He said he was sorry to see any soldiers of the 57th regiment thus disgraced, for the regiment had been signalized so often by its valour. He hoped, however, that the present example would deter others in future from attempting such practices, as had brought punishment upon the prisoners. The Colonel added that he was authorised in saying that the men, who were then before them, would spend their period of transportation in an iron gang, and, after the expiration of the term for which they were sentenced, would be again ordered into his Majesty's service in such regiment, as may then happen to be doing duty in the Colony. The regimentals were afterwards stripped from the men, and prisoners' yellow clothing substituted. This part of the ceremony was fully observed, for the men were stripped to the skin. When attired in their new garb, irons were placed on their legs, and a chain collar placed round their necks. The whole being thus completed, the last dishonor, which awaited them, was the drumming business. Four soldiers, belonging to the band, advanced, and, preceding the two men, advanced towards the eastern gate of the barrack, playing the tune of the "Rogue's March." The drummers, on reaching the threshold of the gate, leading into George-street, left their disregarded comrades in the hands of the civil authorities. The prisoners were reconducted to the Gaol.

The avowal, which these men made at the time of trial, rendered it requisite both that extraordinary ceremonies should be observed in discarding them from the regiment, and that somewhat of unusual severity in their sentence should be ordered. They plainly acknowledged that they were desirous of getting rid of the army; in forming this wish and in taking the steps, which they did adopt to obtain their release, they must have calculated upon comparative ease. They must have considered the condition of a prisoner, and have fallen into a belief that he was better off than a soldier. This opinion, strange as it may seem, must have been conceived by these men in delusion; and no better means of dissipating that delusion could have been adopted than their being ordered to be worked in an iron gang. Should any other soldier have fallen in love with the life of a prisoner, this example will teach him his mistake, before he goes past redemption, like these two soldiers. We have heard of unfortunate beings in England committing crime in order to partake of the sweets of that Elysium, which many are taught exists in Botany Bay; but we should never have expected to find so much of mistake to exist in the breast of a soldier, and a soldier living on the spot. For the honor of the British army, we hope to see the bad example of the two deluded men followed in not a single instance. The two soldiers put on a look of indifference. They will soon discover that they have made a change for the worse. We understand that, since their arrival in gaol, they have remained encumbered with the massive neck collar and other unusual chains, which they put on with their new clothing; and further that they are destined to work in them during the continuance of their sentence. This is carrying severity to an extreme, and, in our opinion, it will not be altogether justifiable. The men cannot lay their heads down to rest; and we should imagine they will find it difficult to breathe during this hot weather, while oppressed with the chains.

[Enclosure No. 4.]

1826.
4 Dec.COLONIAL SECRETARY McLEAY TO THE EDITOR OF THE
"AUSTRALIAN."

Sir, Colonial Secretary's Office, 1st December, 1826.

As you appear to have been misled by the Statement, which was sent to Your Paper respecting Sudds, the Soldier of the 57th, who died on Saturday last, I am induced to put you in possession of the facts of the case, in order to correct any erroneous impression, which may have been made by that statement.

Correction of
mis-statements
in *Australian*
newspaper by
A. Macleay.

It appears, by the Surgeon's report, that Sudds, after receiving Sentence of transportation, "applied on the 11th of November for medical assistance, and was in consequence received into the Gaol Hospital, where he remained under treatment until the 16th, when he was discharged apparently well."

Instead of being transported, it was directed that he should Work on the roads in Chains, it being conceived that the example would be useful in preventing other Soldiers from making a similar attempt to obtain their discharge from the Service. To shew that this punishment is considered a Mitigation of the Sentence, when substituted for transportation, it is only necessary to state that applications from the Prisoners for such commutation are very numerous, and are constantly received, after sentence of transportation has been passed on them.

On Wednesday, the 22nd, Sudds was marched from the gaol (not being on the sick list at the time) to the Barracks, where, between eleven and twelve o'clock, the Chains were put on him, and he was sent back to the gaol.

If you have any desire to examine the Chains, you are at liberty to do so. They are now at my office, and are the counterpart of those put on Thompson; they weigh exactly 13 lbs. 12 oz.; and it will be seen, from their construction, that they are not "of such a Nature and form as to prevent a Man from extending his body and from lying on his back belly or side, when he would endeavour to sleep."

Your informant states that, at the time the Chains were put on him, "he was so ill as to be scarcely able to stand." You add that you understand he "became so ill on Saturday that the Surgeon ordered the instruments, which tortured him, to be removed." Both these statements are incorrect. I have already shewn from the Surgeon's report that he was not ill, when the Chains were put on him on Wednesday, the 22nd; and his subsequent illness took place on the 24th (Friday), when he again

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reported himself sick and was forthwith admitted a second time into the Gaol hospital. On admission, the irons, in which he was confined, were immediately removed.

As the object of every honest Journal is to inform and not to mislead the Public, you will, I have no doubt in justice to the Government, insert this letter in your next Paper.

I am, &c.,

ALEXANDER McLEAY.

[Enclosure No. 5.]

Criticism in
Australian
newspaper of
legality of
sentence.

EXTRACT from the "Australian" Newspaper, 2nd December, 1826.

AFTER we had concluded the remarks, which appeared in our last, on the unfortunate case of Sudds and Thompson, we felt a strong disposition to investigate the merits of the sentence itself of the Court of Quarter Sessions, and examine whether that Court was justified in ordering the soldiers to be transported to a penal settlement. . . . "In all cases," says the Act, "in which the Courts, etc., in England are authorized to punish offenders by imprisonment and hard labour, it shall be lawful for the Judges, etc., in the said Colony to condemn offenders of the same degree to serve the Governor, etc., or to imprisonment and hard labour, or to hard labour in irons on the high road." This then contains no power whatever to the Courts here to transport offenders, whether old or new offenders, to penal settlements, if the offences were of such a degree that the Courts in England would have been enabled to visit them by imprisonment and hard labour. But the next clause specifically enjoins the Courts not to transport those, who are convicted for the first time. "All persons, born in the said Colony, or who have come into the same free, shall for the first offence, being of the degree as aforesaid, be liable to imprisonment and hard labour within prison walls *only*, or to be kept in the *ordinary* service of the Crown, etc.," that is they shall *not* be transported to a penal settlement. Any one knows that the two soldiers might have been sentenced to imprisonment and hard labour, had they been tried in England. The inference is obvious.

We have now, and for the present, only one observation to add that the judgment of the Court of Quarter Sessions on the soldiers, Sudds and Thompson, as we read the Act in Council, and in our humble opinion, is erroneous; the transmutation of that judgment is irregular: the use of irons is indefensible. But concede that the sentence is lawful, concede that the alteration of the sentence is equally lawful, concede further that the use of irons is also lawful, still there is nothing, which can justify the employment of chains of a novel and extraordinary description, chains not to secure but to degrade, chains unknown to English law; there is nothing, which can mitigate our deep and sincere regret at this fact, if we except that single circumstance, which has come to our knowledge very recently, that the chains employed were neither so ponderous, so oppressive nor of so torture inflicting a kind, as they appeared, when on the men, and as represented to us.

Modification
of previous
criticism.

We have respected the existing Government, because we have considered that humanity and well meaning are and have been its leading attributes. For a moment, we were shaken, only for a moment. And we do feel pleasure in acknowledging that, while we impute the error, which has been committed, to any thing rather than barbarity, the pain and suffering, actually endured by Thompson and Sudds, are more to be ascribed to inward feelings and a sense of degradation than to any torture, which the chains, illegal and improper as they were, could inflict. The fair and candid letter of the Hon. Mr. McLeay constrains us to make this admission. We hate evasions. The letter does not descend to evasions, or seek to conceal one fact. We certainly do regret that, in the minute points of the information, which we communicated to our Readers on Wednesday, we were not strictly accurate. We have seen the chains; and, though they have not those horriſying appendants, annexed to them, which would prevent the wearer from taking rest, still we cannot in our judgment give them an essentially different character from that, which they have hitherto borne. They are not fit for use under English laws. Their construction, however, is exceedingly light, and not calculated to inflict *torture*. We here subjoin Mr. McLeay's Letter; and so much do we admire the temper and fair dealing it manifests, that we wish every communication despatched to the Editor of a Newspaper, whether for the sake of imparting information or correcting errors, was dictated in the same true spirit of manly straight-forward and honorable feeling. The disunions and asperities, occasioned in society by a malignant press, would then cease to exist.

[Here followed the letter from colonial secretary McLeay to the editor, dated 1st December, 1826.]

[Enclosure No. 6.]

1826.
4 Dec.

EXTRACT from Act No. 5 of the Legislative Council, dated
16th August, 1826.

[*This was the sixth section, and will be found in note 155.*]

GOVERNOR DARLING TO UNDER SECRETARY HAY.
(Despatch marked "Private." per ship Corsair.)

My dear Sir, Government House, 4th December, 1826.

I had not heard until just now that the Corsair is to sail to-morrow Morning for England. Her sudden departure has probably been occasioned by some Mercantile Speculation. I only regret it, having a number of Letters in preparation, which cannot be completed in time for this opportunity. Another will, however, offer by the end of the Month, when I shall write you fully on many points.

Departure of
ship Corsair.

I am much gratified by Lord Bathurst's Private Letter* of the 26th of June, and beg to acknowledge the receipt of Yours of the 14th of June, and 17th and 19th of July last.

Letters
acknowledged.

I remain, &c.,

RA. DARLING.

GOVERNOR DARLING TO UNDER SECRETARY HAY.

(Despatch marked "Private and Confidential." per ship Corsair.)

My dear Sir, Government House, 4th December, 1826.

I brought the subject of Lord Bathurst's Despatch, of the 12th of July last Year, No. 5, under the Consideration of the Executive Council some time since, as you will perceive by the enclosed Minute of the Proceedings; but, the Chief Justice feeling some difficulty with respect to his Certifying a Bill, which might be drawn Conformably to the spirit of that Dispatch, the matter has from time to time lain over until the present moment. I have again very recently discussed the subject with him; and he has written me the enclosed Private Letter, explaining why he is averse from the passing of such an Act here, as is proposed, and why it has appeared to him all along to be advisable to avoid it, if possible. I need only add to the reasons, given by Mr. Forbes, that I am decidedly of opinion that any restraint, which it may be deemed proper to impose on the Press, should be effected through the means of Parliament, rather than by the local Government, as whatever may be done in that respect will to a certainty excite feelings of general dissatisfaction here.

Objections to
regulation
of press by
colonial
legislation.

* Note 156.

1826.
4 Dec.

Proposed
prosecution
of editors.

I was unwilling to prosecute the Editor of the Monitor* in Mr. Bannister's time, though I had twice given orders to that effect, from a feeling that he would probably mar the business. He always resisted it, and urged the Prosecution of the "Australian," as I have already informed you, though I could not discover any thing seditious in that Paper; but it was sufficient with him that it attacked his private friends. I had besides another reason for wishing not to proceed against Mr. Hall; it appeared to me his object was to provoke Prosecution, that he might have a claim to the Character of a Martyr, and thus raise an interest in the Colony, which is not at present taken in his Paper.

Advice of
executive
council.

I, however, thought it necessary to bring the subject under the consideration of the Executive Council, soon after my Letter to you of the 12th of September, transmitting the Monitor of the 8th of that Month; but you will see, by the enclosed Minute, that the Council advised that any proceedings against him should be suspended for the present.

Mis-statements
in *Monitor*
newspaper.

In drawing your attention to the series of that Paper,† which I forward by the present opportunity, I need hardly remark that the statements in general are gross falsehoods. Assertions are made without the least regard to truth; and, in the Case of Individuals, the Editor has frequently been Compelled to Contradict his statements.

Evidence in
favour of
restraint on
press.

I have put up separately with this the Monitor of the 21st of July (having forwarded one of the 14th to you with my Letter of the 26th of that Month), the 20th of Octr., and the 3rd, and 17th of November, as Containing some very inflammatory Articles,‡ Conceiving that being armed with these and others, which may be selected from those now transmitted, the necessity of imposing on the Press of this Colony a more than ordinary restraint would be rendered so evident to Parliament that it would not be opposed for a moment.

If it were attempted here at present, it might give rise to proceedings, which would prevent its success, if brought under the Consideration of Parliament, and as I have already observed, would probably excite feelings of dissatisfaction towards the local Government.

I remain, &c.,

RA. DARLING.

[Enclosure No. 1.]

EXTRACT from Minute No. 20 of the Executive Council, dated Thursday, the 6th October, 1826.

THE Governor next submitted, for the Consideration of the Council, the injurious tendency of some Articles, published in

* Note 157. † Note 82. ‡ Note 158.

the "Monitor" Newspaper, and stated various circumstances connected with the Conduct of Mr. E. S. Hall, the Editor. His Excellency read some communications, he had received from that Gentleman, and intimated that directions had been given by the Government for prosecuting him for Seditious Libels, published on various occasions. But the Council, from a persuasion that the tone of the Newspaper in question would be changed, and that the Editor had seen the impropriety of continuing the same intemperate style of writing, recommended that no Proceedings should be instituted against him for the present.

His Excellency then submitted Earl Bathurst's Despatch, No. 5, dated 12th July, 1825, on the subject of the Press of the Colony, which appearing to the Council (after some discussion) to require further consideration, it was proposed that it should lay over for that purpose.

A true Extract:—H. DUMARESQ, Clerk to the Council.

[Enclosure No. 2.]

CHIEF JUSTICE FORBES TO GOVERNOR DARLING.

Sir,

Sydney, 1st December, 1826.

I have the honor to acknowledge the Copy of a Despatch, which Your Excellency did me the honor to enclose, dated Downing Street, July 12th, 1825, containing the outline of a law, proposed to be submitted to the consideration of the Council, and having in view the restraining of the abuses of the press in the Colony. I feel obliged by the opportunity given me of offering some remarks upon the proposed law, which would not be open to me, when called upon to certify my official opinion upon it, preparatory to its being laid before the legislature. For the sake of perspicuity, and to afford facility of reference to the several points, I beg leave to offer my remarks under different heads.

1st. It is proposed that no Newspaper shall be published without a previous license from the Governor, which license shall be made resumable by the Governor under circumstances, which, however guarded, do in fact reduce the Act of resumption to one of mere discretion of the Government. How far a local Act to such an extent would not be "repugnant to the laws of England, but consistent with such laws, so far as the circumstances of the Colony will admit," is a question, upon which it is unnecessary to offer a definitive opinion. It will, however, readily be admitted that it is a question open to argument, and one upon which different and even contrary opinions may be entertained. On a

1826.
4 Dec.

Deliberations
of executive
council re
prosecution of
E. S. Hall.

Criticism by
chief justice on
proposed law
for regulation
of press.

1826.

4 Dec.

Criticism by
chief justice on
proposed law
for regulation
of press.

recent and rather memorable occasion, the late Lord Ellenborough is reported to have expressed himself as follows:—"the law of England is a law of liberty; and, consistently with this liberty, we have not what is called an imprimatur; there is no such preliminary license necessary." I have made this quotation not as decisive of the point, but to shew that the question is fairly open to a difference of opinion.

2nd. I am inclined to think that it would be more agreeable to His Majesty's Government to have the proposed law passed in the Colony, than to have its provisions discussed in Parliament. And, if it were practicable, I am convinced of the propriety of the discussion being confined to New South Wales. But I fear it is impossible. Had Your Excellency proposed the law on assuming Your Government, it would have cast a shade of unpopularity over the first Acts of Your Administration, from which it would have become exceedingly difficult to restore it. I am confident that it would have caused meetings of the people, and that petitions to Parliament would have been deliberately prepared, supported by a sufficient Number of persons, and accompanied by a sufficient body of arguments, to enable Members on the opposition side of the House, to make a popular and even plausible stand against the measure, when the New Bill comes under consideration of Parliament. To have kept the discussion, therefore, out of Parliament would, as Your Excellency must feel, have been impossible; it would have come on, and then, not as a question of simple expediency to be determined by an abstract view of the condition of the Colony, but in the angry tone of accusation and complaint; the Chief Justice would have been charged with certifying, and the Council with passing, Acts contrary to the fundamental laws of the constitution, and in defiance of the express limitation imposed upon their powers. These charges would have been supported and aggravated by Members of Parliament, high in the estimate of public opinion for their talents and learning; and the effect, whatever might be the result of the measure itself, would have been not injurious merely to the character of the local authorities, but destructive of that ruling influence over the minds of the people, without which Government is resolved into mere force. I make these remarks with confidence; they are now opinions; but they might have been facts; and I am sure that Your Excellency will agree with me in the view, I have taken of them upon hypothesis.

3. I assume that the question of the press cannot be kept out of discussion in Parliament, if any measure of restriction should be resorted to before the passing of the New Act. I,

therefore, submit to Your Excellency whether it will not be more expedient to suspend any legislative measure, either until the New Act is passed, or at least until it will become too late for any querulous petition from this Colony to disturb any measure, which His Majesty's Secretary of State may deem proper to bring before Parliament. And I would humbly, through Your Excellency, impress upon His Majesty's Government the expediency of introducing the contemplated restrictions into the New Act, in preference to exposing the local Government to the odium and opposition, which the measure, however called for and essential to the peace of the Colony, will not fail to bring upon us.

I have, &c.,

FRANCIS FORBES.

1826.
4 Dec.

Criticism by
chief justice on
proposed law
for regulation
of press.

[Enclosure No. 3.]

EXTRACT from Minute No. 21 of the Executive Council, dated 1st November, 1826.

THE further Consideration of Earl Bathurst's Despatch, No. 5, dated 12th July, 1825, on the subject of the Press of the Colony, was resumed; and it was recommended that a Bill should be prepared, Conformably with the suggestions contained therein, excepting so far as the Chief Justice intimated it to be his opinion would be inconsistent with the Laws of England, and which opinion His Honor proposed to reduce to writing and to submit to the Council at an early Meeting.

Drafting of bill
proposed by
executive
council.

A true Extract:—H. DUMARESQ, Clerk to the Council.

GOVERNOR DARLING TO UNDER SECRETARY HAY.

(Despatch per ship Corsair.)

Sir, Government House, 4th December, 1826.

1st. I avail myself of this opportunity to inform you that the Ships Chapman and Speke have arrived, by which I have had the honor to receive Despatches from the Earl Bathurst to number 56, inclusive, with the exception of Nos. 25, 27, 40 and 51, which have not yet come to hand.

Despatches
acknowledged.

2nd. I beg also to mention the arrival of His Majesty's Ship Success with Specie for this Government; and I have much satisfaction in adding that the Government Schooner Isabella has just returned from Melville Island with very satisfactory accounts of that settlement.

Arrival of
H.M.S. Success
and schooner
Isabella.

3rd. I have communicated with Captain Stirling of the Success relative to the Service, on which he is to be employed; but I understand the season is not favourable for his proceeding at present. No time will, however, be lost by him, though the

Delay in
departure of
H.M.S. Success.

1826.
4 Dec.

information received from Major Campbell, the newly appointed Commandant, who appears a very intelligent Officer, may possibly prove that Melville Island is not altogether so unfavourable for the purpose intended, as has been represented.

Arrival of
corvette
L'Astrolabe.

4th. The Expeditions for Western Port and King George's Sound sailed hence the 9th of last Month; and the French Corvette, L'Astrolabe,* Discovery Ship, arrived here on the 2nd inst. I find she touched on her way out, both at King George's Sound and Western Port, having remained Six days at the latter; but Captain D'Urville would lead me to believe that the object of his Expedition is solely for the purposes of general science. He has applied for Stores, which will be supplied, and for assistance in refitting his Ship. He has intimated his intention, as soon as this is accomplished, of proceeding to New Zealand; and I should not be surprized to find that the French have some intention of establishing themselves there, from the wish he affected to express, that we had, or surprize, that we had not, made a Settlement at those Islands. It is perhaps a fortunate event that he has found His Majesty's Ships Warspite, Success, and Volage lying here, knowing at the same time that the Fly has sailed with the Expedition to the Southward, as he may in Consequence be more circumspect in his proceedings than he otherwise would have been. I have, &c.,

Objects of
expedition.

Warships in
harbour.

RA. DARLING.

GOVERNOR DARLING TO UNDER SECRETARY HAY.

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

My dear Sir,

Sydney, 4th Decemr., 1826.

Surgeon's
report re
J. Sudds.

I have thought it might be satisfactory to You to be in possession of a Copy of the Surgeon's Report on the Case of Sudds, the Soldier of the 57th. It proves that the Man had been ill some days, previous to the Chains being put on him, and that his death could not be ascribed to that event, but to his determination not to take any sustenance, which was as likely to be the effect of his indisposition as of any feeling of his situation at that time. I am not, however, disposed to think that there would be any Cause to regret the latter being the case, as the effect on the Soldiers would be the greater, and example was certainly necessary to prevent a repetition of such proceedings. It is impossible for me not to impute to Mr. Bowman, the Principal Surgeon, an interference with Mr. McIntyre in drawing up his report on the Case, that cannot be very satisfactorily accounted for. Mr. McIntyre, *twice* on two several occasions, assured me, in the presence of Mr. MacLeay, that

Influence of
J. Bowman
on report.

* Note 159.

Sudds, at the time of his death, was found to have an inflammation of the Chest and Throat; and he returned to the Hospital to add that fact to his Report. He was, however, prevented doing so by Mr. Bowman, although he had not seen the Body, and seems for some sinister purpose to have interfered with the Assistant Surgeon, who had not sufficient Character to resist him, in a most unwarrantable manner. I shall very shortly have an opportunity of explaining the cause of this, and confess I shall be a little surprised, if the "Morning Chronicle" is not employed in giving Circulation to the Surgeon's report, which has been framed under Mr. Bowman's direction.

I remain, &c.,

RA. DARLING.

[Enclosure.]

REPORT ON THE CASE OF JOSEPH SUDDS, LATE A PRISONER IN THE SYDNEY GOAL.

Surgeon's
report re
J. Sudds.

THE above named Prisoner applied on the 11th November for Medical Assistance, and was in consequence received into the Goal Hospital, where he remained under Treatment, until the 16th, when he was discharged apparently well.

On the 24th of the same month, he again reported himself sick, and was forthwith admitted a second time into the Goal Hospital; on admission the irons, in which he was confined, were removed (immediately) and Medicines administered. He refused sustenance of every kind except a little tea; and, in talking to him of his disgrace, he declared he never would work in Irons, and wished himself out of the World. Finding him in a state of delirium on the 26th Inst., he was removed to the General Hospital, where he gradually became worse and expired the following morning.

After a minute dissection of the body, no apparent disease was found to exist to account for his immediate death.

The only deviation, that could be perceived, was a preternatural enlargement of the Liver although that Organ was in other respects healthy.

JAMES MACINTYRE.

To The Honble. Alexr. MacLeay, Colonial Secretary, etc., etc.,
etc.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch marked "Separate." per ship Regalia; acknowledged by Viscount Goderich, 21st June, 1827.)

My Lord, Government House, 7th December, 1826.

7 Dec.

I have the honor to acknowledge the receipt of Your Lordship's Despatch of the 6th of March last, No. 18, transmitting the Copy of a Declaration, signed by William Kendrick, formerly

Despatch
acknowledged.

1826.
7 Dec.

Refutation of
charges against
F. Rossi *re*
slave traffic.

Private in the 22nd Regiment, by which the Conduct of Captain Rossi is implicated with the Slave Trade, which he is stated to have connived at; and, having appointed three Magistrates to assist the Acting Attorney General in examining Captain Rossi on the allegations, contained in the said Declaration, I have the honor to transmit, for Your Lordship's information, Copy of a Letter, which has been addressed to me by the Acting Attorney General and the Magistrates, associated with him, accompanied by a Counter Declaration made by Captain Rossi, which appears to repel in a very satisfactory manner the accusation of Kendrick.

Bad character
of W. Kendrick.

I beg to add that Kendrick became personally known to me at the Mauritius in consequence of the badness of his character. He was pointed out as a turbulent, dissipated fellow, whose irregularities and violent proceedings were frequently the cause of complaint. I was not at the Mauritius in the Month of August, 1823, the period to which he particularly alludes, when the Landing of Slaves, as he states, took place at Black River. The General Order, which Captain Rossi has enclosed with his Declaration, was published at the instance of the Law Officers, who represented to me that the proceedings of the Soldiers, in searching for Newly imported Slaves, was illegal, and that they were not justified in making a seizure, unless they found the Slaves in the Act of or immediately on their Landing. The course was consequently pointed out, which they were to pursue on receiving information, in order to prevent a recurrence of the irregularities which had taken place.

Order issued
at Mauritius
for suppression
of slave traffic.

I have, &c.,
RA. DARLING.

[Enclosure No. 1.]

MESSRS. MOORE, CARTER, BALCOMBE AND PIPER TO GOVERNOR
DARLING.

Sir, George Street, Sydney, 6th December, 1826.

Report on
W. Kendrick's
allegations
against
F. Rossi.

We have the honor of informing Your Excellency that, in conformity with Your Excellency's directions, conveyed to us severally by letters of date 18th Ultimo, in pursuance of the Instructions, received by Your Excellency from Earl Bathurst in his Despatch of 8th March last, We have taken the declaration of Captain Rossi in answer to the Statement of one William Kendrick, respecting Captain Rossi's having made himself a party to the infraction of the Laws for the abolition of the Slave trade in the Island of Mauritius. This Declaration, we have now the honor of transmitting to Your Excellency, with Copies of some Documents (Six in Number), which that Gentleman considers necessary to accompany the same.

We have this day met for the purpose of taking the matter finally into our consideration, prior to forwarding these papers to Your Excellency, and of hearing any other statement, which that Gentleman might have to make, and to take his examination upon any points that might have required elucidation. He accordingly attended before us, and expressed a wish that his written Declaration, to the truth of which he solemnly pledged his word and honor, might be coupled with the solemnity of an Oath; but we do not feel ourselves authorized, sitting as a Committee, to take his examination in a proceeding of a completely extra judicial character, to administer any Oath to him; nor would an Oath be under such circumstances of any effect in law, or give any additional weight or credit to his solemn declaration. We have also to observe that we do not discover, by any of the papers before us, that the Declaration of William Kendrick was sworn to before any Tribunal; and we feel satisfied that such was not the case, from our being at a loss to know what authority was legally competent to administer an oath to him on such an occasion.

We feel satisfied of the correctness of Captain Rossi's statement, which is a complete denial of that, made by William Kendrick, and, inasmuch as one is met by a positive answer, and negative by the other, we are unwilling to trouble Your Excellency with any observations on the subject. But we beg leave to remark that, Although William Kendrick sets out in his declaration by stating that he had on many occasions seen them (Slaves) immediately after their landing, yet he does not attempt to speak particularly to any other instance than the one, which he states to have taken place near the Black river. Captain Rossi is, therefore, left completely in the dark as to any charge that Kendrick may have made against him of having in any way sanctioned or permitted a similar occurrence to have taken place at any other time (supposing Kendrick may have instanced any other occasion of the like nature). Captain Rossi is only able, therefore, as far as that part of Kendrick's statement goes, to give a general denial of his having ever countenanced any such a circumstance.

With respect to the transaction, which is said to have taken place at the Black River, Kendrick does not pretend to connect Captain Rossi with any knowledge of the circumstance; but he states that he, Kendrick, knowing the ways of the Isle of France, and that Rossi had always told those under him they were not supposed to see such things admits, etc. It is impossible then that Kendrick, if he speaks correctly, and from his own knowledge, should not have been able to have brought

1826.
7 Dec.

Report on
W. Kendrick's
allegations
against
F. Rossi.

1826.
7 Dec.

Report on
W. Kendrick's
allegations
against
F. Rossi.

forward some prior instance, in which he could have spoken positively to Captain Rossi's knowledge of the transaction, and to his having then made use of these or the like expressions.

It is, therefore, remarkable that he should not have given the particulars of some one or more of the instances, with which these expressions (the most material of all facts on such a charge) were connected; nor has he ventured to name any person or persons, who could (and must if his Statement be correct) be able to confirm him.

We have, &c.,

W. H. MOORE, Acting Attorney General.

WILLIAM CARTER.

JOHN PIPER.

W. BALCOMBE.

[Enclosure No. 2.]

[This was a lengthy statement, dated 23rd November, 1826, from captain Rossi to the committee of investigation. It related entirely to occurrences in the island of Mauritius, and detailed in full captain Rossi's career. It was a clear refutation of the charges brought by Kendrick. It was accompanied by the following papers:—]

1. Mr. C. Telfair to Captain Rossi, Private Secretary's Office, Reduit, 19th January, 1816.
2. Proclamation by Governor Farquhar, Port Louis, 24th January, 1816.
3. Mr. A. H. Blanc to Captain Rossi, Chief Secretary's Office, Port Louis, 4th May, 1818.
4. Mr. G. A. Barry to Captain Rossi, Chief Secretary's Office, Port Louis, 5th March, 1818.
5. Receipt for official books and papers, Grand River, 2nd September, 1823.
6. General Orders, Port Louis, 1st August, 1819.

GOVERNOR DARLING TO UNDER SECRETARY HAY.

(Despatch per ship Regalia.)

My dear Sir,

New South Wales, 7th December, 1826.

I beg to acquaint you, in reference to my Private Letter of the 8th of October last, that I have addressed a Despatch of this date, marked "Separate," to Earl Bathurst on the subject of Kendrick's Allegations against Captain Rossi. The Declaration of Captain Rossi, which accompanies the Report above alluded to, appears so complete a refutation of the Allegations of Kendrick, that I have not thought it necessary, nor was it in my power to add anything on the Subject.

Refutation of
allegations of
W. Kendrick.

The General Order, which accompanies Captain Rossi's Declaration, was issued in consequence of the repeated representations of the Chief Justice of the Mauritius, that, however praiseworthy the Zeal of the Soldiers might be considered in seizing Slaves, their entering the Houses of the Planters without special Authority could not be justified in a Court of Law; and that it was absolutely necessary to prevent it, in order to avoid the embarrassment of defending such proceedings on the part of the Troops. Being satisfied of the existence of the irregularity, complained of, it appeared to me that the best course would be to point out distinctly the line, which the Soldiers should observe; and it was with this view that the order, alluded to, was issued. I can only add that I have no recollection of the case, stated in Higginson's Deposition; and I have not thought it necessary to refer it Officially to Captain Rossi, as it does not allude to him personally, though I communicated it to him privately.

I remain, &c.,

RA. DARLING.

1826.
7 Dec.

Reason for
issue of
general order
at Mauritius.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 101, per ship Guilford; acknowledged by Governor Darling, 20th September, 1827.)

Sir, Downing Street, 10th December, 1826.

10 Dec.

I herewith transmit to your Excellency a Warrant, under the Royal Sign Manual, authorizing you to use a New Seal, which has been prepared for the Colony of New South Wales; and I am to desire that you will return the Old Seal to me to be defaced in compliance with His Majesty's Commands.

Transmission
of warrant.

I have, &c.,

BATHURST.

[Enclosure.]

WARRANT for using a Seal* prepared for the Colony of New South Wales.

Warrant for
using new seal
of colony.

GEORGE R.

To Our Trusty and Well Beloved Lieutenant General Ralph Darling, Captain General and Governor in Chief in and over Our Territory of New South Wales and its Dependencies, etc., etc., Greeting. With this, you will receive a Seal, prepared by Our Order for the use of Our Colony of New South Wales and its Dependencies. Our Will and Pleasure is, and We do hereby authorize and direct that the said Seal be used in Sealing all Publick Instruments, which shall be made and passed in Our Name and for Our Service, in Our said Territory and its Dependencies; And so We bid you farewell.

* Note 160.

1826.
10 Dec.

Given at Our Court at Windsor, this Tenth day December, One Thousand, Eight Hundred and Twenty Six, In the Seventh year of Our Reign.

By His Majesty's Commands,

BATHURST.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Guilford; acknowledged by Governor Darling, 2nd August, 1827.)

Sir, Downing Street, 10th December, 1826.

Cultivation of
cotton and sugar
proposed by
W. Levi.

I am directed by Earl Bathurst to transmit to you here- with an application, which has been received from Mr. Levi, who is about to proceed to New South Wales with the intention of cultivating Cotton and Sugar to a considerable extent, pro- vided he obtains adequate encouragement towards the prose- cution of his object.

By the enclosed reply, which Lord Bathurst has caused to be given to Mr. Levi's application, you will perceive the extent of the facilities, which his Lordship has thought proper to hold out to him, but that it is at the same time left to your discretion so far to extend towards that Gentleman the advantages, alluded to in Clause No. 20 of the Printed Regulations, as you may deem proper upon consideration of the probable success of his under- taking with reference to the amount of Capital, which he may have at his disposal.

I have, &c.,

R. W. HAY.

[Enclosure No. 1.]

MR. WALTER LEVI TO EARL BATHURST.

No. 4 King Street, Finsbury Square,

My Lord, 7th November, 1826.

Application
from W. Levi
for land grant
at Port
Macquarie.

Having for some time past been engaged in acquiring a knowledge of the Climate and Soil of New South Wales, and its capability of producing Sugar, Cotton, and various other pro- ducts of the East and West Indies, the Brazils, etc.,

I applied to Major Moody of His Majesty's Engineers, with whom I had the honor of becoming acquainted during my residence in the West Indies, in order to obtain the printed regulations, under which Land is granted to Settlers in that Colony.

I have now the honor to state to your Lordship my reasons for hoping that I may obtain a Grant of Land without purchase, as per clause 20* of the printed Regulations.

I am possessed of £5,000, with the command of as much more as may be required, and having resided many years in the

* Note 161.

West Indies, as a Merchant and Planter, the last ten years of which permanently at Barbadoes, I became personally known to the Governors of that Island from the year 1809 to 1825, particularly to Lord Combermere, and Sir Henry Warde, also to Lieut. General William Johnstone, Major Moody, and Sir Charles Smyth of the Royal Engineers, as well as to most of His Majesty's Officers of rank in the Leeward Islands during that period; and some of whose names I subjoin, to whom I can with confidence refer your Lordship as to Character. I also add a list of Mercantile Firms, who can confirm my statement as to means and capability.

1826.
10 Dec.
Application
from W. Levi
for land grant
at Port
Macquarie.

My Intention is to cultivate Cotton and Sugar to a considerable extent, provided I can obtain a Grant of 5,000 Acres of Land at Port Macquarie with the privilege of purchasing 10,000 acres, adjoining the grant on the terms specified in Clause No. 1* of the printed Regulations, etc.

Hitherto, New South Wales and Van Diemen's Land have been supplied with Sugar from Java, Batavia, the Brazils, and other distant foreign Colonies, taking specie in payment, draining the Colonies of their circulating medium, and causing a fluctuation in the price, detrimental to the free Settler and only beneficial to a few monopolists.

Whereas I feel confident that both Sugar and Cotton may be successfully cultivated at Port Macquarie, from the local advantages which it offers, and that much public benefit will be derived not only from furnishing sufficient supply of the former for the consumption of these Colonies, but of the latter as a profitable export. And it may be proper to state I am confirmed in this opinion respecting Cotton, from the valuable quality of a specimen of that Article, which I have seen from Sydney.

In requesting the grant for the above purpose, I will only add that I purpose also to embrace extensively the ordinary methods of Agricultural improvements of Land by rearing Stock and growing Corn, and that I shall be anxious to employ, in this and other objects, from 70 to 100 Crown Servants, and which number will of course increase as my operations extend.

I have, &c.,
WALTER I. LEVI.

[Sub-enclosure.]

LIST OF NAMES REFERRED IN THE FOREGOING.

Lord Combermere; Lt. Genl. Sir Hy. Warde; Lt. Genl. Johnstone; Major Genl. Codd; Lt. Col. Sir Charles Smyth; Lt. Col. Sir Charles Gordon; Lt. Col. Sir Edmund Williams; Commissary Genls. Bullock, Turquand, and Routh.

References for
character.

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Chas. Dixon, Esqre., Savage Gardens; Messrs. Pugh and Redman, Trinity Square; J. Levi and Compy., 75 Old Broad Street; Cavan Brothers and Co., Circus, Finsbury; Lemon Hart and Son, 57 Fenchurch Street.

[Enclosure No. 2.]

UNDER SECRETARY HAY TO MR. W. LEVI.

Sir, Downing Street, 14 Novr., 1826.

Reply to
application.

I have to acknowledge the receipt of your Letter of the 7th Instant, requesting 5,000 Acres of Land at Port Macquarie in New South Wales, with the privilege of purchasing 10,000 more, for the purpose of cultivating Sugar and Cotton, besides other produce of the East and West Indies; and, in reply, I am directed by Earl Bathurst to acquaint you that the Governor will receive Instructions to afford you such facilities, as may be practicable, in furtherance of the objects, which you have in view; but it will rest with his Excellency to decide hereafter, upon a deliberate consideration of the success of your projects, how far you may be entitled to benefit by the Twentieth Clause of the Printed Regulations.*

I am, &c.,

R. W. HAY.

EARL BATHURST TO GOVERNOR DARLING.

(Despatch No. 102, per ship Guilford; acknowledged by Governor Darling, 2nd August, 1827.)

11 Dec.

Sir, Downing Street, 11th December, 1826.

Despatch
acknowledged.

I have had the honor to receive and lay before The King your despatch of the 22 May last, transmitting a report addressed to you by the Archdeacon of New South Wales on the Church and School Establishments of that Colony.

General
approval
of report by
T. H. Scott.

I am fully impressed with the importance of the subject, which the Archdeacon has brought under the consideration of His Majesty's Government. But, although I concur with him in the general propriety of the measures, which he proposes with a view to the improvement of the moral and religious condition of the population, yet his plans for that purpose appear so very extensive, and to comprize so many different objects, that it will scarcely be possible for me to convey to you any specific Instructions, until I shall have received fuller information in regard to the real value of the Church Lands, than I at present possess. For, until the Survey of the Country has been made and the value of the Lands fixed, it will be impossible to ascertain what means may be found for carrying into effect the arrangements contemplated by the Archdeacon. It is the more essential that the fullest information upon these points should be obtained, before any great expense is undertaken in the erection of

Instructions
withheld pend-
ing valuation
of land.

* Note 161.

Schools, or in executing others of the numerous objects, submitted for His Majesty's Approval; as I am unable to hold out to you any expectation that the Mother Country can advance funds towards undertakings of this nature, a great part of the expense of which should at all times be borne by the Colony, but which, now that so large a proportion of the Crown Lands has been given up to the Church for those especial purposes, must be defrayed exclusively out of the property arising therefrom.

Under these circumstances, I regret that you had not delayed sending home the Reports of the Archdeacon, until a longer residence in the Colony, than you had acquired at the time of your transmitting them to England, had enabled you to report more minutely on the measures therein suggested. I am not without hopes, however, that their importance may have already induced you to resume the consideration of the subject, and that I may shortly expect to receive such observations with reference to it, as will afford me the means, without waiting for an answer to this despatch, to decide at once as to the practicability of some of the Plans at least, which have been suggested. But, should I be disappointed in these expectations, I am to desire that you will without loss of time supply me with the information necessary for that purpose.

The points, to which I am desirous of directing your attention, are as follows: first, the description and number of Schools, which it would be desirable in your opinion to establish; secondly, the Situation in which the Buildings for this purpose should be erected, together with the whole detail of the arrangements connected with them; thirdly, in what parts of the Colony, Establishments of this description are most urgently required, and where they may be deferred with comparatively little inconvenience; fourthly, the best and most practicable mode of disposing of a portion of the Property, which has been given up to the Church, and by means of which funds may be raised for defraying any of those expenses, as well as for maintaining an additional number of Clergymen.

I have only further to acquaint you that, although for the reasons above stated, I have not deemed it advisable to augment the Ecclesiastical Establishment of New South Wales in the proportion recommended by the Archdeacon, yet I have taken measures for giving him the assistance of two additional Chaplains, in the hope that their appointments may afford to the Inhabitants, who have not hitherto had the opportunity of attending to their religious duties, the means of now doing so.

I have, &c.,

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Criticism of
report required
from governor.

Points for
consideration.

Appointment of
two additional
chaplains.

EARL BATHURST TO GOVERNOR DARLING.

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(Despatch No. 103, per ship Guilford; acknowledged by Governor Darling, 22nd December, 1827.)

Sir, Downing Street, 12th December, 1826.

Payment of
superintendents
by fixed
salaries.

I have received and laid before The King your dispatch, No. 47 of the 24 July last, reporting that, in consequence of the embarrassment, which has been found to result from the system of remuneration, granted to the Superintendants and persons, employed at the Agricultural Stock and other public Establishments, by means of a per Centage on the produce, you have been induced to discontinue that system, assigning to all persons, employed as above, a daily rate of pay according to the nature of their employment.

Claim made
by P. Simpson.

Had any circumstances been wanting to shew the inexpediency of remunerating Persons of this description according to the mode, which has hitherto prevailed, the claim, which has been brought forward by Lieut. Simpson, Superintendent of the Government Farm at Wellington Valley, sufficiently satisfies me of the propriety of adopting a different arrangement; and I have much pleasure in acquainting you that the measure proposed by you in regard to this person has received His Majesty's Approbation.

Expected
claim by
J. Maxwell.

With respect to the claim, which you expect will be set up by Mr. Maxwell on his retirement from his present Situation of Superintendent of the Government Stock at Bathurst to a pension in the proportion, held out to him at the time he received his appointment, as you request to be furnished with Instructions on this subject, I do myself the honor of acquainting you that, although I should undoubtedly have objected to any expectation of this kind being held out to Mr. Maxwell, had the arrangement been reported to me at the time it took place, yet, as the Government are now in some degree pledged to the performance of the engagement entered into with him, I am disposed to consent to his receiving an allowance on his retiring from his situation in the proportion, pointed out in the letter addressed by the late Colonial Secretary to Mr. Maxwell, dated the 20 May, 1823. But, in order to avoid any future misunderstanding or difficulty with Mr. Maxwell, I am of opinion that it would be expedient (unless an entire new agreement were entered into with him and the old one cancelled) to fix at once the Pension, to which he will be hereafter entitled with reference to the year's income, which may have been received by Mr. Maxwell antecedently to the commencement of his new scale of remuneration.

I have in a former dispatch approved of your placing the Government farming Establishments upon a reduced scale; but I have not yet received your report, which I am very anxious should arrive, detailing the arrangements, which may have been adopted by you for carrying that desirable measure into effect.

I have, &c.,

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GOVERNOR DARLING TO EARL BATHURST.

(Despatch marked "Separate," per ship Regalia; acknowledged by Viscount Goderich, 11th July, 1827).

My Lord, Government House, 12th December, 1826.

Conceiving it would be satisfactory to His Majesty's Government to have authentic information of every circumstance, connected with the Death of Private Joseph Sudds of the 57th, which event I had the honor to report to Your Lordship in my Despatch of the 4th instant, Marked "Separate," I judged it advisable to bring the matter under the consideration of the Executive Council, in order that it might be fully and minutely investigated.

Inquiry by
executive
council re death
of J. Sudds.

The Council sat two days, and examined the Persons employed in the Jail Hospital, who had an opportunity of seeing Sudds during his confinement. Your Lordship will perceive by the Minute of Council, which I have the honor to enclose, that Sudds' death can in no respect be attributed to the proceedings, which took place. The circumstances of this case are briefly as follows; Vizt.—

Particulars
re illness of
J. Sudds.

Sudds was unwell from the time of his having been sent to Jail. He was swollen, and stated he had formerly suffered from Dropsy.

He became ill about fourteen Days after. He was sent into Hospital on this occasion, discharged from it, and afterwards tried.

He again became ill, and was treated by the Surgeon from the 11th to the 16th November, but not after on that occasion.

He marched to the Barracks on the 22nd, when the chains (weighing 13 lbs. 12 oz.) were put on him; and he returned to the Jail.

On the *following* day, the 23rd, he was reported to be ill, and the Chains were consequently removed.

The Chains were put on a Man of Sudds' Size and Stature in presence of the Council; and it was proved by actual experiment that Sudds could not have sustained any injury from them.

It cannot be disputed that the mode of conducting the Jail Hospital has been extremely defective and reprehensible.

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Particulars
re illness of
J. Sudds.

The statement of Thompson, the Hospital Attendant, who was remarkably collected, is clear and circumstantial, to the truth of which he has made Oath. He resides in the Hospital; and has the immediate care of the Patients, and is the Person who prepares and administers the Medicines. It will be seen that he differs almost in every particular from Mr. McIntyre, the Assistant Surgeon.

I have only to add that no report was made by Mr. Bowman, the Principal Surgeon, or his assistant, of the illness of Sudds; consequently the Government had no reason to suppose he was unwell; nor does it indeed appear that the Surgeon considered him to be so, as he had not seen him for five days, previous to the 22nd of November, when the ceremony of putting on the Chains took place.

Being satisfied, from what has now occurred, that the conduct of the Hospital requires investigation, I shall immediately appoint a Board to enquire into the management and System of the Hospitals generally, in order to their being placed on a proper footing; and I shall have the honor of communicating the result for Your Lordship's information.

I have, &c.,

RA. DARLING.

[Enclosure.]

Inquiry by
executive
council re
illness and death
of J. Sudds.

EXTRACT from Minute No. 22 of the Executive Council, dated the 8th December, 1826.

THE Governor then brought under Consideration of the Council the circumstances, connected with the death of Private Sudds of the 57th Regt., and adverted to the various mis-statements, which had appeared in the Public Papers on this subject, as well as to a remarkable discrepancy between Asst. Surgeon McIntyre's first relation of the facts to him and his subsequent Written Report. It was, therefore, considered advisable to examine the Persons Connected with the Jail, who, from their situations, were most likely to be acquainted with the particulars of the Case.

Martin Wilson, under Jailor, was called in, and made the following statement, vizt.

About Fourteen days after Sudds was sent to Jail, He was taken ill, and Complained to me. But I do not know, if he was then treated by the Surgeon. After his Trial, I heard no more of his illness for some time.

When he complained to me, I asked him what he thought was the matter. He replied "that he thought it was his old Complaint, the Dropsy."

He was then taken to the Prison Hospital, and remained there about 3 or 4 days. He was discharged from the Hospital, and returned again to the Fines Room, where he had been previously confined. This is an apartment, where Persons found guilty of misdemeanors, are confined. He remained there a few days, when he sent to inform me by Mr. Toole that he was ill.

I went to see him, and, thinking him unwell, I directed him to be placed in the Prison Hospital to be examined by the Surgeon.

Mr. McIntyre saw him about 12 or 1 o'clock that day; this was shortly after Sudds complained of being ill.

I was informed by Mr. Thompson, the Hospital Attendant, that Mr. McIntyre affirmed there was nothing the matter with Sudds, and had ordered him to be put in Irons. He remained in the Hospital with his Irons on, until the 22d of November, the day he was taken to the Barracks.

Previous to leaving the Jail, the Irons were taken off.

Sudds was removed from the Jail at about $\frac{1}{2}$ past 10 o'clock in the forenoon, and was marched to the Barracks. He appeared to be unwell, and put his hand on Thompson's shoulder, as he descended the Steps, but he did not Complain. I conducted him to and from the Barracks. He did not complain on his return to the Jail.

He complained of being ill on Thursday, the 23rd, at about 12 or 1 o'clock, and was taken the same day from the "Fines Room" to the Hospital, and the Irons, put on him at the Barracks, were taken off, and I put them into the Store.

I saw him in the Hospital, but had no Communication with him.

Sudds was sent to the General Hospital on Sunday Evening, the 26th of November.

John Toole, 1st Turnkey, was next called and stated as follows, vizt.

Sudds was taken ill, a few days before he was tried. He was swelled very much from his Head to his feet. He was bled and received opening Medicine.

After his trial, he became worse, and was placed in the Prison Hospital, where he remained two or three days. He was then discharged by Order of the Principal and Assistant Surgeons. He was again taken ill, and remained in Hospital on this occasion two days. He had Irons on by order of the Assist't Surgeon.

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On Wednesday, the 22nd of November, these Irons were taken off, and he was marched to the Barracks. He seemed low-spirited and unwell. On his return from the Barracks, he remained for that night in the "Fines Room" with the Irons, which were put on him at the Barracks.

The following day, he was taken ill and was put into Hospital, and the Irons were removed by me on Thursday, the 23rd of November, about 4 o'clock.

On Sunday following, Sudds was sent to the General Hospital.

John Thompson, Medical Attendant at the Jail, was then called in and stated as follows:—

In the early part of November, Sudds was ill and was an Out Patient. He was Bled and took opening Medicine. Some days after, at about 9 o'clock in the Evening, he was brought into the Sick Ward and was very ill. He was much swollen. He complained of his Head and Bowels. I made him foment his Belly on the following Morning with Hot Water. It removed the pain and swelling from his Belly, but the Swelling in his Legs and thighs still continued. When the Surgeon came in the forenoon, he ordered him to be discharged from the Hospital. His Head and Bowels were then better, but the swelling of his Legs and Thighs still continued. He mentioned that he supposed it to be Dropsy, the same Complaint he formerly had an attack of in the West Indies. He remained out of Hospital a few days, when he again returned in a much worse state than he formerly was. I made him have recourse to the same fomentations and opening Medicine. I asked him, when he came into the Hospital, What is the matter with you? He said, "My Belly is like a Drum." He remained in Hospital with the Jail Irons on, until the Morning of the 22nd; these Irons were then struck off, and he was taken to the Barracks. On his return, he was again put to the Fines Room. The next day (Thursday, the 23rd) between 12 and 2, He was brought to the Hospital and placed in Bed. Mr. McIntyre saw him immediately, and ordered his Irons to be taken off. Mr. Toole, to whom this order was given, replied that the Irons had been put on by direction of the Government, and he could not remove them. Mr. McIntyre observed the Irons are too heavy to be worn here, and they must be taken off, whilst he is in Hospital at any rate. About 4 o'clock that afternoon (some time after Mr. McIntyre went away), the Irons were taken off. Sudds continued to get worse, and was removed to the General Hospital on Sunday Afternoon. He had complained, from the first

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time he was taken ill, in the beginning of November, of a pain in his throat, and a difficulty of breathing, which difficulty increased to such a degree that he could scarcely breathe and was totally unable to take nourishment after Friday, when he took in my presence a little Arrow Root and Tea. On Saturday, he was unable to swallow anything but a little Water, which I put into his mouth with a Spoon; and this inability to take food Continued until his removal.

From the time of his first coming into the Gaol Hospital, early in November, he had no appetite. He scarcely ate anything, and appeared to have an incessant desire to drink.

Mr. McIntyre was then called on to state the particulars of Sudds' illness, from the period of his first being required to attend him, and he stated as follows:—

I saw Sudds on the 11th of November, when he had swelling in his Legs, and was placed in the Prison Hospital. He took Medicine until the 16th and seemed better. I mentioned to him that I did not think there was anything the matter with him. I discharged him from the Hospital, and did not see him until the 24th of November, when he again applied to me; from the Symptoms I observed, I imagined that he might be affected with the Dropsy, and interrogated him accordingly. I had not heard of his being ill before that day. He was taken into Hospital on the 24th, and was treated by me. I ordered his Irons to be taken off. I saw him on the following day, and found him very low. I again examined the body, and did not discover any material symptoms further than the continued swelling in his Legs. He had Medicine administered to him on that occasion, and his breathing was quicker than usual, and his Spirits were oppressed. On Sunday Morning, I again visited him, and ordered him to be immediately removed to the General Hospital. He was then in a delirious state. I saw him occasionally between this time and the period of his death. On opening the Body, I first examined the abdomen, which appeared quite healthy. I then examined the Liver, which seemed to me larger than in general; it was healthy in all other respects.

I then examined the Head and found the Brain quite healthy. I then examined the Throat, and discovered a Mucus of a slimy, frothy description. The Wind Pipe was rather inclined to a reddish Colour.

Mr. McIntyre stated the following to be the exact conversation, he had with Sudds, on the day of his second admission into the Hospital, the 24th of November.

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I said to Sudds, You have brought yourself into pretty disgrace. You will be a fine figure with those Irons at work. He replied, "I will never work in Irons." I said, it would be better for you to be out of the world. He replied, "He wished to God he was."

Question put to Mr. McIntyre. Was it not expressly by the advice of Dr. Bowman that you left out the appearance of Bronchites in the Report. Answer. It was not. In the original Draft of the Report, there was no mention whatever of Bronchites. But after, when it was proposed to be added to the Report, Dr. Bowman said it would be as well left out. The Report was written before Dr. Bowman was consulted respecting it. When written, I shewed it to him. He remarked he thought it would do; the Clerk Copied the Report, and it was sent.

After my interview with the Governor, I returned Home and stated the appearances on Dissection to Dr. Bowman, and explained to him what it was desired I should add to the Report. He replied, I must be cautious as to what I wrote, and that I should state nothing I could not swear to. I, therefore, considered I should not be justified in using the term Inflammation.

I asked Dr. Bowman's opinion to see if it coincided with my own; but I would not have altered my Report, had his opinion differed with mine.

My opinion is that the delirium, under which Sudds was suffering, occasioned the frothy substance collected in the Wind Pipe, which I first thought was a slight degree of inflammation.

Mr. McIntyre's attention was then called to the discrepancy between his relation of the facts to the Governor, in the presence of the Colonial Secretary, and his Written Report. He admitted generally that the Statements did not correspond, but observed that this proceeded from a desire on his part to avoid committing any particulars to writing, which he could not verify on oath.

Mr. Bowman, Principal Surgeon, was called in, and desired to state any circumstances within his knowledge respecting the illness and death of Joseph Sudds. He stated as follows:—

I saw Sudds in the Jail, and was informed by Mr. McIntyre that he had been treated for a slight affection of Dropsy, "Anasarca"; that he did not see him again, until he was removed to the General Hospital on the Evening of the 26th of November.

Captain Dumaresq, Acting Civil Engineer, stated, that the Irons were constructed without any measure being taken of the

Individuals; that they weighed 13 lb. 12 oz., and there was nothing in their construction to prevent the person wearing them from lying in any posture.

The Council adjourned until the following day, Saturday the 9th.

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Council Chamber, Saturday, 9th November,* 1826.

Present As Before.

The Council met pursuant to adjournment, and a Soldier of the 57th Regt., named Jesse Geer, being as nearly as possible of the Size and Stature of the deceased Sudds, was called in, and the Chains were put on him in the presence of the Council.

Mr. McIntyre, the Ass't Surgeon, having been desired to attend with the Hospital Books, in order that the Council might have an opportunity of ascertaining the periods of Sudds' admission into Hospital, of his dismissal, the progress of his disease, and other Circumstances Connected with the Case, Mr. McIntyre stated that it was out of his power to produce any Books, as no record was kept in the Jail Hospital of the Patients admitted, or of their treatment.

On being desired to produce the record of Sudds' dissection, He stated that none had been kept.

In consequence of Mr. McIntyre's Written Report of the events, connected with the death of Sudds, being so much at variance with his first relation of them to the Governor in the presence of the Colonial Secretary,

Mr. McLeay was called on to state his recollection of what passed on that occasion, when he delivered a deposition on oath to the following effect, vizt:—

In consequence of observations, contained in the Australian News Paper, respecting the death of Joseph Sudds, late a Private in the 57th Regiment of Foot, who was recently convicted of Theft and sentenced to Transportation, I sent for Mr. James McIntyre, the Colonial Assistant Surgeon, who is charged with the Care of the Sick in the Jail; and, having accompanied him to Govern't House on the 29th of November last, I heard him there state, in the presence of the Governor, that he, Mr. McIntyre, had remarked to Sudds, when he was under treatment during his first Illness after his Conviction, that he had brought himself and his Corps into great disgrace by the Sentence, which had been passed upon him, and that Sudds had observed in reply that "he would never go to a Penal Settlement."

* Note 162.

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Mr. McIntyre, on the same occasion, stated that Sudds' second illness was reported to him the next Morning, after the Chains had been put on him at the Barracks, and that the Chains were on that day taken off; upon which it was then remarked by the Governor that Sudds could not have suffered from the Chains, as they could not have been on him Four and Twenty Hours.

Mr. McIntyre stated, on the same occasion, to the Governor and in my presence, that, on opening the body of Sudds after death, He, Mr. McIntyre, observed an inflammation or inflammatory appearance extending from the Chest upwards to the Throat, where it was more extensive, and which, he observed, was termed Bronchites, and also that Sudds' legs were swollen.

And, in Consequence of its being strongly recommended by the Governor and myself to Mr. McIntyre, that he should be particular in his Statements, as it was required that he should put them in writing, Mr. McIntyre said that he had been very particular in his observations on Sudds' Case, knowing it was a subject, which the "*Rascally News Papers*" would take up.

ALEX. MCLEAY.

Sydney, 11th December, 1826.

I swear that the above Statement is true:—ALEX. MCLEAY.

Sworn before me this Fifteenth day of December, 1826.

F. Rossi, J.P., Superintend't of Police.

Opinion of
executive
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of J. Sudds.

The Executive Council, having Maturely Considered the Statements of the several Individuals, who were brought forward, and the Evidence of those, who were examined on the various points, have to record their opinion as follows, vizt:—

It appears that Sudds, the Private Soldier of the 57th Regt., the subject of the present proceedings, became ill about 14 days after he was sent to Jail.

That, from the time of his being sent to Jail, he was unwell and had no appetite. He said he supposed his Complaint to be Dropsy, from which disease he had formerly suffered in the West Indies. That he continued in the Hospital until Wednesday, the 22nd of November, though not on the Sick List, or visited by the Surgeon. That he walked to the Barracks on that day, where he underwent the Ceremony pointed out in the General Order of the 22nd November, and thence back again to the Jail. That he complained of being ill on Thursday, the 23rd (the following day) between 12 and 2 o'clock, and was immediately removed to the Hospital in the Jail.

His Irons were taken off by direction of the Surgeon about 4 o'clock on that afternoon, having been on him about 28 hours. That his illness increased, his breathing was much affected, and he was unable to take nourishment.

That he was removed to the General Hospital on Sunday Evening, the 26th of November, and died the following Morning.

That no Report was made by the Surgeon to the Government at any time of Sudds' illness, nor was it known until after his decease.

That the Chains, which have been examined, weigh exactly 13 lbs. 12 oz., and having, in presence of the Council, been put on a Soldier of the 57th Regt., selected by his Commanding Officer as being of the same stature (5 ft. 7½ inch.) and size as his Comrade Sudds, their dimensions were found to be ample, and there was nothing in their Construction to prevent a Man's lying in any posture.

That they were evidently intended to produce an effect on those, who were to witness the Ceremony, and not to subject the Prisoner to any extraordinary punishment.

The Council, in closing its proceedings, could not do so without remarking, tho' not intending to impute any improper motive to Ass't Surgeon, Mr. McIntyre, that his Statement was confused and inconsistent. The Council, however, had no doubt that this arose from his want of recollection, and there being no book or record kept in the Hospital, to which he could refer to assist his memory.

A true Extract:—H. DUMARESQ, Clerk to the Council.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Guilford; acknowledged by Governor Darling, 2nd August, 1827.)

Sir, Downing Street, 14th Decr., 1826.

In acknowledging the receipt of your despatch of the 26 July accompanied by the Blue Book for last year, I am directed by Earl Bathurst to express to you his Lordship's satisfaction at the very clear manner, in which this Document has been drawn up.

I have, &c.,

R. W. HAY.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch marked "Secret." per ship Regalia; acknowledged by Viscount Goderich, 11th July, 1827.)

My Lord, Government House, 15th December, 1826.

Having Communicated to Your Lordship in my Despatches of the 4th and 12th inst'ts, marked "Separate," the facts of the Case of Sudds and Thompson, as far as relates to

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Despatch
acknowledged.

15 Dec.

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Legality of
sentence and
punishment of
J. Suds and
P. Thompson.

the Course, which was pursued in Acting on the Sentence, passed on those Men by the Court of Quarter Sessions, I shall confine the subject of this Letter to the question of the legality of the Sentence and the measures, which have been adopted. I had written to Mr. Moore, the Acting Attorney General, for his opinion, in order to ascertain this point, before I wrote to Your Lordship on the 4th inst.; but, though dated on the 2nd, as Your Lordship will perceive by the enclosed, his Letter did not reach me in time to be forwarded with my first Despatch. As the powers of the Governor in the Case under Consideration are not explained in Mr. Moore's Letter, and as it appeared highly desirable to ascertain their extent in order, if any irregularities had taken place, that they might be corrected, I was induced to refer the matter for the Consideration of the Judges; and I have now the honor to enclose a Copy of their opinion for Your Lordship's Consideration.

Powers of
governor.

Without pretending to enter into the legal niceties of the Case, or meaning to advocate an infringement of what the Law enjoins, it is evident that no substantial injustice was practised. I presume it will be admitted, the Sentence being Legal, as appears by the opinion of the Judges, that the Governor has the power of working Convicts in Irons on the Roads here, until they can be transported in like manner as they are employed at Home on board the Hulks and on the Public Works, until embarked for their destination.

Reasons for
military
ceremony.

The only difference in the Course pursued between these and other Prisoners consisted, as I have before had the honor of stating to Your Lordship, in the ceremony, which was observed in putting on the Chains or Irons; and I think it will not be disputed that the Circumstances of the Case not only justified, but called for some exemplary proceeding.

It will be seen that these Men had in a moral point of view been guilty of a double offence, Desertion as Soldiers from the Military Service without exposing themselves to the Penalty (which by the Mutiny Act is death), by the Commission of a Felony, they having expressly declared it to be their intention to obtain their discharge from the Service. I need not appeal to Your Lordship whether, in a Colony composed as this is, with a Press endeavouring to excite the Soldiers to Mutiny and the Convicts to Insurrection, some measure, calculated to make an impression on the Troops, was not indispensably necessary.

I had proved in an important instance on a former occasion the efficacy of a proceeding similar to that now alluded to, in the Case of two Soldiers,* who had maimed themselves with a view of obtaining their discharge; and I thought I could not

* Note 163.

more effectually counteract the dangerous disposition, which had manifested itself, and preserve the discipline of the Troops, than by resorting to some similar expedient.

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Your Lordship will observe by a General Order,* which I issued soon after my arrival, that I had considered it necessary at that time to awaken the Troops to a sense of the degraded situation of the Convicts and the Superiority of their own Condition, lest, from an indiscriminate association, which it was to be apprehended subsisted in too many instances between them, they might, as the recent event has in some degree proved, lose that sense of distinction, which it is so important should be preserved.

General order
re association
of troops with
convicts.

The News Papers to answer the purposes of the moment, which I shall hereafter explain, would fain make it appear that Cruelty and Torture have been practised. But I need not defend myself against such absurd imputations.

Imputations in
newspapers.

It has been ascertained to the satisfaction of the Council, a Copy of whose Proceedings I have forwarded to Your Lordship with my Despatch of the 12th inst't, that there was nothing in the Construction of the Chains, which Could have injured the Individual; their *gross* weight, which is insignificant, lengthened out as they were for visible effect, is a proof that the Links must have been extremely slender, being in fact of the dimensions of a *Common Dog Chain*.

Description
of chains.

If it were necessary to bring forward any other proof that my intention was merely to produce an effect on the minds of the Troops, and not to subject the Prisoners to undue severity, I might refer to the intimation, which I made to Colonel Stewart, the Lieut't Governor, when I requested he would superintend the performance of the Ceremony, which had been ordered; and I beg to enclose the Copy of a Letter, he has written to me, as affording sufficient evidence of my intention; though I was afterwards induced to defer the removal of the Chains, until the Men should be sent from Sydney, which was immediately to take place, Conceiving that the effect of the example would be diminished, should it come to the knowledge of the Soldiers that they had been taken off as soon as the Men returned to the Jail.

Reasons for
military
ceremony.

I have observed in a former part of my letter that the Newspapers, to answer the purpose of the moment, are desirous of making it appear that Cruelty has been practised. It is very well understood that their object is to induce the People to unite in petitioning Parliament to extend their privileges by granting them Trial by Jury, a Legislative Assembly, and such other Institutions, as are recognised by the British Constitution.

Political
purposes of
imputations
in press.

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Political
purposes of
imputations
in press.

Having hitherto failed in their efforts, they have seized the present occurrence as a means of inducing the People to enter into the views of a Party, and call a Public Meeting, in order that a Petition may be transmitted to England previously to any discussions in Parliament on the New South Wales Bill.*

I respectfully intreated Your Lordship, on my assuming the charge of this Government, to judge of me by my Acts, because I was aware of the disposition, which existed here, to misrepresent and distort the most judicious measures. Let those I have now detailed be Candidly Considered, and I shall not be apprehensive of any responsibility, which may attach to them. To answer a Political purpose, the Papers have been zealous in misrepresenting an event, for which I can in no respect be Considered Chargeable.

Personal
defence by
R. Darling.

I had never heard of Sudds' illness, until after his death. He underwent a certain ceremony, which subjected him to no personal injury. He was taken ill and died a few days after.

With equal justice, might I be charged with the death of William Watts, who was removed from the Jail to the Hospital at the same time as Sudds, but who had been subjected to no ceremony, who had no Chains put on him, but those usually worn by the Prisoners, and who nevertheless died a few hours after Sudds.

This Man's Case is not considered by the Editors of the "Australian" and the "Monitor" to be important to the proceedings of the moment; and these Papers are therefore indifferent to his fate. A death, which cannot be rendered instrumental to the objects they have in view, whatever may be the circumstances attending it, excites no interest in their minds.

I regret the necessity of taking up Your Lordship's time on such a matter as the present; but it may not be altogether useless, as it serves to illustrate the Character of certain People here, and affords some proof that the best motives may be rendered subservient to the worst views. The measure, which is now Condemned, because it answers a Political purpose, would have been extolled (and was in fact favourably mentioned by the Australian†) as effecting an important and salutary example, and checking a most dangerous proceeding. On this ground, considering the death of the Individual as a Casualty in no respect affecting the merits of the question, though its occurrence at the moment was unlucky, I must think (as I am satisfied every unprejudiced and dispassionate Person will) that the Measure was fully justified by the Circumstances of the moment.

I have, &c.,

RA. DARLING.

* Note 165. † Note 166.

P.S.—Since closing the above, I have received the opinion of Mr. Moore, the Acting Attorney General, as to the powers of the Governor under the 6th Section of the Act of the Legislative Council, No. 5, of the present Year, which accompanied my Despatch to your Lordship, No. 54; and I do myself the honor to forward a Copy herewith for Your Lordship's information.

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Transmission of
legal opinion.

R.D.

[Enclosure No. 1.]

ACTING ATTORNEY-GENERAL MOORE TO GOVERNOR DARLING.

Sir, George Street, Sydney, 2nd December, 1826.

On looking over the Act in Council* of 16th August last, I am fully confirmed in the opinion, I at first formed on the reading of that Act; but, not having met with any Case, which required my referring particularly to it, I had not in consequence of the various occupations I have been lately engaged in given it that attention. I otherwise should have done; and, in the hasty reading of the 5th Clause of the Act only, which I took when in Conversation with Your Excellency this morning, I certainly did, as I then stated, become rather doubtful of the correctness of the view, I had previously taken of it.

Interpretation
by W. H. Moore
of act No. 5,
7 Geo. IV.

The offence of larceny or common theft, unattended by Acts of violence to persons or dwelling houses (excepting horse or cattle stealing, and some other thefts, which are particularly provided for by different acts of parliament), is a felony within the benefit of Clergy, and is more usually punishable by transportation; but, in cases attended with particular circumstances of mitigation, and such as are mentioned in particular acts of Parliament, the Judge or Court may sentence the prisoner to imprisonment, or imprisonment and hard labour in the Common Gaol House of Correction, penitentiary, etc., in lieu of sentencing him to transportation.

The Act of Council of 16th August does not in any part of it take away the power of the Judge or Courts here to sentence Prisoners to transportation for such an offence (namely for simple larceny); but the fourth section of the Act states, "that, in all cases, in which the Courts of King's Bench, etc., in England are authorized to punish offenders by imprisonment and hard labor, it shall be lawful for the Judges here to condemn Offenders of the same degree to serve the Governor, or his assigns here, for the same time and under the same rules, as if such offenders had been transported from England." That is to say that, in cases taking place here, attended with such circumstances of mitigation, the Courts here may, instead of sentencing the Offenders to imprisonment and hard labor, as the Courts in England would do under similar circumstances,

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Interpretation
by W. H. Moore
of act No. 5,
7 Geo. IV.

sentence the Offenders (being here) to serve the Governor, or his assigns, as if he had just arrived under sentence of transportation from England, or (the same clause goes on to state) "to imprisonment and hard labor" (as is the case in England), "or to hard labor in irons on the roads or public works," which last is the only situation, in which a Prisoner convicted in this Colony, under such circumstances, could be placed, which differs from the situation, in which he would be if his conviction had taken place in England, as the sentence of imprisonment and hard labor in England always signifies hard labor within the prison walls. But this latter form of sentence or mode of punishment is taken away from persons originally free, and for a first offence, by the 5th clause, which provides "that persons, born here or coming here free, *shall* for the first offence, *being of the degree as aforesaid,*" that is to say still keeping in view throughout the whole of both these clauses only those cases, which are attended with such circumstances of mitigation, as would induce the Courts in England to sentence them to imprisonment and hard labor, "be liable to imprisonment and hard labor within prison walls only" (as would be the case in England), "or be kept in the ordinary employment of the Crown, or its assignees, etc., and be subject to the summary jurisdiction of Magistrates, as if transported from England," etc.

The whole of these two clauses in the act only put persons, convicted here of crimes for which the Courts in England would order the offenders to be imprisoned and kept to hard labor, exactly in a similar situation here except that persons, who have been transported and are sentenced here to imprisonment and hard labor, and persons convicted here of a second offence, and for which second offence they are sentenced to imprisonment and hard labor, may (in lieu of the usual mode of punishment by imprisonment and hard labor within the prison walls) be sentenced to work in irons on the roads or on the public works.

The 6th and last clause only, which relates solely to sentences of transportation, then authorises the Governor of the Colony to withdraw persons already or thereafter to be transported, or sent to any penal Settlement, and to employ them in irons on the roads or public works, etc., as if under sentence of transportation from England, evidently drawing the distinction between the sentence of transportation and the sentence of imprisonment and hard labor.

I have perhaps been more prolix than necessary in quoting the words of the Act in Council, and making my remarks

thereon; but I have done so in hopes of fully explaining what I consider to be the legal operation of the act, and the intention, which, from the wording of it, I conceive the framer of the Act had in view at the time of drawing it. I have, &c.,

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15 Dec.

W. H. MOORE.

[Enclosure No. 2.]

CHIEF JUSTICE FORBES AND JUDGE STEPHEN TO GOVERNOR
DARLING.

Sir, Sydney, 13th December, 1826.

In answer to Your Excellency, requiring our opinion as to the powers, which are given to you, as Governor of New South Wales, by Ordinance of the Legislative Council, No. 5, we beg leave to state our opinion as follows.

Opinion *re*
powers of
governor under
act No. 5,
7 Geo. IV.

The best guide to the true meaning of the several clauses under consideration will, in our opinion, be found in the local circumstances, which gave rise to the passing of the ordinance. Transportation as a punishment owes its origin to statute law, and is regulated by a series of acts, which particularly point out the manner of carrying such transportation into effect. In the nineteenth Year of His late Majesty's reign, a power was for the first time given to the Court to award, in lieu of transportation, hard labour in certain public works; this power has since been continued under various modifications, and forms part of the Criminal code of England at the present day.

In carrying into effect the Penal Laws of England in New South Wales, various difficulties presented themselves in the details; the principal of which were the impracticability of carrying transportation into effect in strict conformity with the statutes, and the want of a substitute for transportation by the employment of Prisoners in Penitentiaries or Public Works. There was a difficulty also as to assigning persons, convicted in the Colony. It was to remedy these defects that the Ordinance under consideration was passed, as will more clearly appear by the following summary of the law.

The first clause is immaterial to the present enquiry. The second clause indemnifies the Ministers of Justice for carrying into effect any sentence of transportation in a manner different from that pointed out by the Statute. The third clause authorizes the Governor to carry into effect all future sentences of transportation in such manner, as he may deem proper. The fourth clause enables His Excellency to assign prisoners, convicted of (transportable) offences within the Colony, in like manner as prisoners are assigned, who have been transported from England, and also authorises the Courts in the Colony in cases, where the Courts at home might award imprisonment and

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powers of
governor under
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7 Geo. IV.

hard labor, to award imprisonment and hard labor on the roads, but with this proviso that, for a first offence, such hard labour should be within prison walls only; the Court, however, may still transport in its discretion, agreeably to the Laws of England, which are not altered or repealed by the Ordinance. It is discretionary with the Court here, as it is in England, either to pass sentence of transportation, or imprisonment and hard labor; but, in case it should award the latter for a first offence, it is limited as to the place, in which such sentence shall be carried into effect. So far the Ordinance in question places the powers of the Courts and the execution of the Laws in this Colony in unison with the laws of England. In the clause, which follows, there is a difference which we shall proceed to notice.

The sixth clause enables the Governor to withdraw persons, transported to the penal settlements, and either to work them in irons on the roads, or to assign them to settlers in the ordinary manner. This is certainly a wide discretion, and we think not sufficiently defined. We are of opinion that it will be best interpreted by referring to those well known circumstances, which gave rise to it, and which are alluded to in Your Excellency's Proclamation of the Eighth day of June last.

It has occurred, and in the course of things frequently will occur again, that persons at the penal settlements may require the interposition of Government either to mitigate the condition of those, who by a tried course of regular conduct may be thought fit to be restored to the service of the Settlers, or by a contrary cause have proved the inefficacy of existing restraints upon them, and may, therefore, require a different mode of punishment. It was to meet these circumstances, from time to time, that the Governor appears to us to have been vested with the discretionary power, given him by the clause above mentioned. It should we apprehend be exercised upon a sound consideration of the circumstances of good or ill conduct on the part of the Prisoner subsequent to his being sent to a penal settlement.

We have, &c.,

FRANCIS FORBES, Ch. Justice.

JOHN STEPHEN, Judge of Sup. Court.

[Enclosure No. 3.]

GENERAL ORDER.

22nd April. 1826.

General order
re punishment
of J. Jones and
J. Dougherty.

No. 34.

THE Lieutenant General is pleased to order that John Jones and John Dougherty of the 57th Regiment, who have rendered themselves by self mutilation incapable of performing their Regimental Duty, be sent by the first opportunity to Norfolk Island for the purpose of being employed there as Scavengers.

It is necessary that the designs of individuals, who have been influenced by such unsoldierlike feelings, should be counteracted: they will neither be discharged, nor sent to England; but, as victims of the personal atrocities, they have been guilty of, they will be held up as Examples of just abhorrence to their Comrades.

Let no man deceive himself in this respect, whoever shall commit a like base and disgraceful act may be assured of a similar fate to that, which awaits the individuals, who are the subject of this order.

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General order
re punishment
of J. Jones and
J. Dougherty.

By Command of His Excellency Lieut. General Darling.
H. GILLMAN, Major of Brigade.

[Enclosure No. 4.]

GENERAL ORDER.

No. 5.

2d January, 1826.

1st. The Lieutenant General calls the attention of the officers, in Command at the Penal Settlements and other detached Stations, to the consequences which must result to the service from any intimacy being permitted between the Soldiers and the Prisoners of the Crown; and they will be pleased to take the necessary steps for putting an immediate stop to it.

General order
forbidding
intercourse
between soldiers
and convicts.

2d. It is hoped that the soldiers themselves are alive to the distinction, which exists, and which it is of importance should be preserved between them and the convicts. They must not indulge in any familiarity with them; such intercourse would be inconsistent with the proper discharge of their duty, and highly injurious to the public service.

3d. The soldiers are not, however, to suppose that the ill treatment of a convict would be passed over with impunity. The Lieut. General assures them that any such act would be promptly and severely punished. It would be as unbecoming the character of a British Soldier, as an indiscriminate association with Men under the sentence of the law would be derogatory to it.

4th. The foregoing is to be considered a *standing order*; and it is to be immediately communicated to the Men, and to be read Monthly to the Corps and Detachments with the articles of War.

5th. The Officers in Command of Penal Settlements and detached Stations will consider it their especial duty to see it strictly enforced.

By Command of His Excellency Lieut. General Darling.
H. GILLMAN, Major of Brigade.

[Enclosure No. 5.]

LIEUTENANT-GOVERNOR STEWART TO GOVERNOR DARLING.

Sir, Sydney, 14th December, 1826.

I have the honor to acknowledge the receipt of Your Excellency's Note of this date; and, in reply, I beg leave to state that, when I waited on Your Excellency at Government House on the 21st of last Month to receive verbal instructions about assembling the whole of the Troops in Garrison on the following day, the 22nd, to witness the ceremony of divesting the Culprits, Privates Joseph Sudds and Patrick Thompson, of

Instructions to
W. Stewart
re military
degradation of
J. Sudds and
P. Thompson.

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Instructions to
W. Stewart
re military
degradation of
J. Sudds and
P. Thompson.

the 57th Regiment, of the Uniform of that Corps, in order to their being clothed in Felon's Dress, I recollect perfectly Your Excellency having observed to me, in the course of our Conversation on the subject, that You had directed Irons of rather a heavier description than ordinary to be put on them at Parade, merely to give effect to the ceremony; but that it was Your intention to have those Irons removed after their return to the Jail, as You would order them to be forwarded without delay to a distant Road Party to be Worked in the usual Irons.

This I am fully satisfied was the purport of Your Excellency's conversation with me on the subject, and, if deemed necessary, I am ready to make oath to that effect.

I have, &c.,

WILLIAM STEWART.

[Enclosure No. 6.]

GOVERNOR DARLING TO ACTING ATTORNEY-GENERAL MOORE.

My dear Sir, Friday Morning, 15th December, 1826.

It has not occurred to me, until just now, that your opinion would be satisfactory as to the powers of the Governor to withdraw Prisoners from Port Macquarie under the 6th Section of the Act of the Legislative Council, No. 5. That is whether the Governor is at liberty to exercise his discretion in removing any Man or Class of Men from thence without reference to their Conduct or other Circumstances while there. The Law or Act was framed with this intention; but it may not convey the powers intended. I should also wish to know whether there is any important difference in ordering a Man (who is sentenced to be transported) to work on the Roads, previous to his being actually sent to a Penal Settlement. This is the Constant practice at Home. The Convicts, who come out, are all worked in the Hulks in Chains, until an opportunity offers of embarking them for their destination.

I wish you to weigh the matter well, though I am Anxious to have your opinion with as little delay as possible, as I am writing Home on this subject, and the Regalia, I understand, sails on Sunday.

I remain, &c.,

RA. DARLING.

[Enclosure No. 7.]

ACTING ATTORNEY-GENERAL MOORE TO GOVERNOR DARLING.

Sir, George Street, Sydney, 15th December, 1826.

I have the honor of inclosing to Your Excellency my opinion on the operation of the sixth clause of the Act of the Colonial Legislature, No. 5, as to Convicts, under Sentence of

Opinion
required re
power to
withdraw
convicts from
Port Macquarie;

and to work
convicts on
roads.

transportation, but not actually transported. And my opinion, as to the legality of ordering persons under similar circumstances to work on board the Hulk, until the sentence of transportation be carried into effect.

I have, &c.,

W. H. MOORE.

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[Sub-enclosure.]

OPINION BY ACTING ATTORNEY-GENERAL MOORE.

By the 6th Section of the Act of the Legislative Council of New South Wales, No. 5, It is enacted that it shall be lawful for the Governor, etc., by order in writing registered, etc., to withdraw any Person, now or hereafter to be transported to any Penal Settlement, and to employ him either in Irons on the Public Roads or Works or in the ordinary Service of the Crown, or to assign him to a Settler, etc. I take this clearly to mean also that the Governor may by order, etc., with-hold any Person, sentenced to be transported to a Penal Settlement and to employ him in like manner.

Opinion re
powers of
governor under
act No. 5,
7 Geo. IV,
section vi.

The exercise of this power is in no way limited or restricted to cases, where the parties shall (previously to issuing such order) have served any stated or discretionary period, but may be put in execution at any time, should the Governor be so disposed without any reference to the Character or Conduct of the Parties or other Circumstances.

Although the Act only makes use of the word withdraw, yet it is scarcely possible, from the reading of it, to construe it to mean that, in cases where this discretionary power is intended to be exercised previously to the sending of a convicted person to a Penal Settlement, it should become necessary, in order to carry it into complete effect, to send the party in the first instance to the settlement for the purpose of immediately afterwards withdrawing him to inflict what was considered, by the Act, a less severe punishment to the prisoner, Namely, the working him in Irons on some of the Public Works near the principal Settlement, instead of his being worked in irons at one of the penal Settlements in procuring Coals or lime, or some other employment, more laborious than he would in the other case have to perform.

The word "withdrawing" being so immediately connected with the words "person or persons now, etc., transported," seems to me to have been made use of to point out more clearly that the provision should extend to cases of transportation, which had previously taken place, and in which the parties were then undergoing their sentences, as well as to cases, which might subsequently take place; and, in that view, I think the strictly proper word to express that it should apply to cases, where the

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powers of
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section vi.

parties had not been or should not be actually removed to the penal Settlement, was considered unnecessary, or was unintentionally omitted.

It may almost be said to be a case between two extremes: that, where the parties have been transported or may thereafter be transported, the Act shall apply, and may be exercised for the benefit of the prisoners; but that, where the parties are about to be transported only, it shall not: but that the prisoners, before any benefit of the Act can be extended to them, shall be subjected not only to the risk and inconvenience of being removed to a distant Settlement, but that they shall be actually obliged to undergo a part of the Sentence, which it was the obvious intention of the Act to relieve them from in some cases altogether.

By Act of Parliament of 5th Geo. 4th, Chap. 84, Sect. 10, Offenders, reprieved or respited under Sentence of Death, or under Sentence of transportation, etc., may be removed from time to time by order of the Secretary of State to places of Confinement within England and Wales (to be appointed by His Majesty in Council) at Land or on Board Vessels, until Transported, or become free, or ordered to be again sent back to Gaol. By Section 13th of the same Act, such Offenders, convicted in Great Britain, may, by Order of the Secretary of State, be sent and kept to labor in any part of His Majesty's Dominions out of England (appointed by Order in Council), until his Majesty shall otherwise direct, or until such persons become free; and, by Section 18th of the same Act, Such offenders under Sentence of transportation may be kept to hard labor in gaol, or be removed to the house of correction for that purpose.

As this Act was passed since the 4th of George the 4th (commonly called the New South Wales Act), there may be some doubt as to its applicability to this Colony. And the Act of the 6th of George the fourth, Chap. 69, Sect. 4, only says (after authorising the Governors of Colonies to appoint Penal Settlements) that all such persons, transported in such Colonies to such places, shall be liable to the laws, rules and Regulations, which are or shall be in force in such places, with respect to Convicts transported from Great Britain.

This seems to confine the treatment of convicts, transported to the Penal Settlements, to the Laws, Rules and Regulations, subsisting at the Penal Settlements, when they are there only, and does not provide for their being kept to labour, prior to their transportation, which it seemed necessary by the 5th of George 4th to insert a Clause to enable His Majesty, by one of

his Secretaries of State, to direct. But I am of opinion that all difficulty is obviated by the Act* of the Colonial Legislature, No. 1, establishing the Hulk or Floating Prison, which directs that The Phoenix shall and may be used as a public prison for the reception and safe keeping of all prisoners, convicted and sentenced for Crimes, etc.; and such persons shall be subject and liable to such rules, etc., as the Governor may order, conforming therein as near as may be to the British Laws.

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powers of
governor under
act No. 5,
7 Geo. IV,
section vi.

W. H. MOORE.

15th December, 1826.

GOVERNOR DARLING TO UNDER SECRETARY HORTON.

(Despatch marked "Secret and Confidential," per ship Regalia.)

My dear Sir, New South Wales, 15th December, 1826.

You will have heard, before this reaches you, of an event, which I am apprehensive may occasion you some trouble, as, to answer a political purpose, it will I understand be brought before Parliament. With respect to the matter itself, it is of no importance, but probably will be made use of to promote the object, which certain Partizans here have in view. It is quite unnecessary I should go over, in this place, the particulars of the occurrence, alluded to, as it is fully detailed in my Despatches to Lord Bathurst; and I beg to refer you accordingly to those of the 4th and 12th inst'ts, marked "Separate," and to my "Secret and Confidential" Letter of the 15th.

Expected
political use
of case of
J. Sudds.

I am not aware that I can add a word to the better understanding of the Case. I have, however, thought it would be satisfactory to you to be in possession of Mr. Forbes's sentiments, and I requested he would give me a Memorandum of the view, he had taken of it. He has been good enough to do so, and I enclose a Copy, as the form he has adopted may be Convenient. The "Australian" and "Monitor," the former having been hitherto comparatively temperate, are making use of this event to induce the different Parties to unite and call a general Meeting to petition Parliament, previous to the discussion of the New South Wales Bill.† The "Monitor" is violent in the extreme, and I have only not proceeded against the Editor from a consideration that such a step at the present moment would be likely to embarrass you in carrying the New Bill through Parliament, as Petitions would in all probability be sent Home, should the Press be interfered with just now. When there is no longer any chance of their having an opportunity of forwarding a Petition in time to interfere with your

Memorandum
by F. Forbes
on case of
J. Sudds.

Agitation raised
in newspapers.

* Note 167. † Note 165.

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Proposed
prosecution of
E. S. Hall.

proceedings, it is my intention to order the prosecution of Mr. Hall (of the Monitor), should he continue his present style of writing.

He appears to have been exerting himself to provoke the Troops and the Convicts to Mutiny and Insurrection.

I have had frequent Consultations with Mr. Forbes on this subject. My principle has been not to interfere with the Papers on account of any personal matter, but to act when any seditious or inflammatory Articles should appear, tending to disturb the peace of the Colony. God knows the instances of late have been sufficiently numerous; but I have been restrained from Carrying my intentions into effect from the Motives, which I have explained above, and which I hope will be satisfactory. I must beg you will refer to my Confidential Letter of the 4th inst. to Mr. Hay, which will more fully explain, than I can here, the reasons which have influenced my proceedings.

Necessity for
restraint on
press.

In referring You to my Letter to Mr. Hay, I must beg to draw your attention to the period, which the Colony has now enjoyed a Free Press, and the use, to which it has lately been employed, furnishing, as they do, incontestible proof that the privilege has been grossly abused; that the Colony is not in a state for such an Institution; and that the misapplication of it forcibly points out the necessity of restraint. Nothing short of positive Coercion will answer with such a Man as the Editor of the Monitor. He is a fellow without principle, an Apostate Missionary. I confess I am at a loss to discover his object. He is poor, a Widower with Eight Young Children, and must be aware that, in the event of being prosecuted, his imprisonment is inevitable. I suspect a Mr. Walker, an expelled Wesleyan Missionary, is associated with him, and that this junta is completed by Father Therry, the Roman Catholic Priest! These People are dangerous from their Connexions with the Convicts, whose cause the Monitor warmly espouses, and, utterly regardless of Truth, publishes the most seditious and inflammatory Articles.

Character of
E. S. Hall.

His associates.

Representation
on case of
J. Sudds by W.
C. Wentworth.

I must not forget to mention that Mr. W. Wentworth has intimated his intention of representing the Case of "Sudds," through me, to Lord Bathurst, according to the Instructions recently promulgated; but, as the Ship now under despatch is to sail to-morrow, and I have not yet received his representation, it is pretty evident, if he is determined to make one, he does not intend to afford me much time to explain or Comment. The case is, however, pretty clear. He added, when he expressed his intention as above, that he should send Copies of the Case to *his friends* in the House of Commons. I should observe that, from the first, he has evinced a feeling of hostility, without my

being able to discover any Cause. I had endeavoured to Conciliate him by Courtesy and attention; but he is a vulgar, ill-bred fellow, utterly unconscious of the Common Civilities, due from one Gentleman to another. Besides, he aims at leading the Emancipists, and appears to have taken his stand in opposition to the Government. His return to England is now spoken of, in order to his Conducting their Cause in person.

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Character and
objectives of W.
C. Wentworth.

I cannot close my Letter without expressing my disappointment at the view Mr. Forbes has taken of the Act of the Local Legislature of the 16th August, No. 5, as explained in the opinion, which accompanies my Letter of Yesterday to Lord Bathurst. I do not mean to assume that the powers, given to the Governor, are not sufficient; but it was certainly supposed that they were more extensive, and Mr. Forbes must have known that the Prisoners, instead of being transported according to their Sentence, have in general been sent to work on the Roads. I conclude, however, that he had not attended to the circumstance. The irregularity, which has taken place, cannot be very important; and both Mr. Forbes and myself have taken some pains to shew that the Parties have not, in point of fact, suffered from it. For example, had not Thompson, the accomplice of Sudds, been sent to work on the Roads, he would, in pursuance of his sentence of Transportation, have been removed to the Hulk in *heavy Irons* for security, until an opportunity offered of forwarding him to a Penal Settlement, where he would have been subjected to work in Irons. However, as the proceeding appears to be irregular, if not illegal, I shall immediately take steps for rectifying it as far as possible.

Opinion by
F. Forbes on
act No. 5,
7 Geo. IV.

Irregularity in
treatment of
convicts.

The failure of my Plan, which was explained in my Public Letter, No. 54,* will, however, be a grievous disappointment to me; the Prisoners at the Penal Settlements will rapidly increase to an inconvenient amount. The Expence of their maintenance will be proportionate. The better description of Prisoners must be employed on the Roads, as these must be attended to; and the Settlers will in proportion be deprived of Servants.

Effect of
restriction on
governor's
powers.

I remain, &c.,

RA. DARLING.

[Enclosure.]

MEMORANDA.

THE offence of Thompson and Sudds was very serious, both in a Military and moral point of view; they meditated the offence of desertion; and, to accomplish it without the risque of forfeiting their Lives, they deliberately committed a felony, thus setting an example, in every view of the Case, of the most demoralizing

Memoranda by
F. Forbes
on case of
J. Sudds and
P. Thompson.

* Note 168.

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Memoranda by
F. Forbes
on case of
J. Sudds and
P. Thompson.

character; one that, if suffered to pass with impunity, was calculated to seduce the Military from their allegiance, to break down the barrier between Virtue and Crime, and to hold out the Condition of a Convict as superior to that of a Soldier. It required to be stifled in its origin, and merited exemplary punishment. In what manner, has the punishment actually inflicted differed in degree from what would certainly have been inflicted, had the case occurred in England?

The Offence, of which Sudds and Thompson were convicted, was transportable; and, had it been tried in London, the prisoners would have been sentenced to Seven Years transportation; they would have been ordered to perform hard labour in some of the Colonies; and they would have been compelled to labor in the prison or hulk, in which they might have been kept, until their sentence of transportation should be carried into effect—5 Geo. 4, Chap. 8, Sects. 13, 18. Their Commuted Sentences of being Worked in Irons on the roads in this Colony would not have exceeded the punishment, they would have received in England. And, even if their original sentence had been carried into effect, and if they had been transported accordingly, they would have been confined on board the prison Ship in irons, until they were transported to a penal Settlement, and then they would have been liable to be worked on the public works or roads there, and if necessary in irons for Security. So that the measure of punishment, which their sentence of transportation was commuted to by the Governor, had not exceeded in amount or degree what under any circumstances they would have been liable to; and the only difference consists in the place, where such sentence was effected, namely in being on the roads near Sydney, instead of the Dock Yards in England or in the Colonies, or on the public Works at Port Macquarie.

The Motive of the popular movement, backed by a few partizans, is obvious; it was to get up a case for Parliament, to be declaimed upon as a grievance in the approaching discussions on the New South Wales Bill.* A Meeting of the people had been proposed, but was not generally approved, and for that reason was abandoned. This was felt as a very great disappointment; and it was hoped that the case of Sudds might be used as a War Cry to bring the people together; and, if that should fail, it would at any rate serve as the ground Work of some Complaint, some pretext for contending for popular checks upon the abuses of power in New South Wales. With this clue, it is not difficult to unravel the Mystery and misrepresentation of the case of Sudds; it is a political juggle.

* Note 165.

GOVERNOR DARLING TO UNDER SECRETARY HAY.
(Despatch marked "Private," per ship Regalia.)

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16 Dec.

My dear Sir, Sydney, 16th December, 1826.

Pressed as I have been with a weight of business, since I wrote You on the 4th inst. by the Corsair, it has not been in my power to complete the Despatches, which I have been preparing on several matters, and was anxious to have forwarded by this opportunity. I am aware I have given your Office and myself much more trouble, than was necessary, on the subject of *Sudds*. But I have done so that you may be prepared in the event of any attempt to agitate it in Parliament. Mr. Wentworth intimated, a few days since, as I have mentioned to Mr. Horton, his intention of representing *Sudds'* case to Lord Bathurst, and transmitting Statements to *his friends* in the House of Commons. It has been mentioned that he has sent Home Drawings or Caricatures of the Men in Chains, to be published in London, and that Statements are printing for Circulation at Home. As to the thing itself, I really am perfectly indifferent; it carries with it its own justification; but I am very much annoyed in thinking of the trouble it may occasion you officially. I have thought it right to furnish you with the best lights, we have here; and I have sent you the opinions of the Judges and the Attorney General. The former has disappointed me, but I need not repeat what I have said to Mr. Horton on this subject, as you will see the Letter I have written him.

Reason for
lengthy
despatches
on case of
J. Sudds.

Action taken
by W. C.
Wentworth.

You will observe in my "Secret" Letter to Lord Bathurst, I have expressed myself strongly respecting the Press. I intended the observations to apply more to the "Monitor" than the "Australian." The former has been intemperate to a dangerous degree for some time past; but my Letter to Mr. Horton explains the grounds, on which I have abstained from proceeding against him. He was cast Yesterday in a Private Suit,* for which he will have to pay £100 damages and Costs. But it is said that the Money will be raised by subscription. If so it will furnish additional proof how necessary restraint is, and how unfit the Colony is for a Free Press. The Australian has been temperate unto the late event, which it has seized for political purposes. I have, however, no dependence on the Editor. He is without principle, and will write just as it answers his purpose. But whatever is to be done respecting the Press must be done at Home; if *we* were to move in it, the Australian and Monitor would, I have no doubt, disturb the peace of the Colony. As to Young Wentworth, he is a Demagogue, and will try to lead the Emancipists. But these and the Emigrants or old Settlers are so jealous of each other that they cannot accomplish

Remarks *re*
press.

Lawsuit lost
by E. S. Hall.

Character of
R. Wardell.

* Note 169.

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a Public Meeting, which they have been anxious to do in order to petition for their *rights*! they should shudder, when they think of them.

Appointment of
J. Holland to
court of
requests.

2nd. It is not in my power to write officially respecting Mr. Holland. But I take this opportunity of mentioning, I have appointed him to the Court of Requests, rather than to the Legislative Council, where Dr. Douglass will remain.

No report sent
to military
headquarters.

3rd. I am very apprehensive that the Duke of York may think I have not paid H.R. Highness sufficient attention by not reporting to him specially, respecting the case of Sudds and Thompson, being soldiers; it has been totally out of my power, though I have been incessant at my Desk since I wrote to you last. You will, therefore, oblige me, if you would send my Letters on this subject to Sir H. Taylor for his R. Highness's perusal, in order to prove that I have done all in my power to put H.R.H. in possession of the Case. I shall endeavour to forward with this a short statement or Memorandum of the view, Mr. Forbes has taken of the proceeding, which has occupied me so much of late. But pray keep his name out of sight, as he intruded it only for my private information.

I remain, &c.,

RA. DARLING.

[Enclosure.]

[*This statement was similar to that forwarded in Governor Darling's letter to under secretary Horton, dated 15th December, 1826; see page 763.*]

GOVERNOR DARLING TO UNDER SECRETARY HAY.

(Despatch per ship Regalia; acknowledged by under secretary Hay, 11th June, 1827.)

Sir, Government House, 16th December, 1826.

Transmission of
copies of acts of
council, etc.

I have thought it might be desirable to you, as affording the means of convenient reference, to be in possession of a printed Copy of the Acts of Council, Proclamations, Government Orders and Notices, which are issued from time to time; and I accordingly forward a Copy containing the above Documents from the time of my assuming the charge of this Government to the end of June last. A Copy will in future be transmitted to you Half Yearly.

I have, &c.,

RA. DARLING.

GOVERNOR DARLING TO UNDER SECRETARY HAY.

(Despatch per ship Regalia.)

My dear Sir, Government House, 16th December, 1826.

I must beg your attention to the enclosed Letter from a person of the name of Weller, who would fain have it believed

that he is returning Home in consequence of the disappointment of his expectations in not having received Land as a Settler. I have seen him, and enquired particularly into his case; and my impression is that, although he states he called frequently at the Surveyor General's Office, he was too much occupied in his trading concerns to take the steps necessary to obtain his Land. I questioned him, and found he had never seen or heard of the Regulations, though they have been repeatedly published in all the Papers.

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Application of
G. Weller for
land.

He appears to be of the Class of "Shop Keepers"; many of whom have lately come out, and think they have a right to Land in proportion to the amount of their Investments. In most cases, the Goods are not their own, but have been supplied on Commission. Mr. Weller *told me* he had been bred to *Business*, and had no knowledge of Agriculture; still he expected, as you will see by his Letter, *to have been placed in possession of his Grant of Land without any Interrogations*, and of course without conforming to the Regulations. As he has been disappointed in this very reasonable expectation, he is about to return Home to represent the grievances, he has to complain of, having, however, prudently converted his outward bound venture into something suitable for the Home Market, which he has embarked in the "Regalia."

Expectations of
G. Weller.

Too many of this Class come out; there was a batch of four of them not long since from *Cheapside*, vouching for each other's property, and evidently not one of the whole number knowing a potatoe from a Turnip. A Mr. Ferriss arrived a few Months since with a Statement of Property, certainly not his own, to the amount of several thousand Pounds, and claiming in consequence the largest Class of Grant. He, however, shortly after opened a Retail Shop, and is now disposing of the Perfumery and other Articles, which he brought out on Commission from a Dealer in Bond Street. Another Person of the Name of *Bodenham* assured me he had come out to Cultivate and Settle on his Land. When his Wife immediately after opened Shop, and commenced Business as a *Dress Maker*. I could enumerate many other instances, but these are sufficient to prove the imposition which is practised.

Impositions
practised by
"shopkeepers."

These people obtain Letters from Your Office, and pretend to have a Capital, while they are merely entitled to a small Commission on the Sale of the Goods, they dispose of. It is very desirable it should be explained to all persons coming out that their *means* and *pursuits* will be strictly investigated, so that

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they may not effect to suffer disappointment by not being placed in possession of Land, which they are incapable of Cultivating and have no pretensions to.

Return of
Bucknell to
England.

I should not omit to mention that a Mr. Bucknell and his family are, I understand, returning to England. He arrived here only in October last. Mr. Barnard recommended him to me, as a person likely to be useful in obtaining Water by means of Boring. I could not engage his Services, as Mr. Busby has been employed by Government the last three Years, and is a Scientific Man, regularly bred as a Mineral Surveyor, which Mr. Bucknell is not. I understand he was a Watch Maker. His Wife is a Niece of Darcy Wentworth's; and I suspect there has been some disappointment in discovering the condition of their *Noble* relative. Mr. Bucknell has not taken the necessary steps to procure his Land. I am, therefore, unacquainted with the cause of his returning Home. I have troubled you with these particulars that you may be aware of the cases of Mr. Weller and Mr. Bucknell, should they apply again at Your Office. We want *Agriculturists* and *Mechanics*, or Persons possessing available Capital; some of those lately arrived, whom I could instance, are now Settled and have already brought their land into cultivation; and you may rest assured that Persons of these descriptions will always receive prompt assistance, but Shop Keepers can never become Farmers and are not likely to benefit the Colony as *Agriculturists*.

Type of settler
required.

I remain, &c.,
RA. DARLING.

[Enclosure.]

MR. G. WELLER TO COLONIAL SECRETARY McLEAY.

Sir, Ship Regalia, 14th December, 1826.

Statement by
G. Weller *re*
alleged refusal
of land grant.

I do myself the honor to communicate to you, for the Governor's information, certain circumstances attending my arrival in this Colony, in order to several embarrassments, under which I have labored (now too late to be removed), may in some degree be lessened in their detrimental consequences.

I beg leave to state that I arrived in this Colony as a *Settler*, and, after making the requisite application for a Grant of Land, was referred to the Land Board; accordingly I went to the Board Office, and had an interview with Lieut. Governor Stewart (alone), who, after various interrogations, told me that, if I *intended returning to England*, I should have *no Grant*. I beg to state the purport, of what I said to His Honor, to which the

above was his reply. That it *was* my intention *to settle*, to make *improvements*, and to *purchase Stock* (all which I calculated would take me at least two Years), and that then I intended returning to England to procure a reinforcement of Capital (as a Claim to a Grant in extension), and, if possible, to induce my Family to come out and settle also. To this, I received the above mentioned answer.

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Statement by
G. Weller *re*
alleged refusal
of land grant.

When, Sir, I came out to this Colony with an understanding, such as I received in Downing Street, with a letter from the Under Colonial Secretary of State, when I prove myself possessed of competent and tangible property, and especially when there are certain conditions, which if not fulfilled would of course deprive me of my Grant, when I say these things are considered, I, very respectfully and with all due deference, submit that I should have been placed in possession of My Grant of Land without any interrogation, without being obliged to give a Bond that henceforth I would never quit the Country.

Notwithstanding, however, what was stated by Col'l Stewart, an order, eight Months after application (during which time I was dwindling away my Capital by an unprofitable expenditure in Sydney), was transmitted to the Surveyor General's Office, just when, tired of a 16,000 Miles voyage to no purpose, I was engaging a passage to England; nor was I even made acquainted with this circumstance, till on the eve of sailing for England, and then by the merest chance.

I strictly followed the prescribed rules of Office.

I shall now, on my return to England, have made a voyage round the world at a distressing expence, my funds exhausted, and my future prospects perhaps for ever blasted.

Were I to receive thrice the quantity of My Grant, it would not compensate me for the incalculable loss, I have sustained; but I only have to request that my order for Land may be reserved, as I purpose returning, though certainly under circumstances widely different from those under which I now am here, leaving it to the generous consideration of Government to indemnify me by an extension of Grant for the great pecuniary loss, I have already sustained, not taking into consideration the great advantage I should at this time have gained by an early settlement on my Land, and the great risk and expence I at present incur in a return to England.

I have, &c.,

GEORGE WELLER.

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GOVERNOR DARLING TO UNDER SECRETARY HAY.

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

My dear Sir, New South Wales, 16th December, 1826.

Expenses for
maintenance
of convicts.

I referred Your Private Letter of the 9th of March last, with the Estimate of New South Wales and Van Diemen's Land, to the Colonial Secretary and Auditor, in order to their reporting what expences should, under the new arrangement, be provided for by the Lords Commissioners of the Treasury, as being immediately connected with the Maintenance of Convicts; and I now enclose a Report, which I have received from those Gentlemen.

It appears to me that the view, which they have taken of the subject, is quite correct, though I should not propose charging the Home Government, if it can be avoided, with any portion of the Expenditure of the Judicial, the Police, or the Jail Establishment.

I am sorry it is not in my power to forward at this moment a List of Persons, employed solely in the management of Convicts, as desired by Your Letter; but, if it were, it would not answer the purpose, you propose, as it would not furnish any Correct data to form an estimate of the expence.

Board appointed
for revision
of salaries.

A Board is now sitting to revise such of the Departments and Salaries, as have been long established, in order to their being placed on a footing with those of a more recent date; for instance, the Principal Superintendent of Convicts has hitherto been rated at a Salary of £200 a Year with allowances, which make it nearly £400; But I am decidedly of opinion that this office, under present circumstances, will not be overpaid at a Salary of £600; nor could a Person, fit in every respect, be expected to discharge its various and laborious duties for a smaller Sum. You will be satisfied of this, when you compare it with the situation of Commandant of Norfolk Island, who is to receive £600 a year, where there are about 100 Prisoners; and the Principal Superintendent has never less than between Six and Seven hundred under his immediate Charge, and is accountable for several thousands, Constantly Changing their situation and fluctuating.

Draft estimates
for convict
establishments.

I have had a rough Estimate prepared of the probable Expence of the several Convict Establishments, hoping, in the absence of better information, it may be useful to you in bringing the Subject under the Consideration of Parliament; and I shall take care to forward, as soon as it can be correctly prepared, the List which you have called for.

I beg to state, to prevent mistake, that the present Estimate does not include the Expence of Victualling or Clothing the Convicts, which have always been paid from the Military Chest.

I remain, &c.,

RA. DARLING.

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[Enclosure No. 1.]

MESSRS. MCLEAY AND LITHGOW TO GOVERNOR DARLING.

Sir,

Sydney, 23rd November, 1826.

In pursuance of Your Excellency's Minute, No. 156, dated 13th instant, directing us to report what particular Salaries, Charges, or Portion of the Public Expenditure of the Colony should be paid for by the Home Government, according to the Principle laid down in a letter, marked "Private," from the Under Secretary of State, dated 9th March last, We beg leave to submit to Your Excellency that it appears to us from the said letter to be intended that the Expenses, not only of the maintenance of Convicts, but also the Salaries of those Officers and Persons, whose employments originate from the appropriation of this Colony as a place of punishment for persons, convicted of offences in the Mother Country, should be defrayed by the Government at Home.

Report on public
expenditure
devoted to
maintenance
of convicts.

On considering the nature of the several Establishments in the Colony, with reference to this principle, We are of opinion that, in addition to the Expenses of the Colonial Vessels, and the Food and Clothing of Convicts, which have hitherto been paid from the Amount of the proceeds of Bills, drawn on His Majesty's Treasury, the Salaries of the Officers and Persons, employed in the following Establishments, and all other Expenses attending them, which have hitherto been defrayed from the Colonial Treasury, should in future be borne by the Home Government, and in consequence be disbursed by the Commissariat Department, Vizt.—

The Office of the Principal Superintendent of Convicts.

The Establishments of Prisoners' Barracks at Sydney, Parramatta, Liverpool, and Newcastle.

The Female Factory at Parramatta.

The Establishments of the Penal Settlements of Port Macquarie, Moreton Bay, Norfolk Island, and King George's Sound.

The Agricultural Establishments at Grose Farm, Long Bottom, Rooty Hill, Emu Plains, Bathurst, and Wellington Valley;

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 Report on public
 expenditure
 devoted to
 maintenance
 of convicts.

these Establishments being kept up solely for the purpose either of supplying Food for Convicts, or means of employment for such of them as are returned by Settlers for misconduct.

The Medical Department at all the Stations, where Colonial Hospitals have been established.

Besides these Establishments, all of which We consider to have been originally formed and to be still necessarily kept up in consequence of the appropriation of this Colony as a place of Transportation, there are some of the other Civil Establishments for the support of which, though some such Establishments would have been necessary under any circumstances, it is certain that the chief Expense is occasioned by the Convicts sent hither. These Establishments are—

The Police.

The Gaol Establishment, to which perhaps might properly be added

The Judicial Department so far at least as the Travelling and other Expenses of Witnesses, attending the Courts on Criminal Prosecutions, are concerned.

It would be difficult to fix with exactitude the amount of the extra expense, occasioned to the Colony by these Departments in consequence of its character as a place of Banishment; but, as regards the Police and Gaol Establishments, we should not be disposed to rate it at less than two thirds of the whole.

The Amount of such extra Expense, determined with as much accuracy as circumstances will admit, ought, We are of opinion according to the principle laid down in Mr. Hay's letter, also to be borne by the Home Government.

We consider, however, that it would be found convenient that the whole of the Expenses of these last mentioned Departments should continue to be disbursed from the Colonial Treasury in the first instance; and that, on a certified statement of the amount, such a proportion thereof, as may be considered equal to the extra Expense alluded to as occasioned by Convicts, should quarterly or half yearly be paid over by the Officer in charge of the Commissariat to the Colonial Treasurer.

Mr. Hay's Letter with the papers, which accompanied it, We beg to return to your Excellency herewith.

We have, &c.,

ALEXANDER McLEAY.

WILLIAM LITHGOW.

[Enclosure No. 2.]

ESTIMATE of the Probable Annual Expenses, attending the Superintendence and support of the Convicts in New South Wales, which it will be requisite in future to defray from the Proceeds of Bills drawn on His Majesty's Treasury.

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Estimate of annual expenses for maintenance of convicts.

The Salaries and Contingencies of the following Establishments.	Amount.
	£ s. d.
The Principal Superintendent of Convicts and Establishment of his Office	1,000 0 0
Prisoners' Barracks, Hyde Park, Sydney	400 0 0
do Carter's Barracks	600 0 0
do Parramatta	200 0 0
do Liverpool	200 0 0
do Newcastle	200 0 0
Female Factory, Parramatta	850 0 0
Penal Settlements..	
Port Macquarie	1,600 0 0
Moreton Bay	500 0 0
Norfolk Island	1,200 0 0
King George's Sound	1,000 0 0
Agricultural and Stock Establishments for Supplying Labour and Food for Convicts.	
Emu Plains	700 0 0
Grose Farm and Longbottom	250 0 0
Rooty Hill	200 0 0
Bathurst	600 0 0
Wellington Valley	400 0 0
Crown Stock Establishment	300 0 0
Medical Establishments for Sydney and the Out Stations	3,500 0 0
Government Boats and Vessels	1,500 0 0
Total probable Amount for One Year	£ 15,500 0 0

WM. LITHGOW, Audr. of Col. Acs.

Sydney, New South Wales, 14th December, 1826.

GOVERNOR DARLING TO UNDER SECRETARY HAY.

17th December, 1826.

17 Dec.

[This despatch will be found on pages 803, 804, and 805.]

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 96. per ship Regalia: acknowledged by Viscount Goderich, 1st June, 1827.)

My Lord, Government House, 18th December, 1826.

18 Dec.

In acknowledging the receipt of Your Lordship's Despatch of the 7th of April last, No. 26, on the subject of the Settlement, which has been established at Melville Island, I do myself the honor to acquaint Your Lordship that His Majesty's Ship Success has arrived here, and that Captain Stirling has expressed his readiness to co-operate at a convenient opportunity in carrying Your Lordship's Instructions into effect.

Arrival of
H.M.S. Success.

The communications, which I have received from Major Campbell, lately appointed Commandant of that Settlement, are of a very satisfactory nature, and have removed all apprehensions of any inconvenience being experienced from the want of Supplies. He has very judiciously exerted himself in opening a communication with Timor, from whence he will in future be supplied with fresh Provisions and other necessaries for the use of the Settlement.

Satisfactory
reports from
Melville island.

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Season
unfavourable for
voyage of
H.M.S. Success.

I beg to enclose, for Your Lordship's information, Copy of a Letter, which Captain Stirling has addressed to me, being the result of a Communication I had with him with respect to his immediately proceeding to Melville Island. Your Lordship will perceive that he does not consider the present season favorable for proceeding on that Service; and I have accordingly consented to postpone carrying your Lordship's orders into effect, which I trust will be approved, as we are now assured that the Settlement is Healthy and well supplied.

Settlement at
Melville island
to be
maintained.

I have pointed out to Captain Stirling that it does not appear to me, by the enclosure in Your Lordship's Despatch from Mr. Hay to Mr. Barrow, to be intended to abandon Melville Island for the present, but to detach a portion of the Garrison to Croker's Island, or to some other situation more eligible for the purpose, for which that Settlement was originally established. As the Number of Troops stationed there is not more than is necessary for that Service, I propose sending a Detachment from this, whenever Captain Stirling proceeds to the Northward.

Trepang found
in straits.

I should not omit informing Your Lordship that Major Campbell mentions in his Report, which was drawn up very shortly after his arrival at Melville Island, that Trepang, which is the Beche le Mer, had been found in the Straits. His next Report will, I have no doubt, afford better means of judging of the expediency of continuing that Settlement; and I am now preparing to send back the Isabella with some supplies, which vessel arrived here the beginning of this Month, having left Melville Island about the middle of October.

Schooner
Isabella to sail
with supplies.

I avail myself of this opportunity of forwarding for Your Lordship's consideration, Copy of a Report, which Captain Stirling has given in, pointing out the advantages which the local situation of Swan River holds out for the formation of a Settlement.

Report by
J. Stirling re
Swan river.

The advantages, as stated, appear Numerous and important; but I have no means of forming an opinion of the correctness of the data, on which they are estimated; as he, however, is confident and sanguine, he cannot, that I am aware of, be better employed, until he proceeds to Melville Island, than in ascertaining whether Swan River is as eligible for a Settlement as he has been led to suppose; and I have accordingly acquiesced in his proceeding, as it is of great importance that so advantageous a Position should not be taken possession of by the French.

Communication
with King
George's sound.

I am led to apprehend that the difficulty of supplying King George's Sound from hence will be very great, the Navigation of Bass's Straits being tedious and occasionally impracticable.

I have just received information that the Brig Amity, with the Expedition for that place, had put into the Derwent, and was repairing at Hobart Town, having been previously obliged to go into Port Dalrymple, and been afterwards driven to the Eastward, finding it impossible to proceed direct to her destination.

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Brig Amity
unable to sail
direct to King
George's sound.

The Settlement at King George's Sound could not be supplied from Java and the Islands adjacent, as the Passage round the South Western point of this Territory could not be depended on. Swan River might be supplied from those Islands without difficulty, if the opinion, Captain Stirling has formed, is correct. As a Penal Settlement, I should think they are both too remote, and the communication too uncertain; at the same time, if the French meditate a Settlement in New Holland, Swan River, from the account given of it by Captain Stirling, should not be neglected. But I shall suspend my opinion until he returns.

Preference for
settlement at
Swan river.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

CAPTAIN STIRLING TO GOVERNOR DARLING.

His Majesty's Ship Success,

Sydney, 8th December, 1826.

Sir,

Agreeably to Your Excellency's request, expressed to me yesterday, I have the honor to submit the following suggestions relative to the removal of the Settlement from Melville Island.

Suggestions by
J. Stirling re
formation of
new settlement
in north
Australia.

According to the latest Accounts from that place, it appears that the Northern Coast of this Country and all circumstances relating to it remain in a great measure unknown and unexplored; a further acquaintance with the subject will, however, be acquired by the proper Authorities, stationed at Fort Dundas; and no doubt they will be enabled by diligent researches to determine as to the eligibility of the removal, as well as upon the spot, where another settlement could be most advantageously established.

To facilitate these investigations, the presence of a Vessel of War appears to be highly desirable; and indeed, without the protection that such a force, constantly kept there, could afford. I do not conceive that any New Establishment can be safely or beneficially made on that Coast.

I understand from Major Campbell's despatch to Your Excellency that the Settlement at Fort Dundas is at present free from any apprehension of immediate want, either of the Necessaries of Life, or of protection from the Malays; that, moreover,

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Suggestions by
J. Stirling *re*
formation of
new settlement
in north
Australia.

the Settlers are in a healthy and comfortable state; and that consequently their removal from their present situation is not rendered absolutely necessary by existing distress.

As far as concerns the trade, it does not appear that any Commencement has yet taken place, nor has there been in my opinion sufficient information obtained as to the habits of the Malays, who frequent that Coast, the possibility of drawing them into Traffic, or the exact situation where an establishment, formed with such a view, could be most conveniently located; it appears that Port Essington is their usual haunt at a particular season of the Year, and that they congregate there in considerable numbers; if this representation be correct, this latter place may eventually be the best situation for the principal Settlement; but the following objections are opposed to its being undertaken at present; in the first place, a very small and inefficient force could be removed from Melville Island, which, while it would leave that Settlement defenceless, would render the one, established at Port Essington, an easy prey to the ferocious and Piratical Malays.

All new establishments are necessarily expensive experiments; they require great care as well as good fortune to protect them from starvation, particularly at such a distance from the seat of Government; for, as Melville Island and Port Essington could afford each other no assistance, they must both be dependent upon Sydney for their principal Supplies. I am aware that this latter objection would not be important, if the advantages were great and their existence ascertained.

It is well known that the periodical Winds, called the N.W. Monsoon, causes the rainy Season on that Coast; it will continue from the present time to the beginning of April, and during its existence, it would not be advisable to expose Men to the inconvenience of heavy rain and bad weather, while engaged in the arduous labour of building Houses and clearing ground.

Upon a review of all these considerations, I am of opinion that the time is not yet come for the formation of a New Settlement in that Quarter, or the removal of the one, now existing at Melville Island. My Lord Bathurst's Instructions, it is true, recommended such removal; but these Instructions were given under the persuasion of distress being experienced at Melville Island, but which does not seem at present to exist.

I, therefore, respectfully submit to Your Excellency that the Service above mentioned may be delayed until more favorable circumstances arrive as to information, Naval Protection, and

the Season, and that in the mean time the prosecution of His Lordship's wishes, relative to a New Settlement on the Western Coast, be forthwith adopted.

I have, &c.,

JAMES STIRLING, Captain.

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[Enclosure No. 2.]

CAPTAIN STIRLING TO GOVERNOR DARLING.

His Majesty's Ship Success,

Sydney, N. S. Wales, 14th Decr., 1826.

Sir,

Your Excellency having decided upon delaying the removal of the Establishment from Melville Island to Croker's Island until the termination of the Rainy Season in that Quarter, I have, in consequence, been led to consider in what way His Majesty's Ship, under my Command, may in the mean time be most beneficially employed in furtherance of My Lord Bathurst's wishes. In the prosecution of these considerations, certain Ideas have been suggested to me by Professional observation, relative to the necessity of immediately Seizing upon a position on the Western Coast of this Island near Swan River, in the 32nd Degree of Latitude. The various advantages, resulting from a Settlement in that Situation, and the reasons for occupying it, I now beg leave to submit to Your Excellency's notice.

Settlement
proposed at
Swan river by
J. Stirling.

On reference to a Chart of the Indian Ocean, it will be perceived that there is a constant Westerly Perennial Wind between the parallel of 32° South and the region of Ice; that it generally blows with considerable force; that the portion of it, which reaches the Shore of New Holland, alters its direction, and taking the line of Coast becomes a Southerly Wind, until it reach the parrallel of 28°, where, uniting itself with the S.E. Trade, it quits the Coast of New Holland in a direction nearly opposite to that, by which it arrived. These two Streams of Wind offer great facilities to Navigation on those Shores; for it is evident that Vessels, whatever may be their destination, may thereby be assured of Fair Winds and speedy Voyages across the adjacent Seas. Another advantage in Navigation, peculiar to the Neighbourhood of Swan River, is its position with respect to Europe, Cape of Good Hope, Isle of France, the Peninsula of India, and the Malay Islands.

Vessels, bound from those places to Swan River, would reach it in Three weeks less time than they could reach Port Jackson; and Vessels, bound from Swan River to those places, would reach them in Six weeks less time than from Port Jackson; in fact, the Eastern parts of New Holland, including Van Diemen's Land, are cut off from all Commercial communication

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with the Indian Seas to the Eastward during the greatest portion of the Year, for Merchant Vessels cannot beat up against the Strong Westerly Winds and Lee Currents, which prevail on the Southern Coast of New Holland in all Seasons except January and February.

The third advantage, peculiar to that position, arises from its being very little out of the Track of Ships, bound to China through the Eastern Passages; they generally make the outward Voyage lightly Laden, in consequence of the great difficulty of making up a Cargo for the China Market; but, if there were a Settlement at Swan River, its Supplies from England might be brought out in those Ships at a cheap rate, and they might there find some articles suitable to the wants of the Chinese, such as Oil, Seal Skins, Ship Timber, and Trepang, beside obtaining for themselves the refreshments rendered necessary by so long a Voyage.

The fourth advantage, as to Navigation, attributable to that Neighbourhood, results from the Fine Weather and Tranquil Seas, in which it would be carried on; these, together with the shortness of the Voyage to India, the Mauritius, and all the Malay Islands, would admit of the employment of Small Vessels, an important advantage to a Young Colony, where there is not Capital for the construction of large Ships, or distant Speculation. I shall conclude my observations, relative to the Navigation of that Coast, by the following estimate of the length of time, in which Voyages may possibly be made to and from it:—

To the Cape of Good Hope	Six weeks, back a Month.
„ Mauritius	Three weeks, back a Month.
„ Madras	Three weeks, back a Month.
„ Java and the Islands adjacent	Ten days, back Fourteen Days.
„ Van Diemen's Land	Seven days, back Two Months.

Your Excellency is aware that the Coast, between Cape Lewin and Shark's Bay, has never been explored by any British Officer; its Soil and Productions are as yet unknown; but, as it is situated in the same parallel as New South Wales, in the same climate and on the same Island, it is fair to assume that it is in other respects similar to this Country; if this assumption be correct, it will admit of labour by Europeans, and produce commodities well suited to the wants of neighbouring Countries, which being situated between Tropics are in a condition to exchange Tropical productions for those of the Temperate Zone; it might, for instance, supply India with Horses and wheat, and possibly Coal and Iron; it might supply the Mauritius with Live Stock and Grain; it might supply the Malay Islands with

various articles, adapted to their wants, and China with Wool, Hemp, Shipping, and the produce of the Ocean; with respect to its Productions generally, I do not think it too much to say that it may hereafter be to the various Countries in India that which the Colonies in North America once were to the West Indian Settlements.

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proposed at
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As a Naval and Military Station upon a great Scale, the neighbourhood of Swan River would be of the highest importance. A Force placed there, while employed in the protection of that Country, would at the same time command India, the Malay Islands, and all the Settlements in New Holland, because, from the nature of the Coast and Winds, such Force could be speedily transported from that point to any one of those various places. The Troops and Seamen, moreover, would there be situated in a healthy and bracing Climate, and be constantly kept in condition to pour upon any Surrounding Country, either for the Annoyance of an Enemy's Settlements, or the protection of our own. A Force, kept there, would also prevent or counteract any hostile views, entertained by an Enemy upon India; for a Vessel Sailing Singly from England would reach Swan River, as soon as an Enemy's Fleet quitting Europe at the same time could reach the 80th Degree of Longitude, to which they must come before hauling to the Northward; and our Forces, despatched thence, might encounter such Enemy's Fleet within a few days of its arrival in the Indian Seas, debilitated probably by long Voyage and Scurvy. As a Convalescent Station for His Majesty's Troops and Ships, employed on the Indian establishment, and for the Civil and Military Servants of the Company, it would be of great Value, rendering long and expensive Voyages to Europe unnecessary on the score of Health; and, while such Persons would be highly benefited by such a change of Climate, a Colony settled there would rapidly spring up into Wealth, stimulated by the Sums of Money expended during such Visits.

It does not appear that the expence of maintaining a Settlement in that position would be great; all the Necessaries of life in its Infancy might be obtained cheaply from Timor or Java; the Convalescent Troops and Ships from India might be its Guard; the China Ships would convey Stores from England at a low rate, or Prisoners, if it were thought proper to make it a Penal Settlement; and a very few Years would render it in all probability fit to maintain itself.

Finally, Sir, at a time when we have one French Vessel of War in these Seas with objects not clearly understood, and when we hear of an American Vessel of War being also in this

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neighbourhood, seeking a place for a Settlement, it becomes important to prevent them from occupying a position of such Value, particularly as you were pleased to say that His Majesty's Government is desirous of not being anticipated in such views by any Foreign Power.

I shall not trespass further on Your Excellency's time than to suggest that there is no position, Nautically considered, which presents such attractions as the neighbourhood I have pointed out; for Shark's Bay, being near the Tropic, is too hot for labour by Europeans, and also for a Convalescent Station; while, on the other side, King George's Sound can never be a place for the China Ships to touch at; nor can either of these places offer the facilities for Navigation and Trade, which the Coast between Cape Lewin and Swan River affords.

I, therefore, respectfully request Your Excellency's consideration of this Subject; and I beg leave to offer my most zealous exertions in furthering any decision, you may be pleased to come to relative to a measure so important to the Public Service.

I have, &c.,

JAMES STIRLING, Captain.

GOVERNOR DARLING TO UNDER SECRETARY HAY.

(Despatch per ship Regalia.)

Sir, . Government House, 18th December, 1826.

Despatches
acknowledged.

I have the honor to acknowledge the receipt of Your Letters of the 25th of February and 9th of March, respecting the state of Melville Island, and to acquaint you that a very satisfactory report has been received from the Commandant, by which it appears that a Communication has been opened with Timor, and that no supplies were required, excepting Flour, which will be immediately forwarded. I have, &c.,

Report from
Melville island.

RA. DARLING.

GOVERNOR DARLING TO LIEUT.-GEN. SIR HERBERT TAYLOR.

(Despatch No. 26, per ship Regalia.)

Sir, Government House, 18th December, 1826.

Court martial
on R.
Macdonald.

I have forwarded by this opportunity to the Judge Advocate General the Proceedings of a General Court Martial, which terminated yesterday, held for the Trial of Ensign Rennald Macdonald, of the Buffs, on Charges, preferred against him by Captain Wright of the 39th Regiment, who Commanded a Detachment, embarked on board the "Boyne," Convict Ship, for Drunkenness and improper Conduct during the Voyage.

There is one circumstance, connected with the case, which appears on the Proceedings of the Court, and to which it is my duty to draw your attention, that of Captain Wright having embarked on board the Boyne a female Companion, without the Privity, in fact contrary to the desire of the Master of the Ship, as stated and explained in the enclosed Letter.

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Female
companion
embarked by
T. Wright.

This circumstance could not fail to have an ill effect; and, though Captain Wright, who now expresses himself sensible of the error he has been led into from his attachment to this Woman, may at the time have been blinded to the consequences of so improper a proceeding, the example requires to be immediately checked, and calls for the imposition of such restraints, as will prevent any similar occurrence.

I have only to add that the effect, in a community of this description, where a laxity of moral feeling prevails to a very painful extent, is particularly injurious.

It is my intention to report this circumstance to the Earl Bathurst, in order that a communication may be made to the Navy Board on the subject.

I have, &c.,

RA. DARLING, Lt. Genl. Comg.

[Enclosure.]

MR. W. POPE TO COLONIAL SECRETARY MCLEAY.

Sir, Ship Boyne, Sydney Cove, 18th November, 1826.

I have to solicit of you to be pleased to expedite the passing of the Ship's Accounts, in order for my departure, as I beg to inform you I am under Charter to the Honble. East India Company to China, and shall have delivered all Stores, etc., to the Commissariat Department, on or before the 30th Instant; and I should wish to sail, as early after as possible and the Colonial Regulations will admit.

Early departure
of ship Boyne.

An unpleasant report has reached me to the effect that His Excellency the Governor has expressed his displeasure at my Conduct in bringing out a Female, without the knowledge of the Transport Board. You will greatly oblige me, Sir, by taking the trouble to communicate the following facts to the Governor.

Particulars re
unauthorised
passage of
female on
ship Boyne.

Captain Wright of the 39th Regiment had the command of the Detachment on board; he joined the Ship at Deptford, where the "Boyne" remained several days; upon one of which Captain Wright expressed a wish to take a Female out with him without giving her situation in life. I positively declined it as contrary to my Charter, without he obtained the permission of the Transport Board; here the subject dropped, as I then supposed finally. We arrived at Cork, and remained 17 days, during which period the Female in question was never on board; but, 24 Hours after

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Particulars *re*
unauthorised
passage of
female on
ship Boyne.

we had sailed, Captain Wright informed me he had a female friend on board, and solicited a supply of Provisions for her; under these unpleasant circumstances, humanity induced me to comply; but I declare I have neither directly nor indirectly sanctioned her coming on board; Neither have I during the whole Voyage held any Communication with her, or countenanced her in any way whatever.

I have, &c.,
W. L. POPE, Master.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Medway.)

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Proposal of
W. Gray to
emigrate.

Sir,

Downing Street, 19th Decr., 1826.

I am directed by Earl Bathurst to transmit to you the copy of a letter, which has been addressed to his Lordship by Major Grey, late of the 94th Regiment, who, accompanied by his two Brothers, proposes to emigrate to the Colony of New South Wales.

Reasons for
special
exemption from
quit rent.

This Officer, as he states in his letter, was employed in 18— upon an expedition into the Interior of Africa, and was allowed to sell his Commission in consideration of the privations, which he underwent upon that occasion; on the same grounds, Lord Bathurst is disposed to give him the benefit of exemption from Quit Rent on the same terms, as the Government Order prescribes in the case of an Officer, who has served Twenty Years, although Major Grey wants three years to complete that period.

Lands to be
granted.

I have only further to request that you will make to these three Persons Grants of Land, in proportion to their respective means of cultivation, consulting their wishes with respect to Situation, and affording to them such other facilities as may not be inconsistent with established Regulations.

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

[Enclosure.]

MAJOR GRAY TO UNDER SECRETARY HAY.

Sir,

No. 14 Thudyer Street, 12th December, 1826.

Application of
W. Gray for
land grants.

Having disposed of my Commission in the army (previous to the publication of the general order of the 8th June, 1826) and Conceiving that there are some circumstances in my case, which differ materially from those of the generality of settlers, I beg leave to submit the same for your consideration; and I trust you will find them such as may induce you to obtain for me the same advantages, as are given to officers, who, under the late regulations, are entitled to grants of land in fee simple with total exemption from quit-rent.

In the first place, it is my intention to employ not only the entire proceeds of my commission (£3,200) in the cultivation and improvement of whatever grant I may receive, but also a further Sum of £79 yearly, being property I am possessed of in this country and Ireland.

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Application of
W. Gray for
land grants.

Secondly, I am accompanied by my two brothers, whom I have induced to proceed to the Colony with the same views as myself; one of them is a half pay Lieutenant, married, with a young family, and possessing a sufficient capital to take him and them out, leaving about £200 in cash and his half pay £80 yearly to employ in the improvement of his land; the other has £1,000 Capital. I am myself married, have three young children, am accompanied by My Mother, and am taking with me two artificers.

Lastly, I beg leave to remind you that I was employed for the space of three years, under the direction of Earl Bathurst, on a mission of discovery in the interior of Africa, where I suffered all the privations and exposure, incident to travelling in the worst of climates, as is strongly proved by my being the only surviving Officer of Nine, who composed the expedition.

The foregoing are I trust, Sir, peculiarities in my case, which, when submitted by you to the favorable consideration of the Right Honorable Earl Bathurst, will I humbly hope induce his Lordship to extend to Myself and brothers the advantages prayed for. I have, &c.,

W. GRAY, late Major, 94th Regt.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 97, per ship Regalia; acknowledged by Viscount Goderich. 10th July, 1827.)

My Lord, Government House, 19th December, 1826.

I have the honor to acknowledge the receipt of Your Lordship's Despatch, No. 24, transmitting a Warrant under the Sign Manual appointing Mr. Stephen, Solicitor General, to be a Judge of the Supreme Court of this Territory; and I have to acquaint Your Lordship that Mr. Stephen has been sworn in, and assumed the duties of his office accordingly.

Warrant
appointing
J. Stephen
judge of
supreme court.

I lost no time, on the receipt of Your Lordship's Instructions, in calling on the Chief Justice and Judge Stephen to propose for my consideration, agreeably to Your Lordship's desire, such an arrangement for the division of the public Business, as might have the effect of relieving the former from a portion of his duties, and as could be consistently adopted. I have the honor to forward for Your Lordship's information a Copy of a joint Report, which has been addressed to me by those Gentlemen, as

Division of
duties.

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Legal powers of
one judge.

likewise of a Separate Letter from Chief Justice Forbes, stating his opinion that "one Judge may try all issues of fact, and discharge every judicial function in New South Wales, which, by the Law and Practice of the Courts in England, may be done by any Judge in Westminster Hall."

I do myself the honor to state for Your Lordship's information that the Judges of the Supreme Court are, therefore, proceeding with the public Business according to the arrangement, pointed out in their joint Report.

I have, &c.,
RA. DARLING.

[Enclosure No. 1.]

CHIEF JUSTICE FORBES AND JUDGE STEPHEN TO GOVERNOR
DARLING.

Sir, New South Wales, 30th November, 1826.

Arrangement
for division
of judicial
business.

We have the honor to acknowledge your Excellency's communication, severally made to us on the 4th instant, accompanied by an extract from a Despatch of the Secretary of State, dated 13th March last, respecting the division of the judicial business in the Supreme Court; and we beg leave to inform Your Excellency that we have agreed to divide the judicial business equally between us. As a general rule, we propose to sit alternately for the trial of causes and the disposal of the other business, which may not require more than one judge, and jointly at stated times for the decision of such matters as require the presence of us both. As our duties develop themselves a little more clearly, we shall be enabled to lay down more specific rules for our guidance. In the mean time, we may venture to assure Your Excellency that, from the good understanding between us and our mutual desire to co-operate in the Service of the Public, the want of such rules will not be attended with any inconvenience.

We have, &c.,
FRANCIS FORBES, C.J.
JOHN STEPHEN, Judge of Supreme Court.

[Enclosure No. 2.]

CHIEF JUSTICE FORBES TO GOVERNOR DARLING.

Sir, Sydney, New South Wales, 9th December, 1826.

Earl Bathurst having required me to report upon certain points, stated in Mr. Hay's letter to Your Excellency, dated March 13th, 1826, in reference to the difficulties, which appear to have presented themselves to the relief, intended to be

afforded me, by the appointment of an additional Judge of the Supreme Court, I have the honor to submit the following remarks for his Lordship's Consideration.

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Opinion by
F. Forbes on
power of one
judge to try all
issues of fact.

The New South Wales Act* was intended to constitute two Courts, one in this Colony, and the other in Van Dieman's Land, with separate and co-extensive jurisdictions; with this view, the words, "judges of the said Courts respectively," which seemed to have caused the difficulties in question, were introduced instead of separate and distinct clauses. It will be observed that the plural term, "judges," is never used in reference to one of the Courts, but always to both; the first clause of the Act expressly says that "each of the said Courts shall be holden by *one Judge*"; the sixth clause directs that all civil issues shall be tried by the *Chief Judge* and two Assessors, and directs that, in case of challenge, such challenge shall be decided by the *judges* of the said Courts *respectively*, "and in case *any such* judge and assessors cannot agree upon the verdict," etc; from this view of the act, the sixth clause should be read, as if it had been worded in the following manner.

And be it further enacted, etc., that all issues of fact, joined in the Supreme Court of New South Wales, shall be tried by the Judge of the said Court and two assessors, etc., and all matters of law arising on such trial shall be determined by such judge, etc.

If this be the strict reading of the clause under consideration, the word "judges," cannot mean at the same time both the judge of the Supreme Court and the judges of such Courts; the difficulty, therefore, which has been raised, does depend not upon the express words of the Act, but must be drawn by inference from the supposed intention of the Legislature and the nature of the thing. I am of opinion that this inference or construction of the Act is not correct; and, in support of my opinion, I have to offer the following arguments.

1st. It is enacted, by the second clause of the Act, that the Supreme Court of this Colony shall be a Court of Record, and shall exercise the several jurisdictions of the Courts of King's Bench, Common Pleas and Exchequer; and that the judges shall have the same jurisdiction, as all or any of the judges at Westminster. Now, by Statute,† any one Judge of the King's Courts at Westminster is empowered to try "all manner of issues, joined in any of the said Courts, which by the ordinary course of the law ought to be tried in any of the said Courts by an inquest of the County of Middlesex," that is to say, any one judge of the

* Marginal note.—4 Geo. 4, c. 96.

† Marginal note.—18 Eliz., c. 12; 12 Geo. 1, c. 31.

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F. Forbes on
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judge to try all
issues of fact.

said Courts may try an issue, which by the ancient practice of the Court would have been tried at bar. It is true that the Statutes, by which this authority is given, directs that commissions and writs of *nisi prius* shall be awarded in the same form, as if such issues had been sent in the ordinary manner for trial before the justices of assize and *nisi prius*, and that we have not any Commission or writ of *nisi prius* in this Colony. But it is the point of jurisdiction and power to try, which is material, not the manner in which such jurisdiction may be called into exercise; the forms of proceeding at Westminster and in New South Wales are necessarily varied by circumstances; and the clause under consideration supposes this difference, when, to the words which give the Judges here such and the like powers as the judges have in England, it adds "and as shall be necessary for carrying into effect the several jurisdictions and authorities committed to the Court"; if then one of the judges at Westminster has power to try any issue, joined in one of the King's Courts, and the judges here have collectively and individually the same powers as the judges there, it must follow that one Judge in New South Wales has power to try any issue joined in the Supreme Court. It will be unnecessary to add that the jurisdiction of the justices of Assize and *nisi prius* extends to criminal as well as civil issues.

2nd. It is laid down by text writers "that regularly, where there are divers judges of a Court of Record, the act of any one of them is effectual, especially if their commission do not expressly require more." I have endeavoured to shew, and I think successfully, that the words of the act do not expressly require more than one judge to try an issue. It will be borne in mind that the act, under consideration, does not profess to create an entire System of Judicature in New South Wales. It is only a supplementary Act, and was evidently intended to unite in one Court the several jurisdictions of different Courts, and to sanction such alterations in the forms and manner of proceeding, as could not be introduced by the power of the prerogative alone. In all other respects, the Supreme Court of New South Wales is an English Court of Record, and is governed by the analogies, and guided by the practise of the King's Court in England.

3rd. One of the professed objects of Parliament was to provide additional judges in the Supreme Court "from time to time, as occasion might require"; this was obviously intended to meet the exigencies of a growing Colony, and to provide a second judge, when one should become insufficient to transact all the business of the Court. But it must have been as obvious,

that the addition of a second judge, so far from accelerating, must necessarily retard the business of the Court, if it require the presence and co-operation of both judges in the performance of an ordinary act of Court. This consequence at least could not have been intended by Parliament. The question has never been stated in this Colony; and the common consent, which may be inferred from the silence of the practitioners, although it cannot alter the law, is allowably called in to explain a doubt. I do not rely, however, upon this argument; nor should I be willing to exercise a jurisdiction over the lives and fortunes of His Majesty's subjects upon no better foundation than common consent, which cannot give jurisdiction, where there was none originally. But, upon the express words of the second section of this Act, upon the principles of analogy drawn from the practise of the Courts at Westminster, and the intentions of Parliament, reduced from the professed objects in view, and the irreconcilability with such objects of the supposed necessity of two judges being present at the trial of every issue and the performance of every ordinary Act of Court, I am of opinion that one judge may try all issues of fact, and discharge every judicial function in New South Wales, which, by the law and practise of the Courts in England, may be done by one judge in Westminster Hall.

I have, &c.,

FRANCIS FORBES, Ch. Justice, New South Wales.

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Opinion by
F. Forbes on
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issues of fact.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 98, per ship Regalia; acknowledged by Viscount Goderich, 1st June, 1827.)

My Lord, Government House, 19th December, 1826.

I have the honor to enclose for Your Lordship's information the Copy of a Certificate, given to Mr. Pope, the Master of the Boyne, Convict Ship, instead of a Certificate according to the form usually granted.

Reason for
issuing qualified
certificate to
W. L. Pope.

The reason of the deviation is as follows:—A quantity of the Government Biscuit, put on board the Boyne for the use of the Prisoners, was seized some time since in the Act of being transhipped to another Vessel. Mr. Pope states, in explanation, that Biscuit his Property was occasionally issued to the Prisoners during the Voyage, when the Government Biscuit could not be conveniently obtained; and that he thought himself justified in appropriating an equal quantity of the Government Biscuit to replace it. This practice, even admitting the fact, is evidently highly objectionable, and, if brought into precedent, would no doubt lead to injurious consequences.

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Reason for
issuing qualified
certificate to
W. L. Pope.

Another circumstance, which induced me to withhold the usual Certificate from the Master of the Boyne, will be explained by the enclosed Copy of a Report, which I have addressed to His Royal Highness the Commander in Chief, and which I do myself the honor to transmit for Your Lordship's information. I confess I am by no means satisfied of Mr. Pope's ignorance of Captain Wright's intention to embark the Female in question. If he was aware of it, he is the more reprehensible, being himself a Married Man, and the Surgeon of the Ship having had his Wife on board.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

CERTIFICATE FOR MASTER OF CONVICT SHIP BOYNE.
NEW SOUTH WALES.

Certificate
granted to
W. L. Pope.

THESE are to Certify the Honorable the Commissioners of His Majesty's Navy that Mr. William Langly Pope, Master of the Convict Ship "Boyne," has complied with his Charter Party, and landed here One hundred and Ninety nine Male Convicts, out of Two hundred originally embarked, one having been relanded in Ireland; and that, so far as regards those Prisoners, his conduct appears to have been proper; but that there are some circumstances, connected with his case, which I feel it my duty to represent to His Majesty's Secretary of State.

I further Certify that the Beds, Blankets, Bolsters, etc., issued for their use during the Voyage from England, were allowed to be retained and taken by them on Shore on landing in this Colony.

Given under my Hand at Government House, Sydney, this 16th day of December, 1826.

RA. DARLING.

By His Excellency's Command,

ALEX. MCLEAY.

[Enclosure No. 2.]

[This was a copy of Governor Darling's despatch, and its enclosure, to Sir Herbert Taylor, dated 18th December, 1826; see page 780.]

GOVERNOR DARLING TO EARL BATHURST.

(Despatch marked "Separate," per ship Regalia.)

My Lord, Government House, 19th December, 1826.

Death of Sir
J. Brisbane.

It is with extreme concern I have to inform Your Lordship of the death of Commodore, Sir James Brisbane,* which took place this Morning.

He arrived here from India, about two Months since, in His Majesty's Ship Warspite, having been appointed to the Command of the South American Station.

*Note 170.

His Health had suffered from his exertions in conducting the Naval operations at Rangoon. When he arrived here, his constitution was evidently in a state of great exhaustion, and he continued to decline until the moment of his final dissolution. His Widow, Lady Brisbane, and her Daughters, are here, having arrived with the Commodore.

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19 Dec.

Illness of
Sir J. Brisbane.

I have, &c.,
R.A. DARLING.

P.S.—I do myself the honor to forward a Copy of a Government Order, which has been issued on the above occasion.

R.D.

[Enclosure.]

GOVERNMENT ORDER, No. 43.

19th December, 1826.

HIS EXCELLENCY The Governor announces, with feelings of unfeigned regret, the Death of Commodore, Sir James Brisbane, which took place this Morning at *Ten* o'Clock. This event, which has deprived his Country of a most distinguished Officer, and the Service and Society, in which he lived, of an example deserving their imitation, will be deeply and sincerely lamented.

Government
order *re* death
and funeral of
Sir J. Brisbane.

[*Here followed a repetition of the third paragraph of Governor Darling's despatch of the same date, omitting the last sentence.*]

The Name of Sir James Brisbane will be associated with an event, which forms an interesting Epoch in the Annals of this Colony, the Arrival of the first Line of Battle Ship in the Harbour of Port Jackson, and will be handed down with it as a Record to Posterity.

His Excellency has been pleased to order that arrangements be immediately made for the Funeral, which is to take place to Morrow Afternoon at 5 O'clock.

The Procession will be formed as follows:—

The Funeral Party to consist of 200 Men of the Royal Marines and the 3rd Regiment of Foot.

The Bands of the 3rd and 57th Regiments.

The Hearse with the Body.

The Governor and Lt. Brisbane, as Chief Mourners.

The Six Senior Officers of H.M.S. Warspite, as Mourners.

Two Hundred Seamen, formed four Deep.

Commodore's Coxswain.

Midshipmen of the Squadron, formed 4 Deep.

Warrant Officers, 4 Deep.

Lieutenants and Ensigns of the Army and Marines.

Captains of the Army and Lieutenants of the Navy.

Captains of the Navy and Field Officers of the Army.

Officers of the Civil Service.

The Members of Council.

Private Gentlemen.

The whole to assemble at Government House at 4 o'clock.

By His Excellency's Command,

ALEXANDER MCLEAY.

1826.
20 Dec.

EARL BATHURST TO GOVERNOR DARLING.
(Despatch No. 104, per ship Guilford; acknowledged by Governor Darling, 2nd August, 1827.)

Sir, Downing Street, 20th Decr., 1826.

Having brought under the consideration of the Secretary of State for the Home Department your dispatch of the 24th July last, with its enclosures, respecting the cases of the five Persons, named in the margin,* who were convicted of the Crimes mentioned in your dispatch, I do myself the honor of transmitting to you the enclosed Conditional Pardon, which His Majesty, in consequence of the circumstances stated by you, touching the cases of the Prisoners, has been graciously pleased to grant to them; and I have to desire that you will take the necessary measures for carrying His Majesty's Intentions into effect.

I have, &c.,

BATHURST.

GOVERNOR DARLING TO UNDER SECRETARY HAY.
(Despatch per ship Marquis of Huntly; acknowledged by under secretary Hay, 5th July, 1827.)

Sir, Government House, 20th December, 1826.

Having referred to the Land Board, Mr. Icely's application for additional Land, together with Your Letter of the 8th of July, 1825, signifying that there was no objection on the part of Earl Bathurst to his application being complied with on the principle, laid down in the Instructions, I have, on advising with the Executive Council, caused it to be signified to Mr. Icely that he will be allowed an additional Grant without purchase of 560 Acres, having already received a Grant of 2,000 Acres, and that he will further be permitted to purchase 9,600 Acres, which is the utmost I am authorised by my Instructions to grant or dispose of without special Authority.

It appears by the Report of the Land Board that Mr. Icely has furnished satisfactory proof that his Capital and Stock may be fairly estimated at £30,000 Sterling. In all cases, when the parties shew they have Ample means, I should recommend their purchasing such Land, as they require; and I have generally advised their doing so, conceiving that persons, whose means are limited, are in most need of the indulgence of receiving Grants without purchase. As Mr. Icely intimated his wish to obtain more land, I beg to be informed whether there is any objection to his purchasing an additional Quantity, and to what extent?

I have, &c.,

RA. DARLING.

* *Marginal note.*—Thos. Watkins, William Bateman, William Hathaway, John Boyd, Henry Drummond.

Conditional
pardon for
four prisoners.

Land to be
granted and sold
to T. Icely.

Property of
T. Icely.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

1826.
21 Dec.

(Despatch per ship Guilford.)

Dear Sir, Downing Street, 21st Decr., 1826.

The enclosed letter from Mr. Aspinall of Liverpool, representing that he is on the point of leaving England for New South Wales for the purpose of establishing himself at Sydney, as a Soap Boiler and Tallow Chandler, has been forwarded to me by the Rt. Honble. Wm. Huskisson; and, as he appears to take some little interest in the Writer's success, I am induced to recommend the undertaking, in which Mr. Aspinall is about to engage to your protection and patronage.

Recommendation of
N. Aspinall.

I remain, &c.,

R. W. HAY.

[Enclosure.]

MR. N. ASPINALL TO MR. WAINWRIGHT.

My dear Sir, Liverpool, 14 Decr., 1826.

Our mutual friend, Mr. Thos. Davenport, has handed me your esteemed favor of 5 Inst., together with the papers, which accompanied it; and I beg you will accept my thanks for the friendly interest you express for the success of my intended undertaking. I must again infringe upon your goodness to obtain for me some further information on the following points, and prefer addressing you direct rather than again troubling our above-named friend. From the terms for Settlers in New South Wales, which you received from the Colonial Office, it would appear that no grants are now given entirely free, but that, at the expiration of Seven Years, a quit Rent commences on the original Value of the Land, granted to fresh Settlers. I should be glad to know, if this is the basis, upon which all Grants are now made, or if any are given *entirely free* according to the late System, and regulated by the means, which the Settler possesses?

Terms for
settlers.

I should also be obliged by being informed if (as it appears that nothing is known in London respecting the want of such an Establishment at Sydney) a letter can be obtained to the Governor, recommending my undertaking to his Patronage on its appearing to be of benefit to the Colony, which, from the decided opinions of several Gentlemen, who have recently left it, I can have little doubt of.

Request for
letter of
introduction.

My own pecuniary means, when I arrive out, including Utensils, etc., and Money, will I expect be little short of £2,000; and, as I am well known here, I can furnish respectable references, if required. I am afraid you will think me troublesome and tedious; but you will, I am sure, excuse me, when you reflect

1826.
21 Dec.

on the serious and to me important undertaking, upon which I am about to embark with my family, and which calls upon me to fortify myself in every way in my favor.

I am, &c.,

NICHOLAS ASPINALL.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 99, per ship Marquis of Huntly; acknowledged by Viscount Goderich, 5th July, 1827.)

My Lord, Government House, 21st December, 1826.

Land grant to
A. Berry and
E. Wollstone-
craft.

I have the honor to refer, for Your Lordship's consideration, the Copy of a Grant of 10,000 Acres of Land, made by Sir Thomas Brisbane to Messrs. Berry and Wollstonecraft, Merchants of Sydney, on the condition of their maintaining One hundred Convicts, free of Expence to Government. The Condition is Nugatory, as the Grantees of this Class have not been able to obtain the necessary Number of Convicts, and the Bonds are in consequence a Dead Letter. There is no fault, however, on the part of the Grantees. I, therefore, request Your Lordship's sanction for the delivery of the Grant to the parties, which Your Lordship will perceive, on reference to the enclosure, is subject to His Majesty's approbation.

In submitting this case to Your Lordship, I am aware that Orders have been given for the discontinuance of the System. The Parties, however, who have already obtained Land under it, must, I conclude, be put in possession of the Deeds.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

Deed of grant
to A. Berry
and E. Woll-
stonecraft.

This grant was in the form transmitted by Sir Thomas Brisbane with his despatch, dated 10th April, 1822; see page 631, volume X, with the alteration of the fifth line from the end of the first paragraph, as follows:—"I am restricted from granting more than one hundred and thirty Acres of Land to each Settler, twenty Acres more," etc. The grant was made unto,*

Alexander Berry and Edward Wollstonecraft, their Heirs and Assigns, all those Ten thousand Acres of Land, situate, lying, and being in the County of Camden and District of Coolloomgatta (exclusive of Rocks and Swamps), bounded on the East by a line, bearing South, three hundred and ninety two Chains, to the Shoal Haven River, commencing from a point arising from a Line, drawn West from the extreme South East point of Black Head, three hundred and twenty chains, and a line bearing South, Eighty Chains. On the South by the Shoal Haven

River to the junction of Broughton's Creek with that River. On the West by Broughton's Creek, And on the north by a Line, bearing East to the first mentioned point; Reserving to the Crown, the Swamps and Rocks situated on the East Side of this Grant, containing One thousand, three hundred and fifty Acres, comprised within the above described Boundaries, and as specifically pointed out in the Survey and Plan of the said Lands, To be called "Coolloomgatta."

The quit rent was "Ten Pounds."

The assigned servants to be employed were "one hundred Life transport Convicts."

The grant was dated 30th June, 1825, and was witnessed by Robert Crawford and Wm. Elyard, Junr.

The registration clause was:—"Entered upon Record, by me, at Page 179, No. 14 Register, this Thirtieth Day of June, 1825.

"F. GOULBURN, Secretary and Registrar."

[Enclosure No. 2.]

FORM OF BOND FOR MASTER OF AN ASSIGNED SERVANT.

NEW SOUTH WALES. Know all men, by these presents, that I am held and firmly bound unto our Sovereign Lord the King, His Heirs and Successors, in the Sum of One Hundred Pounds of lawful Sterling Money, for the due Payment of which Sum I bind myself, my Heirs, Executors, Administrators, and Assigns for ever, firmly by these Presents, Sealed with my Seal, and dated this Day of in the Year of Our Lord, One thousand, eight hundred, and twenty

1826.
21 Dec.
Deed of grant to A. Beiry and E. Wollstonecraft.

Form of bond given by grantee to maintain assigned servant.

The Condition of the above Obligation is such that, whereas the above bounden hath agreed forthwith to take and receive , a transported Convict (whose Description, together with the Date and Term of Sentence, is hereunto annexed) to dwell remain and serve with him, his Heirs, and Assigns, on certain Lands, granted to him by the Crown, situate in the District of in the Territory of New South Wales, and registered in No. Page , in the Registers of the Colonial Secretary's Office, from the Day of the Date of these Presents, for and during the Term, or until the sooner Determination of Sentence of Transportation. If the said , his Heirs, or Assigns, shall, so take and receive the said Convict to dwell upon his said Lands, and shall not, nor will at any Time during the said Term, by Day or by Night, let out the said Convict for Hire, or otherwise, to any Person or Persons, and shall nor will by the wilful Default of him, the said his Heirs, or Assigns, suffer the said Convict to be at large away from the said Lands during the said Term, contrary to the Intent and Meaning of these Presents, but shall and will procure and produce to the proper Officer of His Majesty's Government, when lawfully called upon, such Evidence, as the Nature of the Case will admit, of the continual Dwelling, Remaining and Serving with him, his Heirs or Assigns, on the Lands aforesaid, of the said Convict (Death and Casualties excepted), and shall and will compel the said Convict

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21 Dec.

Form of bond
given by grantee
to maintain
assigned
servant.

to attend the public worship of God, once on every Lord's Day, provided such Worship is performed within five Miles of the Residence of the said Convict, and shall and will, during the said Term, provide and allow the said Convict, competent and sufficient Meat, Drink, Washing, Lodging, Apparel, and all other Things, necessary for the said Convict, and shall and will in all Things treat with as much Humanity and Care, as the Nature of

Employment will admit, and shall and will so provide for the said Convict that be not any way a Charge upon the said Government; but of and from all Charge shall and will indemnify and save the said Government harmless, the Expences of the Religious Instruction and Medical Care of the said Convict and the Maintenance of good Order, alone excepted. To furnish a Fund towards defraying which Expences, the said His Heirs and Assigns, shall and will pay into the Hands of the Treasurer of the Colonial Revenue, for the Time being, within Ten days after Michaelmas-day in every Year, after the Rate of Sixpence per Month for such Convict, the following Sums subject to the following Stipulations (that is to say), 1st. Six Shillings per Annum for the Religious Instruction of every Convict, provided that, within five Miles of Residence, Divine Worship be performed every Lord's Day. 2d. Six Shillings per Annum for Medical Care provided either that a Medical Officer be appointed to visit the said Convict (if sick), once at least in every Week, or that an Hospital be established for Reception within fifteen Miles of Residence. And 3d. Six Shillings per Annum for the Maintenance of good Order, provided that an Officiating Magistrate, Superintendent, or Overseer shall permanently reside within nine Miles of Residence. Then that this Obligation shall be void and of none Effect: Otherwise to be and remain in full Force and Virtue.

Signed, Sealed, and Delivered in the Presence of

DESCRIPTION.

Name	Age
Native place	Height
Where tried	Complexion
When	Hair
Sentence	Eyes
Ship arrived by	General Remarks
Trade or Calling	

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Guilford; acknowledged by Governor Darling, 2nd August, 1827.)

22 Dec.

Sir, Downing Street, 22nd Decr., 1826.

Claim by
J. P. Macqueen
for confirmation
of second
land grant.

With reference to Mr. Wilmot Horton's letter to Sir Thomas Brisbane of the 20th October, 1823, conveying Earl Bathurst's directions to make a Grant of 10,000 Acres to Mr. Potter Macqueen's Agent, "with the reservation of 10,000 adjoining Acres, to be granted to that Gentleman, when the original Grant shall have been brought into full and successful cultivation," I now transmit to you the copy of a letter, which has been received from Mr. Macqueen, stating the complete fulfilment of his part of the agreement, and requesting the confirmation of the second Grant; and his Lordship desires that

you will comply with his request, provided it shall appear to your entire satisfaction that the conditions have been strictly adhered to on the part of Mr. Macqueen's Agent.

1826.
22 Dec.

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

[Enclosure.]

MR. J. MACQUEEN TO UNDER SECRETARY HAY.

Sir, Ridgemont House, 19 Decr., 1826.

In the year 1824, Earl Bathurst at my request was pleased to direct the Governor of the Colony of New South Wales to put, into the possession of 10,000 acres of Land, my agent, Mr. Peter McIntyre, whom I sent out for the purpose.

Conditions of
first land grant.

His Lordship further directed that a reserve of 10,000 adjoining Acres should be made, and granted to me on the actual occupation of the first grant, and on proof of sufficient Capital having been expended.

I now beg to state that I have actually vested a Capital of above Twelve Thousand Pounds Sterling on the above grants; that I have placed 25 Families, besides as many Convicts as the present Governor could be induced to grant; and that, in pursuance of my original plan, I am now desirous to send out, as Colonists at my own expence, a proportion of the labouring poor of my own Estate in this County, who are unable to obtain employment at home. I trust, therefore, that Lord Bathurst will be of opinion that I have complied with the conditions, he was pleased to enact, and that he will cause Instructions to be forwarded to the Governor to make over to my Agent, Mr. Peter McIntyre, the Ten Thousand acres, heretofore held in reserve for that purpose.

Claim to
second grant
by completion
of agreement.

I have, &c.,

J. POTTER MACQUEEN.

GOVERNOR DARLING TO EARL BATHURST.

(Despatch No. 100, per ship Marquis of Huntly; acknowledged by Viscount Goderich, 6th July, 1827.)

My Lord, Government House, 22nd December, 1826.

I have the honor to transmit to Your Lordship the Copy of a letter, which I have received from the Archdeacon, respecting the measures he is desirous of taking for the Civilization of the Aborigines. I have thought it right to put Your Lordship in possession of his views, though I apprehend the Corporation is not yet in a condition to enter on an undertaking of this nature. The Church Missionary Society has made some progress* in this important matter through the means of a very respectable and zealous person, the Reverend Mr. Threlkeld, who is acquiring the Native Language, and, with the most laudable

Proposals of
T. H. Scott re
aborigines.

Progress of
mission work.

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Small progress
in civilizing
natives.

exertions, has commenced a Vocabulary with a view to forming a Grammar.* Many of the Natives, who frequent Sydney and other Settled parts of the Country, speak English remarkably well; still, notwithstanding their Association with the English, it seems impossible for them to abandon their Vagrant habits, or to enter into any pursuit with an appearance of Industry. In short, their habits are those of Mankind in a Savage State; and it is impossible to say, however anxious we may be, that their advancement to Civilization is obvious or satisfactory. The appearance of the Natives about Sydney is extremely disgusting; those, who reside at a distance, are a much finer race, which may in some degree be accounted for by their not having such frequent access to the use of Spirits, in which the former indulge to a Most injurious and disgusting excess.

I have, &c.,
RA. DARLING.

[Enclosure.]

ARCHDEACON SCOTT TO GOVERNOR DARLING.

Sir,

Parramatta, 9th December, 1826.

Problem of
civilizing
the natives.

I have the honor to acquaint Your Excellency, for the information of His Majesty's Government, that, in obedience to the King's Command, signified under the Royal Instructions, bearing date the 17th July, 1825, an extract from which Your Excellency was pleased to transmit to me for my guidance, requiring that I should take measures for the civilization of the Black Natives of this Colony and their conversion to Christianity. I have selected a Person well qualified for that task; and I have sent him into a part of the Country, where he can most probably obtain information relative to the state of these people, both from Persons, who have been long resident there, and from the tribes themselves.

I have at the same time written a letter to several of these Gentlemen, who have not only taken a great interest in the subject, but have tried the experiment in various ways, requesting their opinions; and, as soon as I am enabled to form a report from these documents, I shall lose no time in laying it before Your Excellency.

I, however, consider it necessary to state, in this early stage, that a very considerable expense must be incurred to do anything effectually, inasmuch as many Establishments must be formed in various parts of the Colony according to the number of the Tribes; and His Majesty's Government should be apprized of this, as well as the fact that, at a large expense, I have been hitherto quite unable to afford sufficient spiritual or Scholastic

* Note 173.

attention to those born of European Parents and others, even by requiring from the Clergy duties more severe than any Clergyman goes through in England, inasmuch that the Services of two have been suspended through indisposition in consequence of the late intense heats; and perhaps it would be desirable for Your Excellency to take the pleasure of His Majesty's Government, how far they are disposed to authorise so large an expenditure, which must necessarily reduce the funds set apart for the instruction of the Colonists.

1826.
22 Dec.

Problem of
civilizing
the natives.

I have considered it to be my duty to bring this matter thus early under Your Excellency's notice, that His Majesty's Government may be acquainted with it, since a Report from the Wesleyans in this Colony has been transmitted to their Society in England, stating that a Tribe of upwards of 3,000 Blacks, speaking one language and desirous of being civilized and converted to Christianity, exists near Wellington Valley.

This statement, my enquiries enable me positively to contradict, there not being even a shadow of Truth in it; neither is the Person, from whom the Committee have derived their information, at all qualified for such an undertaking.

I have, &c.,

T. H. SCOTT.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Guilford; acknowledged by Governor Darling, 2nd August, 1827.)

Sir,

Downing Street, 23 Decr., 1826.

23 Dec.

I am directed by Earl Bathurst to transmit to you for your information the enclosed letter from Mr. Alderman Thompson, accompanied by one from Messrs. Robert and John Gore, praying for a Grant of Land in the Town of Sydney, together with the reply, which has been addressed to those Gentlemen.

Request of
R. and J. Gore
for land grant.

I have, &c.,

R. W. HAY.

[Enclosure No. 1.]

MR. W. THOMPSON TO UNDER SECRETARY HORTON.

My Dear Sir,

Gloucester Place, 14 Decr., 1826.

Agreeably to your permission, I enclose a Letter from Messrs. Robt. and Jno. Gore, merchants of great respectability and long residence in this city, requesting a grant of Land in the Town of Sydney for Building stores, offices, etc., it being their intention to form a permanent mercantile establishment there; from my own knowledge of these gentlemen, I can assure you that they are well entitled to every facility, which you can with propriety extend to them.

Transmission
of application.

I am, &c.,

WM. THOMPSON.

1826.
23 Dec.

[Enclosure No. 2.]

MESSRS. R. AND J. GORE TO MR. W. THOMPSON, M.P.

Sir,

[no date]

Request for
land grant in
town of Sydney.

Mr. Wm. Dawes, who will form a Branch of our House at Sidney, New So. Wales, being about to proceed there in the Ship Harvey, Captn. Peach, now on the point of sailing, with a property of British Manufactures and other articles, amounting to about Fifteen Thousand Pounds, for the purpose of forming a Mercantile Establishment, we, therefore, take the liberty of requesting you will do us the favor to apply to the Colonial Department on our behalf for a grant of Land in the Town of Sidney for the Building of Stores, Offices, etc., flattering ourselves your Knowledge of us will enable you to speak favorably of our respectability.

We are, &c.,

ROBERT AND JOHN GORE.

[Enclosure No. 3.]

UNDER SECRETARY HAY TO MESSRS. R. AND J. GORE.

Gentlemen,

Downing Street, 23rd Decemr., 1826.

Inability to
order land grant
at Sydney.

Your letter, addressed to Mr. Alderman Thompson, having been transmitted to Earl Bathurst, I am directed to acquaint you that his Lordship regrets his inability to order you a Grant of Land in the Town of Sydney, New South Wales, where he conceives there can be very little, if any, Land disposable; but his Lordship will nevertheless forward your application to the Governor, who will no doubt do all in his power to facilitate your objects, so far as may be consistent with Regulations, and the rights of other Settlers, who have already established themselves in that Colony.

I am, &c.,

R. W. HAY.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Guilford; acknowledged by Governor Darling, 2nd August, 1827.)

24 Dec.

My dear Sir,

Downing Street, 24 Decr., 1826.

Instructions
re official
correspondence.

In compliance with the request contained in your letter of the 26th July I beg to transmit to you a copy of the Circular letter, to which you refer, and which, as I find no trace of its ever having been forwarded to New South Wales,* you will direct to be included amongst the Official correspondence of your Government.

I remain, &c.,

R. W. HAY.

[Enclosure.]

[A copy of this circular letter is not available.]

* Note 174.

GOVERNOR DARLING TO UNDER SECRETARY HAY.

(Despatch per ship Marquis of Huntly; acknowledged by under secretary Hay, 6th July, 1827.)

1826.
25 Dec.

Sir, Government House, 25th December, 1826.

I have the honor, in reference to Your Letters of the 23rd of September and 13th of October, 1825, respecting Grants of Land to Captain Hawker and Sir Michael Seymour of the Royal Navy, to transmit the accompanying Copy of a Report from the Land Board; and I request Your attention to the concluding Paragraph of the Report, concurring as I do in the opinion, expressed by the Board, that, as a general principle without meaning to allude to the parties in the present case, it is highly objectionable that persons, under such circumstances, should be allowed to receive Land. It is quite evident from the Report that Sir Michael Seymour is totally unacquainted with the circumstances of the concern, in which he is engaged. It would seem that he supposed himself already in possession of Land by his asking for an *additional Grant*; whereas he had never received an Acre. Not wishing to obstruct the views of these Gentlemen, or doubting Dr. Reid's Statement, who is a respectable Man, that he has authority to draw on Captain Hawker and Sir Michael Seymour for any Sum, which can be advantageously disposed of in Farming or Agricultural purposes, I have authorised their receiving 2,560 Acres each. But, if this were generally permitted, a Door to great abuse would be opened. A Person may come out on his own account, but pretend to be the agent of two or three Associates. He expends Four or Five hundred Pounds in the purchase of Stock, and obtains a proportionate Grant of Land in consequence. In the course of three or four Years, his Stock encreases considerably, which gives him a claim to an additional Grant. But no, he has two or three partners, who must each have a Grant, and who are ready to answer his Draughts for the improvement of their Farms. As to obtaining proof of Capital, it is not to be expected in certain cases, nor should the Secretary be strict, when a Man comes out to reside on his Land. But how is it possible to ascertain what a person, not living in the Colony, possesses or means to do?

Objections to grants of land to E. Hawker and Sir M. Seymour.

Lands granted.

Objections to new practice initiated.

I have abstained from troubling you with the papers referred to in the Report, though they might serve, if necessary, to elucidate the matter. My desire is to bring it under consideration as a general proposition, Not as an individual question.

I have, &c.,

RA. DARLING.

1826.
25 Dec.

[Enclosure.]

MESSRS. STEWART AND LITHGOW TO COLONIAL SECRETARY McLEAY.

Report by
land board on
applications of
Sir M. Seymour
and E. Hawker
for land grants
in extension.

Sir,

Land Board Office, 16th December, 1826.

We have the honor to acknowledge the receipt of Your Letter of the 22nd September last, together with three Enclosures in Original (herewith returned), "relative to Grants of Land to Sir Michael Seymour and Captain Edward Hawker of the Royal Navy, and which were delivered to His Excellency the Governor by Mr. David Reid of Argyle, stating at same time that you had it in command to request the Board would take the necessary measures for ascertaining the extent of Capital or Stock, which those Gentlemen respectively possess in this Colony, and report as to their claims."

In pursuance of those Instructions, we have now the honor to report, for the information of His Excellency the Governor, that, in reply to two Letters, addressed by the Board to Doctor Reid on that subject on the 25th September and 2nd of November last (copies of which are herewith enclosed), it will be seen that he has annexed to his letter, No. 1, of the 20th October, a Schedule of Property, amounting in all to £9,510, which he states in that Letter "to be the joint property, belonging to himself and to Captain Sir Michael Seymour and Edward Hawker of the Royal Navy, in equal shares," Vizt. one third to each; "in addition to which, he observes that he has authority to draw on them for any Amount, that he thinks can be laid out to advantage in the Colony." We beg leave to observe, however, that, in his letter No. 3, he has declined naming a Referee, as requested by the Board, to whom recourse might be had for more satisfactory information, as to the property possessed by the applicants in question within the Colony. With respect also to the documents, necessary to shew the additional means, which the Applicants may have placed at his disposal, as their Agent, it will be seen, in the 3rd Page of his letter to the Board, No. 3, that he also decidedly refuses to produce the information, requested by the Board on that subject, for reasons which he therein details.

As Doctor Reid, therefore, did not think proper to accede to the request of the Board in naming a disinterested Referee, to whom they could refer for satisfactory information respecting the Schedule of Stock and Capital, possessed by Sir Michael Seymour and Captain Hawker in this Colony, we availed ourselves of the accidental presence of Mr. Styles (a Settler residing in the immediate Neighbourhood of his Farm), who happened to appear before the Board on the 22nd ultimo, as the

referee of another Gentleman; and we questioned Mr. Styles very particularly respecting the number and description of the Stock in Doctor Reid's possession; and, after explaining to the Board Verbally that he was on terms of friendship with the Doctor, and was intimately acquainted with the State of his Stock and Agricultural concerns, he subscribed a written Statement on the subject, which we herewith beg leave to enclose for His Excellency's information, Marked No. 4.

1826.
25 Dec.

Report by
land board on
applications of
Sir M. Seymour
and E. Hawker
for land grants
in extension.

By reference to that Paper, some discrepancy will be observed between his statement and Doctor Reid's; by which, the Board are induced to infer that the Schedule of Stock, laid before them by the latter Gentleman, is somewhat over rated in Value; and, as two thirds of the quantity of Stock, therein Specified, is at all events no more than the fair proportion, required for Stocking the Land already occupied by Doctor Reid, it follows that only about one third of the Amount of the Schedule of Capital, laid before the Board, Vizt. £3,000, can be considered as surplus Capital, on which a Claim for Grants of Land to the Applicants, Sir Michael Seymour and Captain Hawker, could reasonably be founded.

It appears, by the Under Secretary of State's Letter, bearing date the 13th of October, 1825, that "Sir Michael Seymour had applied to Earl Bathurst for an addition to his Grant of Land, which he originally received in New South Wales, in consequence of the great augmentation, which has taken place in his Stock of Sheep, etc., in the Colony." By reference, however, to the return, enclosed by the Surveyor General in his Letter to the Board of the 30th of September last, and also by the Acknowledgment of Doctor Reid himself in his letter to them on the 21st of October last, marked No. 2, we apprehend some misunderstanding must have existed at the Colonial Office on this subject; as it is quite Clear, from those documents, that Sir Michael Seymour has never as yet received any Grant of Land in this Colony, nor has he any Sheep or Stock of any other description here, with the exception of one third of the Stocking on Doctor Reid's Farm, which, it is quite evident from the Doctor's own Letters to the Board, is the only Stock belonging to Sir Michael or to Captain Hawker in the Colony.

Under all the Circumstances of the Case, therefore, the Board feel it a duty incumbent on them to suggest for His Excellency's consideration the injurious consequences, which may result by acceding to the object of this Application. To them, it appears to be beyond all doubt that, if Lands are once granted to Applicants of this description, *who do not even intimate any intention ever to become resident in the Colony*, it will be the

1826.
25 Dec.

Report by
land board on
applications of
Sir M. Seymour
and E. Hawker
for land grants
in extension.

means of introducing great abuse in the future distribution of Land, and may eventually prove pernicious in a high degree to the general interests of the Colony; for, if a precedent of this Nature be once established, such resident Settlers, as have friends or supporters in England, possessed of sufficient influence to obtain similar orders from the Secretary of State, will not fail to avail themselves of such influence in order to obtain extensive Grants of Crown Lands here *under the pretence of their being Agents* for such personages in England, *whereas in reality* they will thereby be obtaining Monopolies of Land for themselves, which, without resorting to subterfuges of that nature, they never would have the slightest chance of obtaining.

We have, &c.,

WILLIAM STEWART. WILLIAM LITHGOW.

GOVERNOR DARLING TO THE SECRETARY OF STATE.

(Despatch per ship Portland.)

30 Dec.

Sir,

30th December, 1826.

Transmission
of copies of
Sydney Gazette.

Conformably with my Instructions to this effect, I have the honor to transmit for Your information a Series of the Sydney Gazettes from the 11th October to the present date.

I have, &c.,

RA. DARLING.

APPENDIX.

GOVERNOR DARLING TO UNDER SECRETARY HAY.

(Despatch marked "Secret and Confidential," per ship Regalia.)

My dear Sir,

New South Wales, 17th December, 1826.

1826.
17 Dec.

As the "Regalia" is detained for a day, it has afforded me an opportunity of writing a few lines on the subject of the New Bill for this Colony. Mr. Forbes had forwarded the original Draft, before I had an opportunity of seeing it, as the Ship was in fact detained until it could be completed, and sailed the moment it was finished. I have now carefully gone through the proposed alterations with the Chief Justice and the Colonial Secretary, and one or two amendments have been suggested, which appear to render the Bill unobjectionable. The Duplicate has been corrected and forwarded.

Consideration
of draft of
new bill for
colony.

It appears unnecessary to say anything on the Jury question in this place, as the opinion of the Executive Council on that subject has been already communicated in my Despatch of the 3rd of September, No. 57.

I have intimated, in the Communication which I have addressed to you by this opportunity, that some exertions have been made to induce a Public Meeting, with a view to a Petition being presented to Parliament before the discussion of the New Bill comes on, that the Constitutional Institutions of the Mother Country may be extended to this Colony. It appears, however, to have failed, as the Parties cannot agree amongst themselves, the more reflecting wisely Considering that the Colony is not in a state at present to benefit by the priveleges, others are desirous of obtaining, and which in my opinion the people in general would be indifferent about, did the Papers not agitate the question.

The point, which it seems they are most desirous of obtaining, is being represented by a Legislative Assembly, Conceiving that a Council is not sufficiently extensive. But no one can for a moment conceive, who has any knowledge of the present Composition of the Colony, that a Legislative Body of any Considerable extent could be formed with due attention to necessary qualifications.

There are *parts* of the Colony, where there are many respectable Inhabitants, about Hunter's River for example; but this is by

1826.
17 Dec.

Consideration
of draft of
new bill for
colony.

no means general, and I cannot help thinking that a large proportion of the Members would be very unfit as state Counsellors.

I have given the subject some Consideration, and have discussed it very fully with Mr. Forbes and Mr. McLeay.

It appears to us that a Council of *Twelve* would form a very Competent Legislative Body in the present Circumstances of the Colony. I had a conversation with Mr. MacArthur on the subject some time ago, and he proposed *Fifteen*. But twelve, I think, would be sufficient at present. It is proposed that one Half the Members should be Officers of the Government, and the other half Settlers and Merchants. Mr. Forbes inclined to the opinion that there should be a Majority of the Government Members. But the appearance would be likely to excite jealousy in extending the scale of the present Council, and the object will I have little doubt be equally insured. At present, the Governor does not continue in Council during its deliberations; but he is at liberty to do so, and he could at any time, if necessary, strengthen the Government Members by his presence. But this could hardly, I think, even be necessary, as it could always be arranged not to bring forward any measure, unless the Government Members were on the Spot. I have, therefore, no apprehension myself of any difficulty arising, except under such circumstances, as it may not perhaps be possible to provide against.

It is not in my power, even with this moderate extension of the Numbers, to propose Persons for the additional Seats. There are already four Government Members, and the Surveyor General from his situation might be added, and the Attorney General perhaps with still greater advantage, it being his duty to frame the Bills to be brought forward under the direction of the Governor. Supposing the Landholders and the Mercantile Body to furnish an equal number, one of the former would be required, and two of the latter, to complete the Council. I should be at a loss whom to select for the former, though there would not be so much difficulty with respect to the latter; still Persons proposed at the present moment might prove in the state of this Society highly objectionable twelve Months hence.

I should, therefore, recommend the temporary nomination being left to the Governor, subject to His Majesty's Confirmation.

In framing the New Bill, I would beg to suggest that the Lieut't Governor should take precedence next after the Governor. He does so in the Warrant establishing the Legislative Council; but, in the 32nd Section of the New South Wales Act, the Chief Justice (the Judges of the Supreme Court) takes precedence of

all other Persons, which might occasion inconvenience. I have only further to suggest, should it be considered advisable to issue a new Commission for this Government including the whole Territory, the expediency of which I have pointed out in a former Letter, that the designation may be changed, and Australia adopted, Conceiving that New South Wales, which has hitherto formed only a part of New Holland, could not be continued, and that "New Holland" would not be a desirable or appropriate Appellative.

1826.
17 Dec.

Consideration
of draft of
new bill for
colony.

I remain, &c.,

RA. DARLING.

COMMENTARY

ON

DESPATCHES

TO AND FROM GOVERNOR DARLING,
AND FROM ACTING GOVERNOR STEWART,

JUNE, 1825—DECEMBER, 1826.

Note 1, pages 1, 9, 10, 12, 13, 14, 15, 16, 18, 23, 24, 25, 28, 36, 37, 38, 39,
40, 41, 44, 45, 46, 47, 48, 49, 50, 51, 53, and 54.

Per ship Catherine Stewart Forbes.

Governor Darling travelled from England in the ship *Catherine Stewart Forbes*. This vessel sailed from Portsmouth on the 29th of July, and arrived in Port Jackson in the evening of Saturday, the 17th of December, 1825. Most of these despatches Darling received before leaving England. He regarded them as part of his correspondence as governor within the scope of the instructions contained in Earl Bathurst's despatch dated 14th July, 1825 (*see* page 21), and in consequence all the originals are preserved at government house, Sydney, with the exception of the despatch marked No. 1 on page 9 and the letter on page 45. Of the despatches which are dated in August, after the time of the ship's departure from England, the originals preserved at government house, Sydney, and numbered 12, 13, 14, 17, and 18, are endorsed "Recd. 17th Dec., 1825;" and those numbered 15 and 16, "Recd. by the Catherine Stewart Forbes, 17th Dec., 1825." It is not known at what port of call on the outward voyage Governor Darling received these despatches.

Note 2, pages 1, 2, and 5.

A despatch.

The despatch was dated 13th August, 1823 (*see* page 106, volume XI).

Note 3, pages 8, 18, 57, and 68.

Under Secretary Horton to Governor Darling.

Under Secretary Hay to Governor Darling.

Copies of these despatches are preserved in the record office, London, but there is no evidence of their delivery to the governor in the colony.

Note 4, page 9.

The dilapidated state . . . brought under my consideration.

On the 24th of September, 1820, Mr. Commissioner Bigge recommended the erection of a new government house to F. H. Greenway, the architect

(see page 384, volume X). In a despatch, dated 25th May, 1825 (see page 616, volume XI), Sir Thomas Brisbane reported that the government house then in occupation was unfit for its purpose. This government house was situated near the present south-western corner of Bridge and Phillip streets, and its foundation stone had been laid by Governor Phillip on the 15th day of May, 1788. The gothic building (mentioned in the despatch) now forms a part of the conservatorium of music.

Note 5, page 10.

The charges.—My former Instructions.

The charges preferred against Henry Grattan Douglass were of immorality, of drunkenness, and of flogging convicts to extort confession. The first charge of immorality was investigated by a bench of magistrates in August, 1822 (see page 750 *et seq.*, volume X). The second and third charges were considered by a board of inquiry in July, 1825 (see page 783 *et seq.*, volume XI); to these last two charges Earl Bathurst made reference. The instructions were contained in a despatch dated 3rd January, 1825 (see page 462, volume XI). Dr. Douglass was exonerated by the inquiries, and it is probable that the charges were actuated by political even more than by personal motives.

Note 6, pages 10 and 12.

Governor Darling to Under Secretary Horton.

The enclosed letter from Mr. B. B. Thomas to Governor Darling and the replies to both letters, addressed to under secretary Horton, are preserved as part of the official correspondence at government house, Sydney. The two letters from Governor Darling, dated 4th July, 1825, are therefore printed for the convenience of the student, although they were written in England and are not actually part of this series of correspondence.

Note 7, page 11.

Also page 71.

A Breeding Stud.

In the issue of the *Sydney Gazette* dated 29th March, 1826, it was reported that on the ship *Albion* captain B. B. Thomas was in charge of a shipment of horses and cattle, which were the property of Messrs. Coutts and Co. and colonel Gibbs, an equerry to H.M. the King. The ship *Albion* arrived in Port Jackson on the 7th of June, 1826.

Note 8, pages 12, 15, and 61.

Instructions.

The instructions to Sir Thomas Brisbane with reference to applications for new grants by resident settlers were contained in a despatch dated 31st May, 1823 (see page 87, volume XI). The instructions to Governor Darling for making grants, with or without purchase, were included in his general instructions dated 17th July, 1825 (see page 120 *et seq.*).

Note 9, page 13.

His Agricultural Establishment at Bathurst.

In and about the year 1825, the name Bathurst was used in a general sense as applying to a large district. The property of Thomas Icely was situated on Mandurama ponds creek between the modern towns of Carcoar and Lyndhurst. The estate is now known as Coombing park.

Note 10, page 14.

The objects pointed out . . . in his agricultural Report.

In his third report, which dealt with agriculture and trade, Mr. Commissioner Bigge advocated the use of land for breeding stock in preference to cultivation. On page 19, he referred specially to horse-breeding. In the year 1810, there were 1,114 horses in the colony, and in the year 1820, 3,639; and he stated there was a necessity at that time for further increase.

Note 11, page 18.

Discussions have lately arisen . . . respecting the relative duties of the Colonial Secretary and the Governor.

The "discussions" were commenced by the colonial secretary, Frederick Goulburn, and were reported by Sir Thomas Brisbane in his despatch dated 1st May, 1824 (*see* page 253, volume XI). Principally owing to these discussions, Earl Bathurst recalled both the governor and the colonial secretary by despatches dated December, 1824 (*see* page 429, volume XI).

Note 12, page 20.

I have the Honor to inclose.

This reference was premature, and fourteen days later under secretary Hay reported that the minute had "not yet issued officially." (*See* page 44.)

Note 13, page 22.

A Warrant.

This warrant will be found on page 424 *et seq.*, volume XI.

Note 14, page 23.

Charles Thoresby.

The reference was to Charles Thoresby, who had arrived in the colony in 1802 as surgeon of the transport ship *Coromandel*. After holding many civil positions, he performed great services in opening the country between the Picton district and the Murrumbidgee river. For these services he received large grants in the district of Berrima, on which he resided.

Note 15, page 23.

Edward Smith Hall.

The statement in this despatch is misleading. Under secretary Peel wrote to Governor Macquarie a letter, dated 20th December, 1810, strongly recommending E. S. Hall (*see* page 349, volume VII). In a despatch dated 7th October, 1814, Governor Macquarie criticised severely his merits as a settler (*see* page 302, volume VIII). In a despatch dated 25th February, 1819, under secretary Goulburn recommended Hall again to the notice of Governor Macquarie, and the receipt of this letter was acknowledged on the 28th of February, 1820.

Note 16, page 25.

Alexander Riley.

Alexander Riley had arrived in the colony on the 25th of June, 1804, with letters of recommendation from Lord Hobart. He was employed for four

years in the commissariat department at Port Dalrymple. He returned to Sydney with lieutenant-governor Paterson on the 1st of January, 1809, when the latter assumed the government during the deposition of Governor Bligh. After the arrival of Governor Macquarie, Riley devoted his energies to speculation, was one of the contractors for building the general hospital in 1810, and was a member of the first syndicate that made proposals to Macquarie for trading with New Zealand. He acquired the Raby estate near Campbelltown. A ram and ewe, imported from the Electoral Saxon flocks to this estate, were exhibited and secured first prize at the Parramatta show in 1828.

Note 17, page 26.

The Regulations.

These regulations will be found on page 454 *et seq.*, volume XI.

Note 18, pages 29 and 32.

The lease of one Acre of Land in the town of Sydney.

This land formed part of the site on which Governor Macquarie decided to erect the general hospital in 1810. It lay on the eastern side of the modern Macquarie-street, and was granted to John Blaxland in July, 1809. The grant was surrendered by Mrs. John Blaxland, during the absence of her husband in England, on the promise of receiving compensation, which promise was redeemed by Governor Darling by the payment of £400.

Note 19, page 39.

The letter.

This letter was dated 4th July, 1825, and was written by Edward Macarthur to under secretary Horton. A copy will be found in a volume in series II. Edward Macarthur was the eldest son of John Macarthur.

Note 20, page 41.

A separate Colony.

By virtue of the 44th clause of the statute 4 Geo. IV, cap. xevi (*see* note 33, volume XI), Earl Bathurst, in a despatch dated 28th August, 1823, had given Sir Thomas Brisbane instructions which limited the control of the governor at Sydney over the lieutenant-governor in Tasmania, and gave the latter extensive powers of independent action. By the order-in-council dated 14th June, 1825, an entirely independent colony was established. The jurisdiction of its government was defined as "in and over our Island of Van Dieman's Land, and all islands and territories lying to the southward of Wilson Promontory in thirty-nine degrees and twelve minutes of south latitude, and to the northward of the forty fifth degree of south latitude, and between the hundred and fortieth and hundred and fiftieth degree of longitude east from Greenwich, and also Macquarie Island." By defining these territorial limits, the jurisdiction of the English crown was extended, apart from Macquarie island, one degree and twenty-one minutes further to the southward than in any former letters patent. Macquarie island, which was brought under the English crown for the first time, was much frequented by sealing vessels at this period. The separation of the colony of Tasmania from the government of New South Wales was proclaimed by Governor Darling at Hobart on the 3rd of December, 1825.

Note 21, page 48.

Mr. McLeay.

Alexander Macleay was born on the 24th of June, 1767. He was the son of William Macleay, a provost of Wick and a deputy lieutenant of Caithness. In the year 1795, he was appointed chief clerk of the prisoners of war office in London. In 1797, he became head of the correspondence department of the transport board, and, in 1806, he was promoted to the secretaryship of the board. In 1818, when the board was abolished, Macleay was pensioned. In his private life, Macleay was interested in natural history. In 1794, he became a fellow of the Linnean society, and in 1798 he was appointed secretary to the society, which post he held until 1825. In 1809, he was elected a fellow of the royal society. When he was appointed colonial secretary of the colony, in 1825, he possessed the finest collection of insects then in existence. His career can be traced in succeeding volumes. He died in the colony on the 18th of July, 1848.

Note 22, page 53.

Acts of 6 George IV, cap. 73, 105, 109, 110, 111, and 114.

The titles of these acts were:—

Cap. LXXIII.—An Act for further regulating the Trade of His Majesty's Possessions in *America* and the *West Indies*, and for the warehousing of Goods therein.

Cap. cv.—An Act to repeal the several Laws relating to the Customs.

Cap. cix.—An Act for the Encouragement of *British* Shipping and Navigation.

Cap. cx.—An Act for the registering of *British* Vessels.

Cap. cxl.—An Act for granting Duties of Customs.

Cap. cxiv.—An Act to regulate the Trade of the *British* Possessions abroad.

Note 23, pages 62 and 63.

One which I had addressed to him.—A Memorial.

The despatch was dated 16th August, 1824 (*see* page 346, volume XI). The memorial was transmitted by Sir Thomas Brisbane with his despatch dated 14th August, 1824 (*see* page 342, volume XI).

Note 24, page 66.

The district they still inhabit.

This was the district of Portland Head, on the river Hawkesbury below the town of Windsor. At Ebenezer, the settlers had erected a building for religious purposes at their own expense.

Note 25, page 69.

Eden forest, County of Argyle.

Eden forest is situated on the left bank of the Wollondilly river, due north of the town of Marulan. It now forms a parish in the county of Argyle. Hannibal Macarthur acquired large grants in this locality, including one of 9,360 acres, another of 3,140 acres, and two of 1,000 acres each. His estate was known as Arthursleigh.

Note 26, page 71.

My former letters.

No copy of a previous letter to Earl Bathurst is available. In a letter dated 4th July, 1825, Governor Darling submitted a proposal from B. B. Thomas (*see* page 11) to under secretary Horton, and, four days later, under secretary Hay wrote signifying Earl Bathurst's approval. This approval was probably communicated by Governor Darling to B. B. Thomas.

Note 27, page 81.

Also pages 107 and 126.

Governor-in-Chief of the island of Van Diemen's Land and its dependencies.

Owing to the establishment of an independent government in the island of Tasmania (*see* note 20), Ralph Darling received two distinct commissions, each as captain-general and governor-in-chief, the one for the territory of New South Wales and dependencies as defined, and the other for the island of Van Diemen's Land and certain islands as defined. These commissions were practically duplicates of one another, with the necessary alterations in the preambles and territorial jurisdictions. At the same time, Governor Darling received two series of instructions, which also were similar to one another, excepting that the clauses relating to the archdeacon and the government of the clergy in the instructions as governor-in-chief in New South Wales were omitted from those as governor-in-chief in Tasmania. The government of Van Diemen's Land was administered by the lieutenant-governor under the clause in the commission making provision for the death or absence from the island of Governor Darling.

Note 28, page 81.

The proceedings.

As the result of the innocent action of Sir Thomas Brisbane with regard to the farewell dinner (*see* note 29) tendered on his departure, the emancipist and exclusionist classes were actively antagonistic. After the success of their dinner, the emancipists called a public meeting, at which a farewell address to the governor was adopted. This address warmly eulogised the success of Brisbane's administration, and was presented by a deputation consisting of D'Arcy Wentworth, W. C. Wentworth, Thomas Raine, W. J. Browne, and Daniel Cooper. Thereupon a bitter discussion ensued in the public press. A second address to be presented to Earl Bathurst was prepared by the exclusionists, headed by John Macarthur. This address adversely criticised Brisbane's administration, and attempted to discredit the reputations of the promoters of the address to Sir Thomas Brisbane.

Note 29, page 83.

A Dinner.

When his approaching departure from the colony was announced, some members of the exclusive party in the colony decided to tender Sir Thomas Brisbane a farewell dinner. The governor, desiring to conciliate all parties, asked that six named members of the emancipist party should be invited to participate. The exclusive party would not consent to this, and their proposal for a dinner was abandoned. The emancipist party thereupon decided to tender the farewell, and a very successful dinner was held at Nash's hotel, Parramatta.

Note 30, page 84.

The 8th Section.

The eighth section was as follows:—

“ And be it further enacted, That it shall and may be lawful for His Majesty, his Heirs and Successors, by any Order to be by Him or Them issued with the Advice of His or Their Privy Council, at any Time or Times hereafter, to cause the Trial by Jury to be further introduced and applied in such Parts of *New South Wales* and *Van Diemen's Land*, and their respective Dependencies, at such Time, in such Cases, and with, under and subject to such Rules, Modifications and Limitations in respect thereof, as to His Majesty, His Heirs and Successors, shall seem meet, and as shall be specified in any such Order in Council in that Behalf.”

Note 31, page 85.

The Instructions.

These instructions will be found on page 466 *et seq.*, volume XI.

Note 32, page 88.

An Act.

This was the statute 6 George IV, cap. lxi.

Note 33, page 99.

Governor Darling's Commission.

The commissions of all previous governors had been practically repetitions of one another. The commission to Governor Darling marked a new epoch. The territory of New South Wales was extended six degrees of longitude to the westward, but at the same time was reduced owing to the creation of a separate jurisdiction over the island of Tasmania and the islands in Bass strait. The western boundary was the same as the present western boundaries of the northern territory of the Commonwealth and the state of South Australia.

Apart from the changed jurisdiction, the powers of the governor were altered by the appointment of an executive council, by the omission of the power to pass grants for the custody of lunatics and their estates, and by the addition of the right to divide the territory into districts, counties, hundreds, towns, townships, and parishes.

In the event of a vacancy in the office, and in the absence of a duly appointed lieutenant-governor, the commission provided that the senior executive councillor should administer the government, instead of the senior military officer in the colony, as in previous commissions; but, at the same time, the chief justice, judges of the supreme court, and the archdeacon were prohibited from administering the government, even though one might be the senior executive councillor at the time.

Note 34, pages 101 and 107.

Instructions to Governor Darling.

The instructions to previous governors, like their commissions, had been very similar. The radical and complete changes in the instructions to Governor Darling indicate the marked change in the civil administration of

the colony, which was commenced under Sir Thomas Brisbane and continued under Governor Darling. Note the altered territorial jurisdiction, the establishment and powers of the executive council, the appointment of an enlarged legislative council, with the definition of its legislative functions, the subdivision of the settled parts of the territory into counties, etc., the valuation of all crown lands in settled districts, the granting of lands to a corporation for the clergy and school estates, the sale of crown lands and great changes in land grants without purchase, fees for naval and military jurors, and the erection of the colony into an archdeaconry. These were subjects on which instructions were issued to Governor Darling and to no previous governor at the time of assuming office.

Note 35, page 109.

A full and exact Journal or Minute.

The first meeting of the executive council was held on the 19th of December, 1825. Complete series of journals from the date of this meeting to the present time are preserved in the office of the clerk to the executive council at Sydney.

Note 36, page 111.

The said Warrant.

The warrant of appointment for members of the legislative council will be found on page 22.

Note 37, page 118.

The Clergy and School Estates.

On the 3rd of February, 1829, the following grants were made to the clergy and school estates:—85,388 acres at Beaufort, Belubula, Calvert, Errol and Lindesay; 17,600 acres at Oakley, Bathurst; 15,464 acres at Queen Charlotte's Vale; 17,640 acres at Ponsonby, Bathurst; 9,063 acres in Camden; seven grants in the following parishes in the county of Cumberland:—60 acres in Gordon, 100 and 1,000 acres in St. Peters, 661 and 1,284 acres in Saint Luke, 8,138 acres at Rooty hill, and 4,175 acres at Botany; 42,467 acres in St. Vincent; 168,000 acres at Port Stephens; 2,810, 2,256, 1,908, 2,230, 1,560, and 2,429 acres in the county of Durham; and 2,322, 2,128, 2,040, and 2,560 acres in the county of Northumberland. On the 26th of August, 1829, further grants were made, viz.:—830 acres at Prospect; 200 acres at Castle hill and South Colah; 4,250, 4,298, 2,600, 2,552, and 2,560 acres in the county of Durham; 3,840, 2,472, and 2,314 acres in the county of Northumberland. On the 24th of November, 1829, a grant of 435 acres was made in the district of Petersham; this grant included Glebe point, Sydney. On the 12th of May, 1830, the last grant of 400 acres at Castle-reegh was made.

Note 38, page 127.

The usual Oaths of Office were administered to His Excellency.

After the oaths of office were administered to Governor Darling, the first meeting of the executive council was held, at which purely formal business was transacted. The lieutenant-governor, the chief justice, the archdeacon, and the colonial secretary were sworn in as members. The minutes of this first meeting in the afternoon of the 19th of December, 1825, are preserved. This meeting was held on the day before Governor Darling assumed the active executive control of the colony. This procedure was adopted because the governor was unable to make his official landing on that day owing to adverse weather conditions.

Note 39, pages 132, 133, and 134.

A letter . . . dated . . . 24th May, 1825.—His letter . . . of the 18th March, 1825.

Copies of these two letters are not available.

Note 40, page 136.

Assignments of Convicts.

These were contained in letters which were a repetition of one another, subject to the necessary alterations in names or figures. The usual type of letter is exemplified in the despatch from Sir H. E. Bunbury to Governor Macquarie, dated 16th January, 1816 (*see* page 1, volume IX). All similar letters have been omitted from the text of this volume.

Note 41, pages 137 and 139.

Dispatch, dated the 3rd August.—My Dispatch of the 30th of July.—Archdeacon Scott's Report.

In the copy available, Sir Thomas Brisbane's despatch was dated 4th August, 1825 (*see* page 698 *et seq.*, volume XI). Likewise Earl Bathurst's despatch was dated 31st July, 1823 (*see* page 92 *et seq.*, volume XI). Archdeacon Scott's report will be found on page 712, volume XI.

Note 42, page 140.

Mr. Commissioner Bigge's Report.

The quotation will be found on page 48 of Mr. Commissioner Bigge's third report, which dealt with "the state of Agriculture and Trade in the Colony of New South Wales."

Note 43, page 142.

The old Paper Mill.

This mill was situated in the neighbourhood of the present corner of Bourke and Elizabeth streets, Waterloo. It was established in the year 1818 by Fisher and Duncan. The supplementary issue of the *Sydney Gazette* dated 29th July, 1820, was printed on paper made in the colony.

Note 44, page 145.

The Gentleman, who represents our commercial interests.

The reference was to Robert Campbell, senior. He had arrived in the colony in June, 1798, and shortly afterwards had established in Sydney a branch of his firm, Messrs. Campbell and Co., of Calcutta. His long business career had firmly established his reputation and knowledge of local conditions.

Note 45, page 145.

A Legislature founded on the same basis as the Legislatures of the American and West Indian Colonies.

In the year 1791, the statute 31 George III, cap. xxxi, was passed for "making more effectual Provision for the Government of the Province of Quebec in North America." By this statute, the province of Quebec was subdivided into two, the provinces of upper and lower Canada. For each province, a legislative council and assembly were constituted. The governor

was authorised to summon members to the council, who then held their seats for life; but in certain cases it was provided that the right of being summoned to the council might be annexed to hereditary titles of honour. The members of the assembly were subject to election by the people, and for this purpose the provinces were divided into districts, or counties, or circles, and towns or townships, and a certain number of representatives were appointed for such divisions. The number of members in the assembly was fixed at not less than sixteen in upper Canada, and not less than fifty in lower Canada. The qualification for a vote in a district, county, or circle was the possession of landed property of the annual value of forty shillings sterling or upwards, and, in a town or township, the possession of a dwelling house and lot of ground of the annual value of five pounds sterling or upwards, or residence as tenant for twelve months in a dwelling house of the annual value of ten pounds sterling or upwards. Legislative councillors and the clergy were debarred from a seat in the assembly. The council and assembly were to meet at least once in every twelve months, and the assembly was to be elected for a period of four years.

Note 46, page 148.

The private Secretaryship.

Prior to the year 1824, the office of secretary to the colony or colonial secretary and private secretary to the governor had been held by one official. Owing principally to friction between the governor and the colonial secretary, F. Goulburn, Sir Thomas Brisbane, in May, 1824, appointed major J. Ovens his private secretary at a salary of £200 *per annum*. Ovens at the same time was in charge of the engineer's department.

Note 47, page 155.

An Act of Council.

This was the act No. 22, 6 Geo. IV. It was passed to confirm and elaborate a proclamation by Governor Macquarie dated 18th January, 1817, whereby deeds and conveyances relating to houses, lands, and hereditaments were ordered to be registered in the office of the judge-advocate at Sydney. Under the act the office of the supreme court was substituted for that of the judge-advocate. The registration of deeds was initiated by Governor King in 1800 (*see* note 14, volume III).

Note 48, page 161.

The Investigation.

The proceedings of the two boards of inquiry into the charges preferred against H. G. Douglass will be found on page 727 *et seq.*, and on page 783 *et seq.*, volume XI.

Note 49, page 161.

The decision . . . in the Supreme Court.

The papers in connection with this case were transmitted by Governor Darling with his despatch dated 7th May, 1826 (*see* page 273 *et seq.*).

Note 50, page 167.

Sir Thomas Brisbane to Earl Bathurst.

No other record of this letter is available, and it is probable that it was never transmitted by Sir Thomas Brisbane.

Note 51, page 172.

Reports of a Committee.

These reports will be found on page 498 *et seq.* and page 661 *et seq.*, volume XI.

Note 52, page 173.

The Revd. Mr. Therry.

John Joseph Therry was born at Cork in the year 1790. He was educated at St. Patrick's college, Carlow, and was admitted to the priesthood in the year 1816. On the 20th of September, 1819, he was appointed for duty in the colony by Dr. E. Slater, the vicar apostolic for the Cape of Good Hope, Madagascar, Mauritius, and New Holland. He arrived in Port Jackson in the ship *Janus* on the 3rd of May, 1820.

Note 53, page 175.

I was appointed Postmaster in consequence of your Lordship's instructions.

In a despatch dated 12th June, 1818 (*see* page 810, volume IX), under secretary Goulburn recommended George Panton for a colonial appointment. He was appointed postmaster at Sydney without salary in the room of Isaac Nichols, deceased, by Governor Macquarie.

Note 54, page 186.

Earl Bathurst to Sir Thomas Brisbane.

This letter is included in this volume as it is in reply to Sir Thomas Brisbane's despatch dated 9th February, 1825 (*see* page 519, volume XI).

Note 55, page 187.

The new Settlement at Melville Island.

This was the settlement formed at Fort Dundas. The instructions and preparations for its foundation will be found on page 227 *et seq.* and page 338, volume XI. The expedition entered Apsley strait, which separates Melville and Bathurst islands, and, on the 26th of September, 1824, anchored off Luxmore head, when captain Bremer, who was in charge, landed and took formal possession. Four days later, fresh water was discovered in a cove to the southward of the anchorage, and this cove was selected as the site for the settlement. The erection of a fort was commenced immediately, and completed during the ensuing month, together with a pier, commissariat store, and other buildings. On the 10th of November, the settlement was established, and captain Bremer resigned the command to captain Maurice Barlow. Two days later H.M.S. *Tamar* and the ship *Countess of Harcourt* sailed from the port.

Note 56, page 192.

The examination of Western Port.

A report on Western port will be found on page 641 *et seq.* (*See* also notes 139 and 141.)

Note 57, page 194.

The motives.

This was the second occasion on which fears were entertained that the French government intended to found a settlement in Australian waters. In

1802, the French exploring expedition, under the leadership of commodore Baudin, visited Port Jackson. A few hours after the departure of the vessels *Geographe* and *Naturaliste*, which formed the expedition, Governor King heard rumours that a French settlement was proposed in Tasmania (*see* page 737, volume III). He forthwith instructed lieutenant Robbins to sail in the schooner *Cumberland* and to establish the claim of England to Tasmania. Robbins met Baudin at King island, and received a denial of any intentions of the French government to form a settlement (*see* page 151, volume IV). On the return of the *Cumberland* to Port Jackson, Governor King decided to found a settlement at Risdon cove, on the Derwent river in Tasmania. He appointed John Bowen to command the new settlement, and gave him secret instructions, dated 1st May, 1803, as to his conduct in the event of any French attempt to form an establishment (*see* page 153, volume IV). The extension of colonization to Tasmania in 1803 and to West Australia in 1826 were thus hastened by fears of French settlement.

Note 58, page 203.

The Government Brig "Elizabeth Henrietta."

The keel of this vessel had been laid down by Governor Hunter at the end of the year 1797, in consequence of the condemnation of H.M.S. *Supply*. Her frame was made of timber from ironbark and stringybark trees. In Governor King's reports, she was returned as "In frame, no Shipwrights to work on her," and was referred to as the brig *Portland*. On the 13th of June, 1816, the brig was launched by Governor Macquarie, and named the *Elizabeth Henrietta* in honour of Mrs. Macquarie. This vessel was unfortunate in her career. In July, 1816, whilst lying at moorings in the Hunter river, she capsized, and the master's wife and one seaman, who were below at the time, were drowned. She was successfully raised with little damage a few weeks later. In 1824, the brig went ashore on a beach in New Zealand, and, after attempting to save her, the crew returned to Sydney on H.M.S. *Tees* in June, 1824, leaving the commander, Mr. Kent, and three seamen with the stranded vessel. After being refloated by J. Busby, she returned to Sydney in March, 1825. In the following December she became a total wreck on Nobby's island, Newcastle.

Note 59, page 210.

Some observations in the "Australian" of the 26th of January and the 16th of February.

The article in the issue of the *Australian* newspaper, dated 26th January, 1826, was:—

"Previously to the High Dignitary of our Church committing himself to the perils of the vasty deep, he took occasion to unburthen his mind to the Chief Justice, on a subject which gave his venerability great and manifold uneasiness. He considered that he was a great man, a very great man, among the little pigmies of New South Wales. He considered that he was the first of his cloth; and, moreover, a Member of the Government—a Member of the Council, Legislative and Executive. He considered also that he had not only a right to give an opinion of passing events; but that his opinion was of the utmost consequence, and that his censures would operate like a writ of excommunication in days of old. Under these impressions, this high Dignitary of our Church unburthened him of his cares to the Chief Justice. The Public Meeting had given him sore offence; the disloyalty of the people had grievously oppressed him. They had dared to proclaim their wishes to the Governor. They had dared to approach his

Excellency with the boldness of free men. But, the Sheriff—the Sheriff had dared to sanction disloyalty and sedition. He had had the imprudence and effrontery to preside at the meeting of the people when they voted the Address, which they presented to his Excellency last Thursday. This was too much for the nerves of the Venerable Gentleman. He sent for the Chief Justice to sooth him in his affliction; and made his honor the bearer of a message to the Sheriff. He begged his honor to inform the Sheriff that his conduct at the public meeting, in allowing such an Address to be carried, compelled his venerability to withdraw his friendship from him in future. He took that method of informing him of his determination, in order to save him the disagreeable necessity of *cutting* him on his return. This delicate method of imparting the sad news to the Sheriff might save the latter many a pang, and prevent him crying his eyes out at the loss of such a friend in a more abrupt manner. Alas! alas! after this, what will be the fate of the Governor. His Excellency has courteously received the Addressers. He has countenanced their sedition. The Arch-gentleman must, to be consistent, cut Him next.”

The article in the issue dated 16th February was:—

“The Sydney Grand Jury, on the termination of their duties on Thursday last, resolved to entertain the Sheriff at dinner on the following day. An invitation was sent and accepted, and the party met at the Sydney Hotel, where an excellent dinner was provided by the landlord. The Chairman and Clerk of the Peace were also invited on the occasion. A very convivial evening was spent. The Grand Jury, as a further proof of their esteem for the Sheriff, and of his impartial and constitutional conduct on all public occasions, resolved to request that he would allow his portrait to be painted by Mr. Earle, and to be placed in some public room or hall. We entertain some apprehensions that these popular acts will have a sensible and alarming effect on the natural or political (whichever it may be) sensitiveness of a certain venerable gentleman. The best advice we can give on the occasion, and truly that best calculated to prevent any sudden emotions, is to recommend his sincere friends to break the unpleasant news to his venerability with all due caution, and with as little abruptness as possible. Some expert message-carrier can surely be selected, who will execute his mission to a nicety. It is such a dreadful thing to think that the cutting system must be carried to such a shocking extent. First of all the Sheriff is cut—then on the same principle the Governor must be cut—then the Grand Jury must be cut, and we shall run the risk of seeing the Colony cut altogether. To prevent such a mishap, let some little artifice be delicately put in practice; otherwise we may lose our venerable protection entirely.”

Note 60, page 210.

The Address.

This address will be found on page 144 *et seq.* The public meeting at which the address was voted was convened and presided over by J. Mackaness in his capacity as sheriff, at the request of a numerous body of colonists.

Note 61, page 216.

Also page 217.

£300 *pr. annum each.*

“2 Assistant Chaplains at £300 *pr. annum each* £300” and the other items marked with an asterisk are errors in the original. It is clear that, if the named appointments were made, the sum voted was inadequate.

Note 62, page 218.

"The Money and Property."

On reference to the despatch on page 784 *et seq.*, volume X, it will be noticed that this is not a quotation, but a paraphrase of the conclusion of the third paragraph.

Note 63, page 220.

Also page 235.

13th March, 1826.—A separate despatch.

The original of the despatch dated 13th March, 1826, is preserved at government house, Sydney. In it the date first written has been erased and "13th March" substituted. The subsequent reference to this despatch on page 235 indicates that it is probable the original date was 1st April. The copy of the despatch received by the ship *Marquis of Huntly* in September was the duplicate copy. The enclosed warrant was transmitted with the original despatch *per* the ship *Chapman*, and was received in November.

The separate despatch was dated 2nd April, 1826 (*see* page 223).

Note 64, pages 223, 224, 227, 336, 343, 355, 498, 596, 648, and 673.

Under Secretary Hay to Governor Darling.

Earl Bathurst to Governor Darling.

Copies of these despatches are preserved in the record office, London, but there is no evidence of their delivery to the governor in the colony. The letter on page 336 was endorsed "Given to Mr. Lyall, 27.V.26."

The despatch dated 7 April (*see* page 227) was written before Earl Bathurst made the decision to accept Saxe Bannister's resignation and appoint his successor, and was withheld. (*See* pages 232 and 294.)

Note 65, page 229.

H. W. Antill.

The original enclosure preserved at government house, Sydney, is signed "H. W. Antill." The enclosure is not in original, and the signature was probably a copyist's error for H. C. Antill, the applicant's name being Henry Colden Antill.

Note 66, page 232.

To appoint another person.

The appointment of Alexander M. Baxter was notified by Earl Bathurst in his despatch dated 20th May, 1826 (*see* page 294).

Note 67, pages 233 and 239.

Dispatch of the 1st March last.

This despatch was numbered 17 (*see* page 193).

Note 68, page 236.

The Thirty first and Thirty Second Paragraphs of the Instructions.

These paragraphs will be found on pages 442 and 443, volume XI.

Note 69, page 237.

The recommendation of Mr. Commissioner Bigge.

This recommendation will be found on page 93 of the third report on agriculture and trade by J. T. Bigge.

Note 70, page 250.

The "Additional Instructions."

These instructions will be found on pages 125 and 126 in this volume and on page 444 *et seq.*, volume XI.

Note 71, pages 268 and 296.

Seven hundred new shares.—The Government.

The shares in the bank of New South Wales were of the capital value of £50 each. When it was proposed to increase the capital, the amount already paid up by the proprietors was forty-three thousand two hundred Spanish dollars; each dollar was worth nominally five shillings sterling in the colony; the total nominal capital subscribed was thus £10,800 sterling. Two months later, on the 12th of July, 1826, the sterling value of the Spanish dollar was fixed at four shillings and fourpence sterling by act of council No. III, 7 Geo. IV. The total actual subscribed capital was therefore £9,360 sterling. The proposed issue of seven hundred new shares, subject to an immediate call of £30 per share, was intended to treble the subscribed capital. When Governor Darling refused to sanction the increase of capital, the directors made a call on the proprietors of the bank, and the sum of ten thousand four hundred and thirty-one Spanish dollars and forty-eight cents was subscribed within a fortnight. (See also note 56, volume IX.)

Note 72, pages 274 and 278.

The King's Instructions, No. 47.

The reference is to Earl Bathurst's despatch numbered 47 and dated 21st December, 1824 (see page 419, volume XI).

Note 73, page 274.

Page 4 of document 5.

"The document inserted in page 4 of document 5" will be found at the top of page 281.

Note 74, page 293.

The Brig Lady Nelson.

The brig *Lady Nelson* sailed from the settlement at Melville island in February, 1825, to procure fresh provisions. She was captured by pirates off the island of Baba, one of the Serwatti islands, which form a chain from the east end of Timor. The whole crew were murdered.

Note 75, pages 296 and 306.

The "Australian Bank."

The bank of Australia was established in the year 1826 by members of the exclusive party, and the share list was not open to public subscription.

On the 21st of February a private meeting was held at the house of A. Berry and E. Wollstonecraft, at which John Oxley presided. At this meeting it was decided to form the bank with a capital of £100,000, divided into one thousand shares, and £10 was to be paid on each share as the first instalment. After this first meeting, bank premises were secured in James Underwood's buildings in George-street, and the rules of the bank were drawn up. The qualification for a director was the holding of ten shares in his own right. The first board consisted of E. Wollstonecraft, John Macarthur, Richard Jones, T. Icely, J. Oxley, George Bunn, W. J. Browne, H. Macarthur, James Norton, and A. B. Spark. But before the bank opened for business, Richard Jones resigned, after he was elected a director of the bank of New South Wales. Thomas Macvitie was appointed managing director at £700 *per annum*, and Wm. H. McKenzie second officer at £350 *per annum*. Two tellers and a clerk were also engaged. On the 1st of July the bank was opened for business in the house of the managing director in Bligh-street, as the bank premises were not then ready. The hours for transacting business were fixed from 10 a.m. to 2 p.m.

Note 76, page 313.

Slight Ophthalmia.

The proceedings of an inquiry into the occurrence of this disease will be found on page 162 *et seq.*

Note 77, page 313.

The Supreme Court suspended my functions as Visitor.

The papers detailing the decision of the supreme court in the suit *W. Walker v. T. H. Scott* will be found on page 274 *et seq.*

Note 78, page 315.

A School of Industry.

This school was originated by Mrs. Darling for the education of female servants. It was started by voluntary subscriptions and afterwards subsidised by government. A building was erected for its use in Macquarie-street on a site near the present south-western corner of the Mitchell library. The school was opened in the year 1826. The boarders were limited in number to twenty—ten girls from the ages of 10 to 14, and ten from 7 to 10. The girls were boarded and clothed by the establishment, and never allowed to leave the school upon any account, unless expelled for bad conduct, until provided with a situation. The girls were instructed in every branch of household work, plain needlework, knitting, spinning, reading, writing, and the four first rules of arithmetic. The school was managed by a committee of ladies, who met the first Monday in every month to inspect the school, books, etc., and two members of the committee were appointed as weekly visitors. Each subscriber had the privilege of nominating one girl to be received into the institution in rotation.

Note 79, page 316.

A public Despatch.

This despatch was numbered 38 and dated 3rd October, 1823 (*see* page 139, volume XI).

Note 80, page 316.

The Surveyor General's Letter.

This letter was dated 29th August, 1825 (*see* page 392).

Note 81, pages 326, 327, and 437.

Also page 440.

The "Australian" of the 13th inst.

My Letter of the 1st of this month.

The Article in the 5th Column of the 2nd Page.

Dr. Wardle.

The letter dated 1st May, 1826, will be found on page 253 *et seq.*

In the issue of the *Australian* newspaper dated 13th May, 1826, the following sub-leader was published:—

“One of the amusing *on dits* which are, at this moment of almost general dearth of news, taking their wonted rounds, informs us, that Mr. John M'Arthur contemplates proceeding to England *direct* and directly. We don't profess to know any thing of our own knowledge of Mr. M'Arthur's intended movements; but we are, notwithstanding, given to understand, that he has forwarded written instructions to his son in England to obtain a seat in Parliament for him, as he means to embark for England about the end of July, so as to arrive in England in convenient time before the opening of the then next Session of Parliament. There are always plenty of seats for Boroughs to be purchased—the price varying according to circumstances from two to five thousand pounds; and probably Mr. M'Arthur may choose, for once in his life, to shew himself in the House of Commons, though he may pay dearly for his footing. This is a kind of freak, which may as well be allowed to an elderly gentleman as to a boy, especially as at two periods of life similar objects produce similar pleasures; and the predilections of the second of these periods are quite in unison with those of the first—Mr. M'Arthur is wiser in preferring the direct to the circuitous route. The latter is big with danger and subject to delays; and he, therefore, could not promise himself those opportunities which the nature of his business in London and in Parliament would demand, for preparatory occupations, were he not to proceed at once to the arena on which he thinks himself wanted. Without supposing that he will have partisans to seek, he will like to talk over his plans and his views, to and with such as will like to listen to him; he will like to discuss Australian topics, with any of the Members of Parliament whom he may chance to fall in with, and who may be pleased enough to acquire a smattering of things as they are, or as they are represented to exist, in New South Wales. Mr. M'Arthur, however, and Mr. M'Arthur's disciples, if he obtains any, will be perfectly harmless in England; and in the House of Commons Mr. M'Arthur's representations will be accompanied with a knowledge of this fact—that Mr. M'Arthur is without influence in New South Wales—where a rich man and a man having the reputation of being tolerably acute, tolerably clever in the natural order of things, would be in high consideration, unless there were some counter-vailing cause of a very strong or a very extraordinary kind which amply and satisfactorily account for the want of it. It is impossible to deny the truth of this assertion—it is impossible for any one to say, and say truly, that Mr. M'Arthur has influence. As far as riches can give influence, he ought certainly to possess it; yet, he does not, and it is his own fault that

he does not. If he were contented with that influence to which his stake in this Colony and his wealth entitle him, or any one possessing as much, he would really enjoy it: he would become a leading member of society, and one to whom a Governor, particularly a stranger in the Colony, would occasionally refer for information, and even advice. But he is too aspiring; and, moreover, his views have at all times been unfortunate. They have almost invariably clashed with the opinions of the people and with the opinions of those who have governed the people. To suppose that Mr. M'Arthur's tenets and political principles are sound—to arrive at this conclusion we must first of all assume, that the people have no idea of their own interest, have no means of judging of the state of the Colony—what she is ripe for, and what constitution is befitting her; we must further assume that every Governor, not even excluding in our opinion the present Governor, has acted erroneously; for Mr. M'Arthur has differed and does differ from all.

“We speak thus from a knowledge of the public feeling, and of the universal unpopularity of Mr. M'Arthur's political sentiments; they are at variance with the voice of the people, and, we think, we do not hazard much when we add with the voice of those in Authority. If not, let him take a contradiction to this home in his pocket. If what he may advance in Parliament, or to Parliamentary Members, be supported by any in this Colony, let him not go unprovided with the proofs in his pocket; otherwise all who hear him will be staggered with the assertions we thus publicly make. Mr. M'Arthur is a Member of the Council—has family connections, exceeding in number those belonging to any other person—is rich in having large tracts of land well covered with Merino sheep, has cattle and horses almost innumerable, affords employment to very many persons and families;—think what this Colony is, consider its origin and its age and its population, and would one not conclude that Mr. M'Arthur must be a demigod among us—that Mr. M'Arthur's opinions must pass current as law, that he must be worshipped as a benefactor, if it were for no other reason than because he could ostensibly, at least, gain by his wealth the praises of many! Yet how far is it from being so! How few coincide, or affect to coincide with him!

“We look at facts only—we record facts only—and facts only do we wish the Members of Parliament to be guided by. In listening to Mr. John M'Arthur they will become acquainted with *his* opinions; but with nothing else. If they thoroughly understand this, then the people of this Colony need apprehend nothing from Mr. John M'Arthur's visit to England, even if that visit be attended with a SEAT IN PARLIAMENT!”

In the issue of the *Sydney Gazette* dated 13th May, 1826, there appeared a caustic reply to a letter published by John Macarthur in the *Australian* newspaper on former articles in the *Sydney Gazette* about the Sydney public free grammar school. Macarthur had stated that “the Editor of the *immoral Gazette* is a wholesale dealer in shameful mis-statements, and *malignant falsehoods!*” One of the editorial replies was:—“But, upon reflection, his hasty language is excusable, for Mr. M'Arthur has been so long in this Country that probably he may not always have in remembrance the etiquette that the English Gentleman invariably practises.”

Robert Wardell, the editor of the *Australian* newspaper, had been an English barrister. When he was studying law in London, W. C. Wentworth became acquainted with Wardell, who was then editor and proprietor of a London evening newspaper, called the *Statesman*. Wentworth suggested the establishment of a second newspaper in Sydney, and persuaded Wardell to accompany him to the colony. The two partners arrived in Port Jackson in the year 1824, bringing with them the materials for their enterprise.

Note 82, page 327.

Also pages 449 and 726.

The "Monitor."

The *Monitor* newspaper was first published on Friday, 19th May, 1826. It was edited, printed, and published by one of the proprietors, Edward Smith Hall (*see* note 157), the second proprietor being Arthur Hill. At first it appeared weekly, price one shilling; subsequently it was published twice a week.

Note 83, page 327.

The Instructions respecting the Press.

These instructions were contained in Earl Bathurst's despatch dated 12th July, 1825 (*see* page 16).

Note 84, page 347.

The Loyalty on that occasion.

This sentence is remarkable from the evidence it shows of total ignorance of the true facts. On his landing at Sydney, Governor Darling was greeted with an entire lack of enthusiasm. This was so marked that it was a subject of comment in the *Sydney Gazette*. The two opposing parties, the exclusives and emancipists, immediately endeavoured to secure the governor's support, and the address presented by the emancipist party was distinctly partisan. Disinterested expressions of loyalty were absent.

Note 85, page 348.

The Dispatch of the . . . of . . . last.

These blanks occur in the original. The reference was to the despatch dated 18th November, 1825 (*see* page 900, volume XI).

Note 86, page 361.

Memorialist was educated for the Profession of Medicine at Sydney.

For many years the practice of medicine was principally in the hands of the civil and military medical staff; their numbers, however, were usually inadequate for their duties, and certain transportees were allowed to practise. Governor Phillip appointed John Irving as assistant to the surgeons; he was a convict in the first fleet, and received the first pardon granted in the colony, dated 16th December, 1791. On the 21st of July, 1801, Daniel McCallum received a pardon in order that he might practise as a surgeon. In 1808, lieutenant-colonel Foveaux appointed William Redfern as assistant surgeon; he had been transported for participation in the mutiny at the Nore; before his appointment, on the 1st of September, 1808, he received a certificate of proficiency on examination by a board consisting of the principal civil surgeon and two surgeons of the New South Wales corps. This system of examination by a board was subsequently extended to all who commenced practice in the colony. Anyone failing to pass the tests was gazetted and ordered to desist from practice. William Bland, formerly surgeon on H.M. sloop *Hesper*, was transported for killing his opponent in a duel in 1813. On his arrival in the colony, he refused to submit to examination by a board consisting of D'Arcy Wentworth, W. Redfern, and M. West, but nevertheless was allowed to practise.

Apprenticeship to a qualified surgeon was the method adopted for many years to obtain a knowledge of medicine. In 1813, James Sheers was apprenticed to Wm. Redfern, but died during the next year. Subsequently Henry Cowper was apprenticed to Redfern, and afterwards (on 1st April, 1817) became an assistant at the general hospital in Sydney. William Sherwin was apprenticed to William Bland in 1819, and was the first Australian to acquire a recognised diploma for the practice of medicine.

Note 87, page 362.

Despatch marked "No. 36."

The despatch, dated 25th May, 1826 (*see* page 328) was also numbered 36. On the 5th of October, 1826, Governor Darling suggested (*see* page 607) that the despatch dated 18th July, 1825, should be marked "Separate" in the registers.

Note 88, page 363.

Certain lands granted to Governor Bligh.

The particulars relating to the grants of land by Governor King to Governor Bligh have been detailed on page xiii, volume VI. The grant of Mount Betham at Parramatta was the subject of a report by Governor Macquarie in 1814 (*see* page 339, volume VIII), and, by Sir Thomas Brisbane in 1825 (*see* page 515, volume XI).

Note 89, page 364.

Governor Darling to Earl Bathurst.

In the duplicate copy of this despatch, which is preserved in the Mitchell library at Sydney, the endorsement "No. 37, Duplicate" is cancelled. In the text, the words "Duplicate of a" in the third line, and the words after "Society" to the end of the first paragraph are scored through. The numbers of the paragraphs are cancelled, and the despatch then forms one paragraph.

Note 90, page 364.

A Deed made to the London Missionary Society.

A copy of this deed will be found on page 512 *et seq.*, volume XI.

Note 91, pages 374, 375, 376, 386, 414, and 416.

The 42nd Clause of these Instructions.—The 45th clause.

The 42nd clause will be found at the foot of page 121, and the 45th at the foot of page 122.

Note 92, page 382.

The 31st and 32nd paragraphs.

These paragraphs will be found on pages 117 and 118.

Note 93, pages 384 and 412.

The 30th Paragraph.—The 45th Paragraph.

The 30th paragraph will be found at the top of page 117, and the 45th at the foot of page 122.

Note 94, pages 387 and 388.

The 36th paragraph.—The 46th and 47th Paragraphs.

The 36th paragraph will be found on page 120, and the 46th and 47th paragraphs on page 123.

Note 95, page 403.

The Government Notice of the 8th November, 1824.

The notice was as follows:—

“ GOVERNMENT NOTICE.

“ Colonial Secretary’s Office, November 8, 1824.

“ His Excellency the Governor deems it expedient to give Publicity to the following Regulation, by which He will hereafter be guided in the Extension of Grants of Land to Individuals applying for the same; and no Applications will be received unless in Conformity to the Rules now laid down.

“ His Excellency will grant to each Individual One Hundred Acres of Land for every Convict maintained by him free of Expence to the Government for One complete Year; and the Number of Men will be calculated as follows: namely, those in Excess above one Convict employed by the Applicant for every Hundred Acres originally granted him; and the Proof of the Applicants having in his actual Service the Number of Convicts, he states in his Application, is to be a Certificate to that Effect from the Office of the Colonial Secretary; and he will be further required, on discharging any and every Convict from his Services from whatever Cause, to transmit a Certificate thereof, stating the Name of the Individual, the Ship by which he arrived in the Colony, and the Period he has been in his Service. In conformity with these Regulations, all Persons, whose Applications are at present before His Excellency, are informed that it will be necessary for them to amend their Applications accordingly, which being done their several Memorials will be duly attended to.

“ By His Excellency’s Command,

“ F. GOULBURN, Colonial Secretary.”

Note 96, page 403.

The 41st Paragraph of those Instructions.

This is the third paragraph on page 121.

Note 97, pages 406 and 408.

A copy marked D annexed to C.—The Report marked B.

The “ copy ” will be found on page 397 and the report on page 392.

Note 98, page 409.

The new Counties.

These counties are Murray on the south, King on the west, and Georgiana on the north-west.

Note 99, page 413.

The 39th Paragraph.

This is the first paragraph on page 121.

Note 100, page 415.

The one recommended by that Gentleman.

On page 48 of his third report, Mr. Commissioner Bigge quoted the following scale for the amount of capital required for grants of varying areas:—£500 for 500 acres; £750 for 640 acres; £1,000 for 800 acres; £1,500 for 1,000 acres; £1,700 for 1,280 acres; £2,000 for 1,500 acres; £2,500 for 1,760 acres; and £3,000 for 2,000 acres.

Note 101, page 423.

The existing Law.

This was the act of council No. xxii, 6 Geo. IV, passed on the 16th November, 1825.

Note 102, page 423.

The Instructions marked DD.

These instructions will be found on page 332, volume XI.

Note 103, page 428.

Notes of a small amount.

The directors of the bank of New South Wales were authorised to issue notes of the value of two shillings and sixpence, five shillings, ten shillings, one pound, and five pounds, under rule numbered 30, which had been unanimously adopted at a meeting of subscribers to the bank held on the 7th of February, 1817. These notes were engraved on copper by a man named Clayton. On the 22nd of March, 1817, the directors had authorised the issue of bank tokens to the value of one shilling, eighteenpence, and two shillings each.

Note 104, page 429.

The 11th Clause.

This is the third paragraph on page 111.

Note 105, page 434.

The Minutes.

The claim made by lieutenant Percy Simpson amounted to £3,720 19s. 4d. This claim was considered by the executive council on the 4th of April, 1826, when it was decided that Simpson was entitled to receive £4 *per annum* for every convict wholly maintained by him at the establishment after the first year, even if the total amount exceeded the sum of £300 *per annum*, which had been fixed as the maximum salary for superintendents by Sir Thomas Brisbane. On the 10th of June, 1826, W. C. Wentworth wrote on behalf of Simpson to the colonial secretary threatening legal proceedings unless the full claim was admitted. On the 13th of June, after further deliberation, the executive council decided not to alter its first decision, and to inform Simpson he could take any action desired.

Note 106, page 441.

The Australian Newspaper.—Those.

In the issue of the *Australian* newspaper, dated 9th February, 1826, there was some criticism of the chairman of the quarter sessions and those responsible for the bad condition of the Sydney gaol. In the issue dated 15th

April there was a report on the action taken by the archdeacon in the prosecution of two subordinate officers of the orphan school at Parramatta for leaving their duties without notice. The issue dated 31st May contained a leader criticising those who had been responsible for the cessation of the transportation of female convicts. The issue dated 17th June contained a malicious report on John Macarthur's decision not to visit England. Extracts from the issues of the 26th of January and 16th of February will be found in note 59.

In the issue of the 9th March, the condemnation of Edwards at the Cape of Good Hope for a libel on the governor there was mentioned. In the issue of the 6th May, the lieutenant-governor of Tasmania was criticised for his action, when Dr. Hood refused to visit at government house. In the issue of the 10th June, chief justice Pedder was severely criticised for sentencing Andrew Bent to imprisonment for libel.

Note 107, page 445.

The 8th clause of His Majesty's Instructions.

This clause will be found on page 110.

Note 108, page 446.

This letter.

Eccentric letters, written by S. Bannister, probably similar to this one, which is not available, will be found on pages 534 and 577.

Note 109, page 455.

Also pages 456 and 459.

To attend Mr. Rumker.

Charles Stargard Rumker (*see* note 39, volume XI) was the astronomer. It was proposed by the royal society in England (*see* page 202, volume XI) that an arc of the meridian should be measured in New South Wales, and on the 4th of July, 1826, the executive council selected Rumker for the duty.

Note 110, pages 459 and 460.

An Apothecary.

An apothecary held a military office under the army ordnance department, and was the officer in charge of medical stores. The general hospitals in the colony were controlled by the medical department of the civil government until the 1st of April, 1836, when they were re-organised under the military system. A deputy inspector-general of hospitals was appointed to take charge, and one of his officers was a deputy purveyor or assistant apothecary.

Note 111, page 460.

Copy of a Letter.

This was the letter dated 27th July, 1826 (*see* page 459).

Note 112, page 463.

To confirm him.

The appointment of H. G. Douglass as commissioner of the court of requests was reported in a despatch dated 2nd March, 1826 (*see* page 196), and not in the despatch dated 4th February.

Note 113, page 464.

A Verdict of £50 and Costs.

This verdict was awarded to the plaintiff in the suit of *Mitchell v. Howe*, which was tried before the chief justice, A. Berry and W. Carter acting as assessors. The suit arose out of the report in the issue of the *Sydney Gazette* dated 3rd March, 1825, on the seizure of the ship *Almorah* by captain Charles Mitchell, of H.M.S. *Slaney* (see page 530 *et seq.*, volume XI). R. Wardell and W. C. Wentworth appeared for the plaintiff, and S. Bannister and Allen for the defendant. No evidence was called for the defence. In giving judgment, the chief justice stated that a plea of justification should have been made in order to prove facts.

Note 114, page 466.

A Dispatch.

There were two despatches, dated 10th and 11th of August, 1826 (see page 717 *et seq.* and page 782 *et seq.*, volume XI).

Note 115, page 502.

The Author of a recent publication.

The title of the publication was:—

“An Account of the State of Agriculture and Grazing in New South Wales, including observations on the soils and general appearance of the country, and some of its most useful natural productions; with an account of the various methods of clearing and improving lands, breeding and grazing live stock, erecting buildings, the system of employing convicts, and the expense of labour generally, the mode of applying for grants of land, with other information important to those who are about to emigrate to that country, the result of several years’ residence and practical experience in those matters in the colony. By James Atkinson, Esq., of Oldbury, Argyle County, New South Wales, and formerly principal clerk in the office of the colonial secretary at Sydney. London: Printed and published by J. Cross, 18 Holborn, opposite Furnival’s Inn, 1826.”

Oldbury is situated about two miles west of the town of Moss Vale.

Note 116, page 502.

That part of the Royal Instructions.

The reference is to the first paragraph on page 117.

Note 117, page 506.

The Surgeon.

The surgeon’s name was Turner, who was an officer of the artillery.

Note 118, page 506.

The Chamber of Commerce.

The chamber of commerce at Sydney was established on the 6th of July, 1826, with an entrance fee of £2 for members and an annual subscription of £2. The preliminary meetings were held in June, and rooms were secured, where it was proposed to keep current periodicals and all commercial reports. Its objects were:—The institution of a board of arbitration for the determination of such differences as may occur in the settlement of accounts in damages sustained at sea, in the stowage of goods, in the sea worthiness of

vessels, and in any other question which may arise in trade; the institution of an exchange or place of general resort for men in business; the concentration in this exchange of all commercial intelligence; the establishments of rates of increase on colonial and foreign craft; the determination of the rates of commission, store rent, *del credere*, re-exchange, etc.; and such other objects as experience suggested.

Amongst the members present at the first meeting were E. Wollstonecraft, W. J. Browne, G. Blaxland, Cavanagh, Pitman, Barboza, Mitchell, Spark, Howe, Ramsay, Clarkson, G. D. Browne, Parker, Robertson, Paul, Bunn, Cogill, Cobb, Lord, Raine, Maziere, T. H. James, Scott, Tawell and Joseph Underwood.

The chairmanship was first offered to Robert Campbell, senior, who was called the "Father of the Mercantile Community" in Sydney; but he declined the honour because he was a member of the legislative council. Subsequently E. Wollstonecraft was elected chairman, and A. B. Spark secretary.

Note 119, page 508.

The circulating remittable currency.

The most astonishing and rapid prosperity.

The influence on a community of the introduction of large sums of foreign capital was realised at this early date in Australia. Prior to the administration of Sir Thomas Brisbane, the drafts, drawn on the English treasury for government services and sold in the colony, had formed a convenient remittable medium to London in payment for imports, and had eliminated the necessity for developing an export trade. During the administration of Governor Macquarie, the annual total of these drafts was increased out of all proportion to the increase of population. Prior to his arrival, the average annual aggregate amount of bills drawn during four years (1806-1809) was £29,415. In the year 1810, Macquarie drew £72,600; in 1820, £181,376; and in 1821, £166,315. In March, 1810, the population of the colony was 11,950, and in October, 1821, 38,778. Thus, whilst the population was a little more than trebled, the annual aggregate total of bills drawn was increased between five and six times. During the government of Sir Thomas Brisbane, the drafts on England were greatly reduced in the aggregate amount *per capita* of the population. By the letter from the chairman of the chamber of commerce, it is clear that the leaders of the commercial community realised that the prosperity under Macquarie was due to his large drafts on the English treasury, and that the crises in the year 1826 were due to the reaction following on the reduction of the aggregate amount drawn under Sir Thomas Brisbane, when it was impossible that the public expenditure could continue to bear so disproportionate a relation to the population.

Note 120, page 512.

The Act of Council.

This was the act No. III, 7 Geo. IV. (See also note 103.)

Note 121, page 522.

The leading Article.

This article was a lengthy criticism of two and a half columns on the state of the colony. Amongst other remarks in favour of the government, it stated:—"Few Colonial governments deem their own stability in any

respect dependent upon the good opinion, or upon a sincere attention to the welfare of the Colonists, and for the most part governments are devoted rather to purposes which serve their own immediate views than to considerations which concern the people only. Our government, we think, possesses a clearer sight, and if we may draw inferences from sundry overt acts since it was established, we can reasonably say that it seeks to be permanently established by resting its claims to endurance on the prosperity and contentedness of the people."

Note 122, page 522.

Lord Bathurst's Despatch, No. 29.

This despatch was dated 12th December, 1825 (*see* page 84).

Note 123, pages 530 and 533.

The libel.—The Paragraphs.

The libel was contained in the leader in the issue dated 14th July. In commenting on the convict system, it stated, "The moment Governor Macquarie left the harbour, Major Goulburn set open the doors of the convict barracks, and whoever wanted a servant took one. . . . Instead of 1,200 inhabitants, the barracks soon decreased to four. . . . The Major, who had been equally frightened with Mr. Bigge lest the prisoners in the barracks should not go off, had devised bonds for the new emigrants to sign, in order to compel them to take off ten men for every thousand acres of land granted them. But unhappily the barracks became empty before the said bonds were all executed. And such as were executed, being rendered useless by Government being unable to fulfil their part of the contract, the disappointed emigrants began to threaten to bring their actions against the luckless Major for not supplying them with servants according to agreement."

In the issue dated 21st July, the leader commented adversely on the conviction of a widow at Parramatta for giving lodging to a convict, thereby transgressing the law without her knowledge. In the sub-leader, section xv of the act of council, No. II, 7 George IV, which provided for the fining of publicans for entertaining convicts after eight o'clock at night or on a Sunday, was described as "a great invasion of the best and most sacred rights of Englishmen." In the same sub-leader, the act of council No. III, 7 George IV, which repealed "an Act intituled 'An Act to make Promissory Notes and Bills of Exchange, payable in Spanish Dollars, available as if such Notes and Bills had been drawn payable in Sterling Money of the Realm,' and to promote the 'circulation of Sterling Money of Great Britain in New South Wales,'" was described as "a like invasion of the people's ancient customs."

Note 124, page 538.

The 34th and 35th Clauses of the Instructions.

These clauses will be found on page 119.

Note 125, pages 538 and 540.

East Longitude.—The following Boundaries.

The definition of the northern boundary was inaccurate, as Wellington valley is considerably south of the latitude of cape Hawke. The western boundary followed the Macquarie river to a point west of the town of Tambaroora; thence west close to the north western corner of the county of

Ashburnham; south to the Lachlan river, a little west of the town of Forbes; thence east to Campbell's river, south of the city of Bathurst, following the line of that river and extending to a point a little west of the town of Araluen.

Note 126, pages 544 and 545.

His Church.—The Catholic Chapel.

The foundation-stone of this church was laid by Governor Macquarie on the 29th of October, 1821. It was erected near the corner of College and Cathedral streets, and formed the first St. Mary's cathedral. This building was totally destroyed by fire on the 29th of June, 1865. The extensions to the present cathedral are now (1919) being erected on the site it formerly occupied.

Note 127, page 550.

A second newspaper.

This was the *Australian*, a newspaper of four pages, published weekly, price one shilling. Subsequently it was published twice a week. The first number was dated Thursday, 14th October, 1824.

Note 128, page 552.

A Dispatch.

In a despatch dated 29th March, 1823 (*see* page 64, volume XI), Earl Bathurst directed the abolition of all fees received on mustering convicts in the colonial secretary's office. In a despatch dated 25th June, 1825 (*see* page 675, volume XI), Sir Thomas Brisbane reported that he had increased the salary of R. Crawford by £200 *per annum*.

Note 129, page 575.

The occasion.

The suggestions by S. Bannister *re* the treatment of natives at Bathurst were reported by Governor Darling in his despatch dated 25th July, 1826 (*see* page 445).

Note 130, page 579.

A late Letter.—The "Monitor" of the 8th inst.

The letter was dated 4th September, 1826 (*see* page 528).

In the issue of the *Monitor* dated 8th September, 1826, adverse criticism of certain new land regulations was contained in a lengthy leader. On the 29th of August, a government notice was issued cancelling all "tickets of occupation" for land, &s from the 1st of March, 1827. In future it was ordered that temporary occupation would be permitted only on the payment of twenty shillings *per annum* for every one hundred acres, and a charge of one halfpenny per foot was made on all cedar cut on crown lands and imported to Sydney. These were characterised as "a rent to be exacted for the use of the grass of the native pastures of the Colony, as well as for the cedar which grows thereon." In the leading article, these charges were called a tax on grass and cedar, and it was argued that taxes were only justified "provided they are laid upon such things as the Colonists themselves would lay them on, if they congregated together in a *House of Assembly*"; further, that the people of England would not allow the Lords to originate a proposal to tax them. It was pointed out that if the new regulation was adopted the government

could meet the colonial expenditure by collecting "a rent without our consent, *i.e.*, with taxes without our consent." Many arguments were advanced. "The same radical objection lies against taxing grass, which has been objected to taxing cedar, namely, it is a tax *on one of the fountains of industry*. It is a tax on labour—a tax on enterprise—a tax on all those habits and things, which in a Colony ought rather to receive a *bounty*—and which in the American Colonies *did* receive a bounty." The article continued in strongly adverse criticism of the administration, and, in concluding, it stated, "We consider it an act of common humanity, as well as common honesty, TO FOREWARN AND GIVE THIS PUBLIC NOTICE TO ALL GENTLEMEN IN ENGLAND AND SCOTLAND, who may be desirous in future to emigrate to New South Wales, to beware how they venture to this colony so long as the present system continues."

Note 131, page 581.

Its leading Article.

This article of three columns was in general a condemnation of the entire regulations for the granting and sale of lands. It stated that his Majesty's government had endeavoured to legislate for the good of the colonists but had failed. To quote the editor, "We might fill columns in shewing how one delusion has been dissipated by falling into another, how one error has been repaired by the commission of several, how one abuse has been removed only by giving way to many."

Note 132, page 581.

The 34 and 35 Paragraphs.—The 8th and 9th Paragraphs.—25th Par.

These paragraphs will be found on pages 387, 388, 405, 406, and 419.

Note 133, page 582.

The Orpheus has brought the series of Despatches.

In the series preserved at government house, Sydney, most of these despatches are endorsed *per ship Marquis of Huntly*, and this endorsement has been adopted at the head of these despatches in the text of this volume. As the ships *Orpheus* and *Marquis of Huntly* arrived in Port Jackson during the same month, it is impossible to say whether Governor Darling's statement or the endorsements are most accurate.

Note 134, page 594.

Clause 15.

Clause 15 was identical with clause 17 on page 456, volume XI. (*See* also page 462.)

Note 135, pages 596 and 598.

2nd October.—3rd Oct.

As the dates of these letters are one and two days respectively subsequent to the dates of the covering despatches, it is evident that confusion might arise from the method adopted in dating despatches. (*See* also note 63.)

Note 136, page 610.

Page 6.

The reference is to the last paragraph on page 611.

Note 136A, page 631.

Intention to have granted Pardons.

The instructions in this despatch are somewhat contradictory of the instructions contained in the despatch dated 29th September, 1826 (*see* page 589).

Note 137, page 633.

The Duplicate, No. 18.

This despatch was dated 6th March, 1826 (*see* page 206).

Note 138, page 639.

The accompanying letter.

In this letter, the Reverend Samuel Marsden entered into a lengthy defence of the charges that were brought against him in September, 1825, of inflicting illegal punishments when sitting on the bench of magistrates at Parramatta. In the issue of the *Sydney Gazette* dated 16th September, 1826, there were published copies of the cases which were stated to be the cause of the passing on the 11th of October, 1825, of the act No. xviii, 6 Geo. IV, known as the "Bill of Indemnity." These cases will be found detailed on page 870 *et seq.*, volume XI. The Reverend Samuel Marsden produced evidence that the records of magisterial proceedings at Parramatta were inaccurate. In these proceedings it was stated that he was present on the 1st of July, 1822, when John Downes and Hugh Carroll were brought before the bench; whereas he produced incontestible proof that, from the 26th of June to the 8th of July, he was on a visitation to the districts of Windsor, Richmond, Bathurst, Bringelly, Airds, upper Minto, and Liverpool, and was never nearer than fifteen miles to Parramatta. In the case of James Blackburn, the Reverend Samuel Marsden produced a sworn declaration from Blackburn himself that at no time had Marsden sat on a bench before which he had appeared.

Note 139, page 640.

Also pages 643 and 655.

Hume and Hovell . . . explored the Country from hence to Western Port.

A note (numbered 151) on the expedition of H. Hume and W. H. Hovell will be found in volume XI. The leaders were in error in thinking that they reached Western port. The outward journey terminated a few miles from the modern town of Geelong on the western shores of Port Phillip.

Note 140, page 641.

The communication . . . during a part of the year will be hardly practicable.

The difficulties of navigation on the southern coast of Australia were detailed by James Stirling in the third paragraph of his letter dated 14th December, 1826 (*see* page 777).

Note 141, page 641.

A Report.

Western port was discovered by George Bass on the 5th of January, 1798, during his voyage in a whale boat. He remained in the harbour for twelve days, and examined and made a sketch of it. On the 22nd of March, 1801, it

was visited by James Grant and Francis Barallier in the brig *Lady Nelson*. Acting under orders from Governor King, they remained there until the 29th of April, examining and surveying the port and neighbourhood. In 1802, it was visited and surveyed by Hamelin in the French corvette *Le Naturaliste*. Charles Robbins and John Oxley surveyed it in 1805, under instructions given by Governor King to William Kent (*see* page 222, volume V).

Note 142, page 643.

Also page 656.

Mr. Hamilton Hume to Sir Thomas Brisbane.

It is remarkable that Sir Thomas Brisbane did not give prominence to this expedition in his official despatches to the secretary of state. He made only one brief mention of it in a semi-private letter to under secretary Horton, dated 24th March, 1825 (*see* page 555, volume XI). In like manner, Governor Macquarie neglected to give due credit to G. Blaxland, W. Lawson, and W. C. Wentworth for their discovery of a passage across the Blue mountains in the year 1813 (*see* note 131, volume VIII).

Note 143, page 645.

My Commission and Instructions.

The references to the power to grant pardons or reprieves in the commission and instructions will be found on pages 103 and 124.

Note 144, page 656.

An Australian.—Twelve hundred acres of Land.

Hamilton Hume was born at Parramatta on the 18th of June, 1797, and was the son of Andrew Hamilton Hume, an officer of the commissariat. The words "altho' an Australian" are indicative of the then prevalent feeling, which was adverse to the native-born youth. Resentment of their treatment was expressed in the address to Governor Darling on his arrival (*see* page 146).

The word "Australian" had come into general use at this date (*see* note 84, volume IX).

The twelve hundred acres were situated on the banks of the Crookhaven river in the county of St. Vincent. On the 25th of July, 1825, this land was promised to Hamilton Hume by Sir Thomas Brisbane; on the 1st of July, 1829, possession was given by Governor Darling; and on the 11th of February, 1837, it was granted to Alexander Berry by Sir Richard Bourke at the request of the promisee.

Note 145, page 668.

A Libel.—The Article.

The libel was contained in the leading article of a column and a half in the *Sydney Gazette*, dated 14th October, 1826. It commenced by noting the impending changes in the supreme court through the appointment of a puisne judge, the introduction of new rules of practice, and the resignation of Saxe Bannister. It proceeded to detail the duties and conduct of an ideal attorney-general, and insisted especially on the necessity of refusing to join any political party or to express any political views. It then stated that Bannister had allowed "the enemies of the late administration to influence his enlightened mind to the prejudice of Sir Thomas Brisbane." It imputed his removal from office to the influence of the Macarthur party.

The leading article of two and half columns in the *Australian*, dated 18th October, 1826, contained a most malicious and drastic criticism of Saxe Bannister, with some reference to T. H. Scott. The commencement is characteristic of the whole article:—"The most rational blunder Mr. Saxe Bannister ever committed is his resignation of his official duties in this Colony. He went a step further than his venerable friend, who only threatened to relinquish the best post he ever had, or will ever have again, should he allow it to drop from his grasp. . . . 'Second thought' says the old Proverb, and the Venerable said so too. He remembered that two thousand a year are two thousand a year, and a good thing into the bargain. . . . The Attorney General surpassed the Pastor and being a man of few words, he did not talk, but he acted. He despatched his resignation, and now is about to despatch himself."

Note 146, page 670.

Published in the Sydney Gazette.

In the issue of the *Sunday Times* newspaper dated 12th October, 1823, the appointment of Saxe Bannister as attorney-general of New South Wales was characterised as "a gross instance of corruption," and it "was stated that by his volunteering into the Line from the Militia, he obtained the half-pay of Captain 'almost surreptitiously.'" Seven days later, a full withdrawal and ample apology was published. Extracts from both issues were published in the *Sydney Gazette* dated 15th April, 1824.

Note 147, pages 673 and 676.

The general Order.

Mr. John Nicholson to Colonial Secretary McLeay.

The general order will be found on page 595.

In the duplicate original of the despatch, dated 14th November, 1826, which is preserved in the Mitchell library, Sydney, the following letter, addressed to the colonial secretary, formed an additional enclosure:—

"Sir, "Master Attendant's Office, 28th October, 1826.

"With reference to your Letter of the 13th Ultimo, directing me to Ship Two Logs and one Pine Spar for Europe,

"I beg to acquaint you that I have done so on Board the "Regalia," Robert Burt, Commander. I also have to acquaint you that I have Shipped them for the Honorable The Commissioners of His Majesty's Navy, and I now enclose you for your guidance duplicate Bills of Lading for the same.

"I have, &c.,

"JOHN NICHOLSON, Master Attendant."

Note 148, page 687.

See pages 12, 13 and 14.

These pages of the report are printed on pages 682 and 683.

Note 149, page 699.

The Colonial Brigs Amity and Dragon sailed on the 9th of last Month.

The brig *Amity* carried the troops, convicts, and supplies, under the command of major E. Lockyer, who were to form the settlement at King George's sound; the brig *Dragon* carried the expedition under captain S. Wright for the settlement of Western port. Lockyer and Wright both

received instructions about the selection of the site for the settlement, the erection of huts, the exploration of the neighbourhood, the transmission of reports, the management of the commissariat, etc. In addition, Lockyer was ordered to return to Port Jackson in two months, leaving the settlement in the charge of captain J. Wakefield, of the 39th regiment of foot.

Note 150, pages 700 and 701.

The Sovereignty of the whole Territory.

The designation of New South Wales.

This was the first claim made on behalf of the British crown to the entire continent of Australia. Prior to the commission given to Governor Darling, the territory of New South Wales had been defined as that portion of the island continent lying to the east of the one hundred and thirty-fifth degree of east longitude. Maps of the period divided Australia along this meridian, calling the eastern portion New South Wales, and the western New Holland. In Governor Darling's commission, the western boundary was moved six degrees further west in order to include the settlement on Melville island. In and before the year 1825, the western half of the continent was considered to be too barren for any nation to think of it as a site for settlement. Possession of the eastern coast from thirty-eight degrees of south latitude to Cape York was taken by captain James Cook on the 22nd of August, 1770.

Note 151, page 702.

Memorandum.

In the duplicate original of this despatch, preserved in the Mitchell library, Sydney, the memorandum on page 702 is omitted, and the following substituted:—

“Memorandum.

“James Lyons arrived in this Colony by the Ship Friendship (2) in the Year 1799, altho' his name does not appear in the Indent of that Vessel; however this information I have learned from a person of the same name, who also arrived by that Vessel, and is now employed as Constable at the General Hospital, Sydney, and who states that several years after his arrival he was sent by Government to the Islands in the South Seas, *Skinning*, from whence he escaped, it is supposed to America. Mr. Davis of Charlotte Place, Sydney, Came out with Lyons, and corroborates the foregoing account. Lyons had no property at the time he was sent to the Islands.

“Colonial Secretary's Office, 8 January, 1827.”

Note 152, page 709.

Astronomical Instruments.

The history of these instruments was detailed by H. C. Russell in a paper read before the Australasian association for the advancement of science in 1887 (*see* volume I of the association's proceedings).

Note 153, page 714.

The Returns.

These returns will be found on page 630.

Note 154, page 715.

The supposed illegality of the Sentence.

Legal opinions on the sentence by the acting attorney-general, the chief justice, and the puisne judge will be found on page 753 *et seq.* and on page 755 *et seq.*

Note 155, page 718.

Also pages 715 and 753.

Sections 4, 5 and 6 of Act No. V, 7 Geo. IV.

These sections were as follows:—

"4. And be it further enacted with the authority aforesaid That in all cases in which the Courts of King's Bench Assize and Gaol Delivery or of Quarter Sessions in England are authorised to punish offenders by imprisonment and hard labor it shall be lawful for the Judges or any one Judge of the Supreme Court and for the Justices in Quarter Sessions in the said Colony to condemn offenders of the same degree to serve the Governor or Acting Governor for the time-being or his assigns in New South Wales for the same time and under the same rules as if such offenders had been transported from England or to imprisonment and hard labor or to hard labor in irons on the high roads or on other public works in the said Colony and the said Governor or Acting Governor shall order the said sentences respectively to be carried into effect upon reports thereof being made in the usual manner by the Judges or any Judge of the said Supreme Court or by the Chairman of the Sessions respectively.

"5. Provided that all persons born in the said Colony or who have come into the same free shall for their first offence being of the degree as aforesaid be liable to imprisonment and hard labor within prison walls only or to be kept in the ordinary employment of the Crown or of the assignee or assignees of the Governor or Acting Governor and to be subject to the summary jurisdiction of Justices of the Peace in like manner as if such persons as last aforesaid had been transported from England.

"6. And be it further enacted That it shall be lawful for the said Governor or Acting Governor by an Order in writing registered in the Office of the Secretary of the said Colony to withdraw any person or persons now or hereafter to be transported or sent to any Penal Settlement or place as aforesaid and to employ him her or them either in irons on the public roads or works or in the ordinary service of the Crown or to assign him her or them to settlers or others to be dealt with in all respects as if he she or they were under sentence of transportation from England."

Note 156, page 725.

Lord Bathurst's Private Letter of the 26th of June.

No copy of a private letter of this date is available. The despatch numbered 41 (*see* page 347) approved of Governor Darling's first administrative acts.

Note 157, page 726.

The Editor of the Monitor.

The editor was Edward Smith Hall. He was strongly recommended as a settler to Governor Macquarie in under secretary Goulburn's despatch dated 20th December, 1810 (*see* page 349, volume VII), and arrived in the colony in the year 1812. He received a grant of land, but made little use of it, and commenced business as a merchant in Sydney. In 1814, he was one of

the promoters of the proposed New Zealand trading company. On the 27th of February, 1817, he was appointed the first cashier and secretary of the bank of New South Wales, but resigned these positions in March, 1818. In 1819, he attempted to obtain leave to practise as an attorney, but permission was refused by Earl Bathurst; and, in the same year, he was appointed coroner *vice* J. W. Lewin, deceased.

Note 158, page 726.

Some very inflammatory Articles.

The articles in the issues dated 14th and 21st July are mentioned in note 123. In the issue dated 20th October the leader commented on the election of members of the emancipist party to the committees of certain public institutions, and expressed satisfaction at the exposure of practices alleged to be adopted by the exclusionist party. In the sub-leader the administration of the convict department under Governor Darling was adversely criticised, whilst that under Governor Macquarie was praised. In the issue dated 3rd November, the sub-leader was written advocating constitutional freedom. It stated that "in lieu of farmers, merchants and useful mechanics, they (the British cabinet) want to inundate us with Bishops, Curates, Majors and Lieutenants, all of whom in their very natures detest constitutional freedom. . . . Thus we faint in our minds, when we look at the present or contemplate the future." In the issue dated 17th November there appeared a leader of five columns strongly condemning the convict system as administered by Governor Darling.

Note 159, page 730.

The French Corvette, L'Astrolabe.

When the corvette *L'Astrolabe* arrived in Port Jackson, J. Dumont-D'Urville was on his first voyage around the world. He left France in the year 1826, and returned in the year 1829. An account of the expedition was published in twelve volumes royal 8vo., one volume royal 4to., and five volumes folio at Paris, 1830-35.

Note 160, page 735.

A Seal.

This was the third seal of the colony. The first seal was received by Governor Phillip in September, 1791, and the second by Governor Macquarie in August, 1817 (*see* note 97, volume IX). On the death of King George III, a warrant was issued to continue the use of the second seal (*see* page 209, volume X) until a new seal was prepared.

Note 161, pages 736, 737, and 738.

Clause 20.—Clause No. 1.

Clauses one and twenty (*see* also page 462) will be found on pages 454 and 456, volume XI.

Note 162, page 747.

9th November.

This is an error in the original for 9th December.

Note 163, page 750.

Two Soldiers.

These soldiers were John Jones and John Dougherty, of the 57th regiment, each of whom maimed himself by shooting off one of his own arms in order to escape military service. They were ordered to be continued in the service and to be employed as scavengers at the barracks on Norfolk island.

Note 164, page 751.

A General Order.

This general order will be found on page 757.

Note 165, page 752.

Also pages 646, 761, and 764.

The New South Wales Bill.

The statute 4 Geo. IV, cap. xevi, passed on the 19th of July, 1823, had provided "for the better Administration of Justice in *New South Wales* and *Van Diemen's Land*, and for the more effectual Government thereof; and for other Purposes relating thereto." Under this statute, the colonies of New South Wales and Tasmania were separated, legislative councils were established, the administration of justice was remodelled, and trial by jury was established. The concluding section (numbered 45) provided "That this Act shall be and continue in force until the First Day of *July* in the Year of our Lord One thousand eight hundred and Twenty seven, and from thence until the End of the next Session of Parliament." In consequence of this provision, a new bill was necessary. In July, 1827, an act was passed to continue the operation of the act of 4 Geo. IV until the 31st of December, 1829. On the 25th of July, 1828, a statute, 9 Geo. IV, cap. lxxxiii, was passed, which repealed the two previous statutes and established certain new procedures.

Note 166, page 752.

Favourably mentioned by the Australian.

The reference was probably to the criticism in the issue of the *Australian* newspaper dated 25th November, 1826 (*see* page 722).

Note 167, page 761.

The Act.

This was the act of council, No. 1, 7 Geo. IV, passed on the 17th of February, 1826.

Note 168, page 763.

My Public Letter, No. 54.

This despatch was dated 31st August, 1826 (*see* page 513).

Note 169, page 765.

A Private Suit.

On the 15th December, 1826, Hannibal Macarthur was awarded £100 damages and costs in a law suit against Arthur Hill and Edward Smith Hall, the proprietors of the *Monitor* newspaper. The action was brought for a libel published in the issue of that paper on the 22nd of September, 1826. The libel was contained in some criticism on the flogging of a convict employed on Macarthur's farm.

Note 170, page 788.

Sir James Brisbane.

Sir James Brisbane was the fifth son of admiral John Brisbane. He was born in 1774, and joined the navy in 1787. He attained the rank of lieutenant in September, 1794, and was present at the reduction of the Cape of Good Hope. In 1801, he commanded the sloop *Cruiser* in the Baltic fleet, and served under Nelson at Copenhagen. For these services he was promoted to post rank on the 2nd of April, 1801. In 1808, he commanded the squadron which blockaded Corfu. During the following years he saw service in the Adriatic and Mediterranean seas, and with the channel fleet. In June, 1815, he was created C.B., and in October, 1816, he was knighted. In 1825, he was appointed commander-in-chief on the East Indian station, and conducted the naval operations at Rangoon.

Note 171, page 792.

This grant.

This grant formed the nucleus of the Coolangatta estate in the district of Illawarra, and became the sole property of Alexander Berry.

Note 172, page 795.

Some progress.

The mission to the aborigines was conducted by the Reverend L. E. Threlkeld on the ten thousand acres granted by Sir Thomas Brisbane to the London missionary society at Lake Macquarie (*see* page 512 *et seq.*, volume XI). He lived with the natives, and endeavoured to train them to agriculture.

Note 173, page 796.

A Grammar.

As the result of his labours, the Reverend L. E. Threlkeld published a twenty-seven page pamphlet in the year 1826, entitled,

“Specimens of a Dialect of the Aborigines of New South Wales, being the first attempt to form their speech into a written language. Sydney, New South Wales, printed at the ‘Monitor Office’ by Arthur Hill.”

Eight years later, he published an elaborate grammar, entitled,

“An Australian Grammar, comprehending the principles and natural rules of the language, as spoken by the aborigines in the vicinity of Hunter’s River, Lake Macquarie, etc., New South Wales, by L. E. Threlkeld. Sydney. Printed by Stephens and Stokes, ‘Herald Office,’ Lower George Street, 1834.”

Note 174, page 798.

No trace of its ever having been forwarded to New South Wales.

The circular despatch was forwarded to New South Wales in September, 1823, but no copy of it is preserved at government house, Sydney. It was acknowledged by Sir Thomas Brisbane on the 30th of July, 1824 (*see* page 336, volume XI).

SYNOPSIS.

SYNOPSIS OF DESPATCHES.

From	To	Dated	Despatch endorsed	Transmitted per—	See page	Acknowledged by—	Date of acknowledgment.
Barnard, E.	Darling, Governor	1825. 7 Jan. ....	.....	.....	1	Darling, Governor	1826. 2 May. 6 May.
Horton, Under Secretary	do	15 June ...	.....	Ship Catherine Stewart Forbes.	1	do	.....
Do	do	15 June ...	.....	Ship Catherine Stewart Forbes.	8	.....	.....
Bathurst, Earl	do	30 June ...	No. 1	.....	9	.....	.....
Barnard, E.	do	30 June ...	.....	Ship Catherine Stewart Forbes.	9	Darling, Governor	1827. 9 Feb.
Bathurst, Earl	do	1 July ...	No. 2	.....	9	.....	.....
Barnard, E.	do	1 July ...	.....	.....	10	Darling, Governor	9 Feb. 1826. 2 March. 1825.
Bathurst, Earl	do	4 July ...	No. 3	.....	10	do	.....
Darling, Governor	Horton, Under Secretary	4 July ...	.....	.....	10	Hay, Under Secretary	8 July.
Do	do	4 July ...	.....	.....	12	do	13 July. 1826.
Hay, Under Secretary	Darling, Governor	8 July ...	.....	Ship Catherine Stewart Forbes.	12	Darling, Governor	20 Dec.
Do	do	8 July ...	.....	do	13	.....	.....
Horton, Under Secretary	do	9 July ...	.....	do	14	.....	.....
Bathurst, Earl	do	11 July ...	No. 4	do	14	Darling, Governor	4 Feb.
Hay, Under Secretary	do	11 July ...	.....	do	15	.....	.....
Bathurst, Earl	do	12 July ...	No. 5	do	16	Darling, Governor	1827. 8 May.
Hay, Under Secretary	do	12 July ...	.....	.....	18	.....	.....
Bathurst, Earl	do	14 July ...	No. 6	Ship Catherine Stewart Forbes.	18	Darling, Governor	1826. 5 May.
Perry, Charles	do	14 July ...	.....	do	23	.....	.....
Hay, Under Secretary	do	14 July ...	.....	do	24	.....	.....
Do	do	15 July ...	.....	do	24	.....	.....
Do	do	15 July ...	.....	do	25	.....	.....
Do	do	19 July ...	.....	do	28	Darling, Governor	1827. 30 Oct. 1825.
Darling, Governor	Hay, Under Secretary	19 July ...	.....	.....	35	Hay, Under Secretary	20 July.
Hay, Under Secretary	Darling, Governor	20 July ...	Private	Ship Catherine Stewart Forbes.	36	.....	.....

From	To	Dated	Despatch endorsed	Transmitted per—	See page	Acknowledged by—	Date of acknowledgment.
Hay, Under Secretary ...	Darling, Governor	1825. 22 July ...	Private	Ship Catherine Stewart Forbes	36	.....	1826
Bathurst, Earl	do	26 July ...	No. 7	do	37	.....	.....
Hay, Under Secretary ...	do	26 July ...	Circular	do	38	Darling, Governor ...	26 July. 1827.
Do	do	26 July ...	Private	do	39	do	.....
Do	do	26 July ...	Private	do	39	.....	.....
Bathurst, Earl	do	27 July ...	No. 8	do	40	.....	.....
Do	do	28 July ...	No. 9	do	41	.....	.....
Hay, Under Secretary ...	do	28 July ...	Private	do	44	.....	.....
Do	do	30 July ...	Private	do	45	.....	.....
Bathurst, Earl	do	31 July ...	No. 10	do	46	.....	.....
Do	do	1 Aug. ...	No. 11	do	46	.....	.....
Hay, Under Secretary ...	do	2 Aug. ...	.....	do	46	.....	.....
Do	do	3 Aug. ...	.....	do	47	.....	.....
Commissioners of Navy ...	do	3 Aug. ...	.....	.....	48	Darling, Governor ...	1826.
Barnard, E.	do	3 Aug. ...	.....	.....	48	do	3 Feb.
Bathurst, Earl	do	4 Aug. ...	No. 12	Ship Catherine Stewart Forbes.	48	.....	24 April.
Barnard, E.	do	8 Aug. ...	.....	.....	49	Darling, Governor ...	24 April.
Do	do	10 Aug. ...	.....	.....	49	do	24 April.
Hay, Under Secretary ...	do	13 Aug. ...	.....	Ship Catherine Stewart Forbes.	49	.....	.....
Do	do	14 Aug. ...	.....	do	49	.....	.....
Bathurst, Earl	do	15 Aug. ...	No. 13	do	50	.....	.....
Do	do	16 Aug. ...	No. 14	do	51	.....	.....
Do	do	17 Aug. ...	No. 15	do	51	.....	.....
Do	do	19 Aug. ...	No. 16	do	53	.....	.....
Do	do	20 Aug. ...	Circular	Ship John Barry	53	.....	.....
Do	do	22 Aug. ...	No. 17	Ship Catherine Stewart Forbes.	53	Darling, Governor ...	2 May.
Do	do	22 Aug. ...	No. 18	do	54	.....	.....
Do	do	24 Aug. ...	No. 19	Ship Prince Regent	54	.....	.....
Horton, Under Secretary	do	31 Aug. ...	.....	.....	57	.....	.....
Barnard, E.	do	4 Sept. ...	.....	.....	58	Darling, Governor ...	2 May.
Bathurst, Earl	do	9 Sept. ...	No. 20	Ship Prince Regent	58	do	8 May.
Do	do	11 Sept. ...	No. 21	do	58	do	20 Nov.

From	To	Dated	Despatch endorsed	Transmitted per—	See page	Acknowledged by—	Date of acknowledgment.
Hay, Under Secretary	Darling, Governor	1825. 14 Sept. ....	.....	Ship Prince Regent.....	59	Darling, Governor	1826. 3 May.
Herries, C.	do	17 Sept. ....	.....	.....	60	do	24 April.
Barnard, E.	do	20 Sept. ....	.....	Ship Prince Regent	60	do	26 April.
Hay, Under Secretary	do	23 Sept. ....	.....	do	61	do	25 Dec.
Bathurst, Earl	do	28 Sept.	Separate	.....	61	.....	.....
Barnard, E.	do	28 Sept. ....	.....	.....	61	Darling, Governor	28 April.
Bathurst, Earl	do	1 Oct.	No. 22	Ship Prince Regent	62	.....	.....
Barnard, E.	do	1 Oct. ....	.....	.....	62	Darling, Governor	10 Sept.
Bathurst, Earl	do	3 Oct.	No. 23	Ship Prince Regent	67	.....	.....
Hay, Under Secretary	do	8 Oct. ....	.....	.....	67	.....	.....
Bathurst, Earl	do	8 Oct.	Separate	Ship Scosostris	68	.....	.....
Hay, Under Secretary	do	11 Oct. ....	.....	do	68	.....	.....
Bathurst, Earl	do	13 Oct. ....	.....	.....	70	Darling, Governor	25 Dec.
Do	do	14 Oct.	Circular	Ship Prince Regent	70	do	10 Sept.
Do	do	15 Oct.	No. 24	do	70	.....	.....
Hay, Under Secretary	do	26 Oct.	No. 25	do	71	.....	.....
Bathurst, Earl	do	26 Oct. ....	.....	do	73	.....	.....
.....	do	31 Oct.	No. 26	Ship Scosostris	74	Darling, Governor	26 May. 1827.
Hay, Under Secretary	do	3 Nov. ....	.....	do	74	do	— April. 1826.
Do	do	5 Nov. ....	.....	do	75	do	28 April.
Bathurst, Earl	do	18 Nov.	Circular	.....	76	.....	.....
Do	do	25 Nov.	do	Brig Ann	76	Darling, Governor	11 Sept.
Do	do	26 Nov.	No. 27	do	76	.....	.....
Do	do	27 Nov.	No. 28	Ship Greenock	77	.....	.....
Darling, Governor	Bathurst, Earl	5 Dec. ....	.....	.....	81	Bathurst, Earl	26 June.
Do	Hay, Under Secretary	5 Dec. ....	.....	.....	81	Hay, Under Secretary	25 June.
Barnard, E.	Darling, Governor	8 Dec. ....	.....	.....	81	Darling, Governor	26 July.
Darling, Governor	Hay, Under Secretary	10 Dec.	Secret	Ship Brothers	84	.....	.....
Bathurst, Earl	do	12 Dec.	No. 29	Ship John Barry	84	.....	.....
Stewart, Acting Governor	Bathurst, Earl	12 Dec.	No. 1	Ship Denmark Hill	85	Darling, Governor	2 Sept.
Do	do	12 Dec.	No. 2	do	86	.....	.....
Bathurst, Earl	Darling, Governor	14 Dec.	No. 30	Ship John Barry	88	.....	.....
Do	do	16 Dec.	No. 31	do	88	.....	.....
Stewart, Acting Governor	Bathurst, Earl	16 Dec.	No. 3	Ship Denmark Hill	90	Bathurst, Earl	8 Aug.
Do	do	21 Dec.	No. 4	do	126	.....	.....
Darling, Governor	do	21 Dec.	No. 1	do	127	Bathurst, Earl	26 June.
Bathurst, Earl	Darling, Governor	28 Dec.	No. 32	Ship John Barry	129	.....	.....
Do	do	30 Dec.	No. 33	do	130	Darling, Governor	27 Oct.

From	To	Dated	Despatch endorsed	Transmitted per—	See page	Acknowledged by—	Date of acknowledgment.
Bathurst, Earl	Darling, Governor	1826, 1 Jan.	Circular	Ship John Barry	136	Darling, Governor	1826, 21 Oct.
Do	do	2 Jan.	No. 1	do	137	do	1827, 18 Jan.
Hay, Under Secretary	do	3 Jan.	.....	do	140	.....	1826,
Bathurst, Earl	do	5 Jan.	No. 2	do	141	Darling, Governor	27 Oct. 1827
Do	do	8 Jan.	No. 3	do	141	do	25 May. 1826
Do	do	28 Jan.	No. 4	do	143	do	16 Oct. 1826
Do	do	1 Feb.	No. 5	do	143	do	17 Oct. 1826
Darling, Governor	Bathurst, Earl	1 Feb.	No. 1	Ship Triton	144	Bathurst, Earl	12 July.
Bathurst, Earl	Darling, Governor	2 Feb.	No. 6	Ship John Barry	148	Darling, Governor	18 Oct.
Darling, Governor	Hay, Under Secretary	2 Feb.	Secret	Ship Triton	148	Bathurst, Earl	12 July.
Bathurst, Earl	Darling, Governor	3 Feb.	No. 7	Ship John Barry	153	Darling, Governor	19 Oct.
Darling, Governor	Bathurst, Earl	3 Feb.	No. 2	Ship Triton	154	Bathurst, Earl	12 July.
Do	Hay, Under Secretary	3 Feb.	.....	do	156	do	26 July.
Do	Commissioners of Navy	3 Feb.	.....	do	156	do	.....
Bathurst, Earl	Darling, Governor	4 Feb.	No. 8	Ship John Barry	157	Darling, Governor	20 Oct.
Darling, Governor	Bathurst, Earl	4 Feb.	No. 3	Ship Triton	158	Bathurst, Earl	12 July.
Do	do	4 Feb.	No. 4	do	158	do	12 July.
Do	Hay, Under Secretary	4 Feb.	Separate	do	159	.....	.....
Do	do	4 Feb.	do	do	159	.....	.....
Do	do	4 Feb.	Secret	do	160	.....	.....
Do	do	4 Feb.	Separate	do	161	.....	.....
Hay, Under Secretary	Bathurst, Earl	5 Feb.	.....	Ship John Barry	164	Bathurst, Earl	12 July.
Darling, Governor	Darling, Governor	6 Feb.	.....	Ship Triton	164	Darling, Governor	15 Sept.
Bathurst, Earl	Bathurst, Earl	6 Feb.	Separate	.....	168	Bathurst, Earl	12 July. 1827
Bathurst, Earl	Darling, Governor	7 Feb.	Circular	Ship Chapman	169	Darling, Governor	5 Nov. 1826
Barnard, E.	do	18 Feb.	.....	.....	169	do	28 July.
Bathurst, Earl	do	19 Feb.	No. 9	Ship Marquis of Huntly	170	do	23 Oct.
Do	do	19 Feb.	No. 10	do	170	do	15 Sept.
Do	do	19 Feb.	No. 11	do	171	do	15 Sept. 1827
Do	do	19 Feb.	Separate	Ship Chapman	171	do	5 Nov. 1826
Hay, Under Secretary	do	19 Feb.	.....	.....	172	do	15 Sept.
Bathurst, Earl	do	20 Feb.	No. 12	Ship Marquis of Huntly	173	do	15 Sept.
Do	do	21 Feb.	No. 13	do	173	do	18 Nov.
Do	do	.....	.....	do	173	do	.....

From	To	Dated	Despatch endorsed	Transmitted per—	See page	Acknowledged by—	Date of acknowledgment.
Bathurst, Earl	Darling, Governor	1826. 22 Feb.	No. 14	Ship Marquis of Huntly	174	Darling, Governor	1828. 21 Dec.
Hay, Under Secretary	do	22 Feb.	No. 15	Ship Marquis of Huntly	181	do	1826. 15 Sept.
Bathurst, Earl	do	23 Feb.	No. 16	do	185	Darling, Governor	18 Dec.
Do	Brisbane, Sir Thomas	23 Feb.	No. 17	do	186	do	10 Oct.
Hay, Under Secretary	Darling, Governor	25 Feb.	Private	do	192	Darling, Governor	9 Oct.
Bathurst, Earl	do	1 March	No. 5	do	193	do	13 July.
Do	do	1 March	No. 6	do	194	do	14 July.
Darling, Governor	Bathurst, Earl	1 March	No. 7	Brig Columbia	195	Bathurst, Earl	16 July.
Do	do	2 March	No. 8	do	203	do	24 Nov.
Do	do	3 March	No. 9	do	205	Bathurst, Earl	12 July.
Do	Harrison, Secretary	3 March	No. 10	do	206	do	12 July.
Hay, Under Secretary	Bathurst, Earl	4 March	No. 11	do	210	Darling, Governor	1827. 26 May.
Darling, Governor	Darling, Governor	5 March	No. 12	Ship Chapman	212	do	18 Dec.
Bathurst, Earl	Bathurst, Earl	5 March	No. 13	do	214	do	16 Dec.
Darling, Governor	Darling, Governor	6 March	No. 14	do	217	do	25 Oct.
Bathurst, Earl	Darling, Governor	6 March	No. 15	do	218	do	10 Oct.
Darling, Governor	Bathurst, Earl	6 March	No. 16	do	218	do	26 Oct.
Do	Hay, Under Secretary	6 March	No. 17	do	220	do	19 Dec.
Bathurst, Earl	Darling, Governor	7 March	No. 18	do	222	do	.....
Do	do	8 March	No. 19	Ship Chapman	223	do	.....
Hay, Under Secretary	do	9 March	No. 20	do	223	do	.....
Do	do	9 March	Private	do	224	do	.....
Bathurst, Earl	do	9 March	No. 21	do	214	do	.....
Do	do	10 March	No. 22	do	217	do	.....
Do	do	11 March	No. 23	do	218	do	.....
Do	do	12 March	No. 24	do	218	do	.....
Do	do	13 March	Private	do	220	do	.....
Hay, Under Secretary	do	13 March	No. 25	Ship Chapman	222	do	.....
Do	do	16 March	No. 26	do	223	do	.....
Do	do	16 March	No. 27	do	223	do	.....
Bathurst, Earl	do	2 April	No. 28	Ship John	223	do	.....
Hay, Under Secretary	do	6 April	No. 29	do	224	do	.....
Bathurst, Earl	do	7 April	No. 30	Ship Marquis of Huntly	224	Darling, Governor	18 Dec.
Do	do	7 April	No. 31	do	227	do	15 Sept.
Do	do	13 April	No. 32	do	228	Darling, Governor	15 Sept.
Hay, Under Secretary	do	20 April	No. 33	do	228	do	.....

From	To	Dated	Despatch endorsed	Transmitted per—	See page	Acknowledged by—	Date of acknowledgment.
		1826.					
Hay, Under Secretary	Darling, Governor	21 April	.....	Ship Marquis of Huntly	228	Darling, Governor	1826.
Do	do	21 April	.....	do	229	do	15 Sept.
Bathurst, Earl	do	22 April	.....	do	230	do	15 Sept.
Hay, Under Secretary	do	22 April	.....	do	231	do	15 Sept.
Bathurst, Earl	do	23 April	.....	do	232	do	27 Oct.
Do	do	No. 30	.....	do	233	do	19 Nov.
Hay, Under Secretary	do	No. 31	.....	do	233	do	15 Sept.
Bathurst, Earl	do	23 April	.....	do	233	do	15 Sept.
Bathurst, Earl	Barnard, E.	24 April	.....	Ship Leander	234	.....	15 Sept.
Darling, Governor	Darling, Governor	25 April	.....	Ship Marquis of Huntly	234	Darling, Governor	15 Sept.
Bathurst, Earl	do	No. 33	.....	do	235	.....	15 Sept.
Do	do	No. 34	.....	do	235	.....
Darling, Governor	Herries, C.	26 April	.....	Ship Leander	236	.....
Bathurst, Earl	Darling, Governor	27 April	.....	Ship Marquis of Huntly	236	Darling, Governor	15 Sept.
Darling, Governor	Hay, Under Secretary	28 April	.....	Ship Leander	236	.....
Do	Barnard, E.	28 April	.....	do	237	.....
Bathurst, Earl	Darling, Governor	29 April	.....	Ship Marquis of Huntly	237	Darling, Governor	15 Sept.
Hay, Under Secretary	do	29 April	.....	do	239	do	7 Dec.
Do	do	29 April	.....	do	239	do	
Darling, Governor	Bathurst, Earl	30 April	.....	Ship Leander	242	.....	2 Nov.
Do	do	No. 12	.....	do	243	Bathurst, Earl	1 Oct.
Do	do	No. 13	.....	do	246	do	29 Sept.
Do	do	No. 14	.....	do	247	do	29 Sept.
Do	do	No. 15	.....	do	247	do	27 Sept.
Do	Hay, Under Secretary	30 April	.....	do	248	do	
Do	Bathurst, Earl	1 May	.....	do	250	do	
Do	do	No. 16	.....	do	250	do	
Do	do	No. 17	.....	do	251	Bathurst, Earl	7 Oct.
Do	do	No. 18	.....	do	251	do	1 Oct.
Do	do	No. 19	.....	do	253	.....
Do	Hay, Under Secretary	1 May	.....	do	257	.....
Do	Bathurst, Earl	2 May	.....	do	258	Bathurst, Earl	2 Oct.
Do	do	No. 20	.....	do	259	do	2 Oct.
Do	do	No. 21	.....	do	260	.....
Do	Barnard, E.	2 May	.....	do	260	.....
Do	do	No. 22	.....	do	260	.....
Do	do	3 May	.....	do	260	.....
Do	Bathurst, Earl	3 May	.....	do	261	Bathurst, Earl	2 Oct.
Do	Hay, Under Secretary	3 May	.....	do	262	Hay, Under Secretary	5 Oct.
Do	Bathurst, Earl	4 May	.....	do	263	.....
Do	do	No. 24	.....	do	264	.....
Do	do	No. 25	.....	do	264	.....
Do	do	No. 26	.....	do	266	Bathurst, Earl	7 Oct.
Do	do	No. 27	.....	do	268	do	19 Oct.
Do	do	5 May	.....	do	268	.....

From	To	Dated	Despatch endorsed	Transmitted per—	See page	Acknowledged by—	Date of acknowledgment.
Darling, Governor	Bathurst, Earl	1826. 5 May	Separate	Ship Leander	268	Bathurst, Earl	1826. 1 Dec.
Do	do	6 May	No. 28	do	269	do	3 Oct.
Do	Horton, Under Secretary	6 May	Separate	do	271	do	9 Oct.
Do	Bathurst, Earl	7 May	No. 29	do	273	do	do
Do	do	8 May	No. 30	do	290	Bathurst, Earl	29 Sept.
Do	do	8 May	No. 31	do	290	do	15 Nov.
Do	Barnard, E.	8 May	Separate	do	292	do	4 Oct.
Do	Hay, Under Secretary	9 May	do	do	293	Hay, Under Secretary	9 Oct.
Do	Darling, Governor	20 May	No. 37	H.M.S. Success	294	Darling, Governor	4 Dec. 1827.
Do	do	20 May	Separate	Ship Speke	295	do	28 Jan. 1826.
Darling, Governor	Bathurst, Earl	20 May	No. 32	Ship Toward Castle	306	Bathurst, Earl	1 Dec.
Do	do	22 May	No. 33	do	308	do	11 Dec.
Do	do	22 May	Separate	do	321	do	29 Sept.
Do	do	23 May	No. 34	do	324	do	29 Sept.
Do	do	24 May	No. 35	do	324	do	6 Oct.
Do	Hay, Under Secretary	24 May	Private	do	326	do	do
Do	Bathurst, Earl	25 May	No. 36	do	328	Bathurst, Earl	4 Oct.
Do	do	25 May	Separate	do	330	do	4 Oct.
Do	do	26 May	Separate	do	335	do	5 Oct.
Hay, Under Secretary	Darling, Governor	27 May	do	Ship Toward Castle	336	Bathurst, Earl	29 Sept.
Darling, Governor	Bathurst, Earl	27 May	Separate	do	336	do	do
Do	Commissioners of Navy	27 May	do	do	338	do	do
Do	Harrison, Secretary	27 May	do	do	338	do	do
Bathurst, Earl	Darling, Governor	30 May	No. 38	H.M.S. Success	339	Darling, Governor	1827. 12 Feb.
Horton, Under Secretary	do	31 May	Private	Ship Speke	340	do	do
Bathurst, Earl	do	4 June	No. 39	do	341	Darling, Governor	13 Feb.
Hay, Under Secretary	do	7 June	do	do	343	do	do
Do	do	14 June	Private	Ship Speke	344	Darling, Governor	6 Feb.
Do	do	14 June	do	do	346	do	do
Bathurst, Earl	do	20 June	No. 40	Ship Woodford	346	do	do
Hay, Under Secretary	do	25 June	do	Ship Speke	347	Darling, Governor	29 Jan. 1826.
Bathurst, Earl	do	26 June	No. 41	do	347	do	4 Dec.
Do	do	27 June	No. 42	do	347	do	4 Dec.

From	To	Dated	Despatch endorsed	Transmitted per—	See page	Acknowledged by—	Date of acknowledgment.
Bathurst, Earl.....	Darling, Governor	1826. 28 June ..	No. 43 ..	Ship Speke ..	348 ..	Darling, Governor ..	1826. 4 Dec.
Taylor, Major General ..	do	5 July ..	.....	do ..	355 ..	.....	.....
Commissioners of Navy ..	do	5 July ..	.....	.....	355 ..	.....	.....
Hay, Under Secretary ..	do	6 July ..	.....	.....	355 ..	.....	.....
Do ..	do	8 July ..	.....	Ship Speke ..	356 ..	Darling, Governor ..	1827. 29 Jan.
Bathurst, Earl ..	do	10 July ..	No. 44 ..	do ..	357 ..	do ..	1826. 4 Dec.
Commissioners of Navy ..	do	10 July ..	.....	.....	357 ..	.....	.....
Bathurst, Earl ..	do	11 July ..	No. 45 ..	Ship Speke ..	357 ..	Darling, Governor ..	4 Dec.
Do ..	do	12 July ..	No. 46 ..	do ..	358 ..	do ..	4 Dec.
Do ..	do	12 July ..	No. 47 ..	do ..	358 ..	do ..	4 Dec.
Do ..	do	12 July ..	No. 48 ..	do ..	359 ..	do ..	4 Dec.
Do ..	do	13 July ..	No. 49 ..	do ..	359 ..	do ..	4 Dec.
Do ..	do	14 July ..	.....	.....	.....	.....	.....
Do ..	do	15 July ..	Separate ..	do ..	359 ..	do ..	1827. 28 Jan.
Do ..	do	16 July ..	No. 50 ..	do ..	360 ..	Darling, Governor ..	1826. 4 Dec.
Hay, Under Secretary ..	do	17 July ..	.....	do ..	361 ..	.....	1827. 29 Jan.
Do ..	do	18 July ..	Private ..	Ship Australia ..	362 ..	.....	.....
Darling, Governor ..	Bathurst, Earl ..	18 July ..	No. 36 ..	Ship Lady Rowena ..	362 ..	Bathurst, Earl ..	18 Jan.
Do ..	do	19 July ..	No. 37 ..	do ..	364 ..	do ..	10 Jan.
Barnard, E.	Darling, Governor	20 July ..	.....	.....	365 ..	.....	1826.
Darling, Governor ..	Bathurst, Earl ..	20 July ..	No. 38 ..	Ship Lady Rowena ..	365 ..	Bathurst, Earl ..	2 Dec.
Do ..	do	20 July ..	No. 39 ..	do ..	366 ..	.....	.....
Do ..	do	20 July ..	No. 40 ..	do ..	368 ..	.....	.....
Do ..	do	20 July ..	No. 41 ..	do ..	371 ..	Bathurst, Earl ..	3 Dec.
Do ..	do	21 July ..	No. 42 ..	do ..	373 ..	do ..	1827. 1 Feb.
Do ..	do	22 July ..	No. 43 ..	do ..	374 ..	do ..	2 April.
Do ..	Harrison, Secretary ..	22 July ..	.....	do ..	424 ..	.....	.....
Do ..	Bathurst, Earl ..	23 July ..	No. 44 ..	do ..	428 ..	.....	.....
Do ..	do	23 July ..	No. 45 ..	do ..	430 ..	Bathurst, Earl ..	1826. 3 Dec.
Hay, Under Secretary ..	Darling, Governor ..	24 July ..	.....	Ship Speke ..	431 ..	Darling, Governor ..	1827. 29 Jan.

From	To	Dated	Despatch endorsed	Transmitted per—	See page	Acknowledged by—	Date of acknowledgment.
Darling, Governor	Bathurst, Earl	1825. 24 July	No. 46	Ship Lady Rowena	432	Bathurst, Earl	1826. 20 Dec.
Do	do	24 July	No. 47	do	434	do	12 Dec.
Do	do	24 July	Separate	do	437	do	.....
Barnard, E.	Darling, Governor	25 July	.....	.....	445	.....	.....
Darling, Governor	Bathurst, Earl	25 July	No. 48	Ship Lady Rowena	445	Bathurst, Earl	1827. 21 Jan.
Do	Hay, Under Secretary	25 July	Private	do	445	.....	.....
Bathurst, Earl	Darling, Governor	26 July	No. 51	Ship Australia	447	Darling, Governor	1828. 19 March.
Do	do	26 July	Separate	do	447	do	19 March.
Hay, Under Secretary	do	26 July	Private	do	448	.....	.....
Darling, Governor	Bathurst, Earl	26 July	No. 49	Ship Lady Rowena	448	.....	.....
Do	Hay, Under Secretary	26 July	.....	do	449	Hay, Under Secretary	1826. 14 Dec.
Do	do	26 July	.....	do	449	.....	.....
Do	do	26 July	Private	do	450	Hay, Under Secretary	24 Dec.
Do	Commissioners of Navy	26 July	.....	do	451	.....	.....
Do	Barnard, E.	26 July	.....	do	451	.....	.....
Bathurst, Earl	Darling, Governor	27 July	No. 52	Ship Speke	451	Darling, Governor	..... 4 Dec.
Darling, Governor	Bathurst, Earl	27 July	No. 50	Ship Lady Rowena	454	Godericid, Viscount	1827. 23 Aug.
Do	do	27 July	No. 51	do	454	Bathurst, Earl	1825. 4 Dec.
Do	do	27 July	Separate	do	454	.....	.....
Do	do	27 July	.....	Ship Woodman	458	do	1827. 20 Feb.
Do	Hay, Under Secretary	27 July	.....	Ship Lady Rowena	458	.....	.....
Do	Taylor, Sir Herbert	27 July	.....	do	459	.....	.....
Bathurst, Earl	Darling, Governor	28 July	No. 53	Ship Speke	460	Darling, Governor	..... 6 Jan.
Darling, Governor	Hay, Under Secretary	28 July	.....	Ship Lady Rowena	460	Hay, Under Secretary	22 Jan.
Do	Barnard, E.	28 July	.....	do	461	.....	.....
Bathurst, Earl	Darling, Governor	30 July	No. 54	Ship Speke	461	Darling, Governor	..... 14 Feb.
Hay, Under Secretary	do	1 Aug.	.....	do	463	do	29 Jan.
Do	do	3 Aug.	.....	do	463	do	1826. 29 Jan.
Bathurst, Earl	do	4 Aug.	No. 55	do	466	do	4 Dec.
Do	do	5 Aug.	No. 56	do	467	do	1827. 15 Feb.
Hay, Under Secretary	do	5 Aug.	do	468	do	29 Jan.
Barnard, E.	do	5 Aug.	478

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Hay, Under Secretary	Darling, Governor	1826. 7 Aug.		Ship Speke	478		1827.
Bathurst, Earl	do	8 Aug.	No. 57	Ship Grenada	479	Darling, Governor	1828. 24 March.
Do	do	8 Aug.	No. 58	do	479	do	1827. 24 March.
Hay, Under Secretary	do	8 Aug.		do	480	do	8 Feb.
Do	do	8 Aug.		do	481		
Do	do	8 Aug.		do	482	Darling, Governor	29 July.
Do	do	10 Aug.		do	483	do	29 Jan.
Bathurst, Earl	do	11 Aug.	No. 59	do	483	do	16 Feb.
Hay, Under Secretary	do	11 Aug.		do	493	do	29 Jan.
Do	do	13 Aug.		do	494	do	29 Jan.
Bathurst, Earl	do	14 Aug.	No. 60	do	497	do	17 Feb.
Hay, Under Secretary	do	14 Aug.		do	498	do	29 Jan.
Do	do	19 Aug.			498	Darling, Governor	29 Jan.
Do	do	20 Aug.		Ship Grenada	500	do	29 Jan.
Do	do	21 Aug.		do	501	do	29 Jan.
Do	do	22 Aug.		do	502	do	24 Feb.
Do	do	26 Aug.	No. 61	do	503	do	29 Jan.
Bathurst, Earl	do	27 Aug.	No. 62	do	503	do	28 Jan.
Do	do	30 Aug.	No. 52	Ship Woodman	505	Bathurst, Earl	31 March.
Darling, Governor	Bathurst, Earl	30 Aug.	No. 53	do	506	do	18 April.
Do	do	31 Aug.	No. 63	Ship Grenada	512	Darling, Governor	31 March.
Bathurst, Earl	Darling, Governor	31 Aug.		Ship Woodman	513	(Goderich, Viscount	11 Jan.
Darling, Governor	Bathurst, Earl	31 Aug.	No. 54	do	515	Bathurst, Earl	23 Aug.
Do	do	1 Sept.	No. 55	do	515	do	31 March.
Hay, Under Secretary	Darling, Governor	2 Sept.	No. 56	Ship Woodman	517	Goderich, Viscount	2 May.
Darling, Governor	Bathurst, Earl	2 Sept.		do	519	do	.....
Do	do	2 Sept.	No. 57	do	522	do	.....
Do	do	2 Sept.	Private	do	522	do	.....
Do	Hay, Under Secretary	3 Sept.	No. 58	do	524	Bathurst, Earl	30 March.
Do	Bathurst, Earl	3 Sept.	No. 59	do	528	do	.....
Do	do	4 Sept.	Private	do	535	do	.....
Do	Hay, Under Secretary	5 Sept.	No. 60	do	536	Bathurst, Earl	2 April.
Do	Bathurst, Earl	5 Sept.		do	541	do	15 March.
Do	do	5 Sept.	Separate	do	541	do	16 March.
Do	do	6 Sept.	No. 61	do	542	do	28 May.
Do	do	6 Sept.	Separate	do	543	Goderich, Viscount	31 March.
Do	do	7 Sept.	No. 62	do	547	Bathurst, Earl	31 March.
Do	do	8 Sept.	No. 63	do	548	do
Do	do	8 Sept.	Separate	do	551	do	31 March.

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Darling, Governor	Bathurst, Earl	1826, 9 Sept.	No. 64	Ship Woodman	554	Bathurst, Earl	1827, 31 March.
Do	do	10 Sept.	Separate	do	555	do	1 April.
Bathurst, Earl	Darling, Governor	10 Sept.	No. 64	Ship Albion	561	Darling, Governor	14 Feb.
Hay, Under Secretary	do	10 Sept.	No. 65	do	563	Goderich, Viscount	23 Aug.
Darling, Governor	Bathurst, Earl	10 Sept.	No. 66	Ship Woodman	564	Bathurst, Earl	19 March.
Do	do	10 Sept.	No. 66	do	565	do	12 Feb.
Do	Barnard, E.	10 Sept.	No. 65	Ship Albion	567	Darling, Governor	12 Feb.
Bathurst, Earl	Darling, Governor	11 Sept.	Circular	Ship Midas	567	do	10 Oct.
Do	do	11 Sept.	No. 67	Ship Woodman	568	do	571
Do	do	11 Sept.	No. 68	do	572	do	573
Do	do	11 Sept.	No. 69	do	573	do	574
Do	Hay, Under Secretary	11 Sept.	Private	do	573	Hay, Under Secretary	5 April
Do	do	11 Sept.	Private	do	574	do	16 March.
Do	do	12 Sept.	No. 70	do	578	do	579
Do	Bathurst, Earl	12 Sept.	No. 71	do	579	Bathurst, Earl	16 March.
Do	do	12 Sept.	No. 71	do	580	do	581
Do	Hay, Under Secretary	13 Sept.	Private	do	581	do	582
Do	do	14 Sept.	Private	do	582	do	583
Do	do	15 Sept.	Private	do	583	Bathurst, Earl	31 March.
Do	do	16 Sept.	Private	do	584	do	1 March.
Hay, Under Secretary	Darling, Governor	22 Sept.	No. 66	Brig Fairfield	584	Darling, Governor	15 Feb.
Bathurst, Earl	do	24 Sept.	No. 67	Ship Albion	585	do	14 Feb.
Do	do	24 Sept.	No. 67	Ship Midas	586	do	14 Feb.
Do	do	25 Sept.	No. 68	do	587	Darling, Governor	14 Feb.
Do	do	26 Sept.	No. 68	do	587	do	14 Feb.
Do	do	27 Sept.	No. 69	do	588	Darling, Governor	19 Feb.
Bathurst, Earl	do	28 Sept.	No. 69	do	589	do	14 Feb.
Hay, Under Secretary	do	29 Sept.	No. 70	do	589	do	1 March.
Bathurst, Earl	do	29 Sept.	No. 71	do	590	do	1 March.
Do	do	29 Sept.	No. 72	do	590	do	14 Feb.
Do	do	1 Oct.	No. 72	do	591	do	14 Feb.
Do	do	1 Oct.	No. 73	do	591	do	14 Feb.
Do	do	1 Oct.	No. 74	do	592	do	14 Feb.
Hay, Under Secretary	do	1 Oct.	No. 72	do	596	do	14 Feb.
Darling, Governor	Bathurst, Earl	1 Oct.	No. 72	Brig Fairfield	597	do	14 Feb.
Do	do	1 Oct.	No. 73	do	597	do	14 Feb.
Do	do	1 Oct.	No. 74	do	598	do	14 Feb.

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Bathurst, Earl	Darling, Governor	1826. 2 Oct.	No. 75	Ship Midas	599	Darling, Governor	1827. 14 Feb.
Do	do	2 Oct.	No. 76	do	599	do	14 Feb.
Do	do	3 Oct.	No. 77	do	600	do	20 Feb.
Do	do	3 Oct.	No. 78	do	600	do	14 Feb.
Do	do	4 Oct.	No. 79	do	601	do	14 Feb.
Do	do	4 Oct.	No. 80	do	601	do	21 July.
Do	do	4 Oct.	No. 81	do	602	do	14 Feb.
Do	do	5 Oct.	No. 82	do	602	do	21 Feb.
Hay, Under Secretary	do	5 Oct.	do	do	603	do	9 March.
Do	do	5 Oct.	do	do	603	do	30 Sept.
Do	do	5 Oct.	do	do	605	Darling, Governor	22 Feb.
Darling, Governor	Hay, Under Secretary	6 Oct.	do	Brig Fairfield	607	Darling, Governor	20 March.
Bathurst, Earl	Darling, Governor	6 Oct.	No. 83	Ship Midas	607	Bathurst, Earl	20 March.
Darling, Governor	Bathurst, Earl	6 Oct.	No. 75	Brig Fairfield	608	do	14 Feb.
Do	do	6 Oct.	Separate	do	623	Darling, Governor	14 Feb.
Bathurst, Earl	Darling, Governor	7 Oct.	No. 84	Ship Midas	628	do	31 March.
Do	do	7 Oct.	No. 85	do	628	Bathurst, Earl	14 Feb.
Darling, Governor	Bathurst, Earl	7 Oct.	Separate	Brig Fairfield	629	do	14 Feb.
Do	do	7 Oct.	Separate	do	631	do	14 Feb.
Do	Secretary of State	7 Oct.	do	do	631	do	2 May.
Bathurst, Earl	Darling, Governor	8 Oct.	No. 86	Ship Midas	631	Darling, Governor	14 Feb.
Darling, Governor	Bathurst, Earl	8 Oct.	No. 76	Brig Fairfield	632	Goderich, Viscount	14 Feb.
Do	Hay, Under Secretary	8 Oct.	Private	do	632	Darling, Governor	14 Feb.
Bathurst, Earl	Darling, Governor	9 Oct.	No. 87	Ship Midas	633	do	14 Feb.
Hay, Under Secretary	do	9 Oct.	No. 87	do	634	do	14 Feb.
Do	do	9 Oct.	do	do	634	do	14 Feb.
Darling, Governor	Hay, Under Secretary	9 Oct.	Private	Brig Fairfield	639	Hay, Under Secretary	5 April.
Do	do	9 Oct.	do	do	639	do	5 April.
Do	Bathurst, Earl	10 Oct.	No. 77	do	639	do	5 April.
Do	Hay, Under Secretary	10 Oct.	Private	do	644	do	5 April.
Do	do	10 Oct.	do	do	646	do	5 April.
Hay, Under Secretary	Darling, Governor	15 Oct.	do	do	648	do	5 April.
Darling, Governor	Bathurst, Earl	16 Oct.	No. 78	Ship Regalia	648	Goderich, Viscount	1 June.
Do	do	17 Oct.	No. 79	do	649	do	1 June.
Do	do	18 Oct.	No. 80	do	649	do	1 June.
Do	do	19 Oct.	No. 88	Ship (Guilford)	650	Darling, Governor	11 Oct.
Bathurst, Earl	Darling, Governor	19 Oct.	No. 89	do	651	do	7 Aug.
Do	do	19 Oct.	No. 81	Ship Regalia	651	Goderich, Viscount	1 June.
Darling, Governor	Bathurst, Earl	19 Oct.	do	do	651	do	1 June.

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Bathurst, Earl	Darling, Governor	1826.	No. 90	Ship Guilford	652	Darling, Governor	1 Aug.
Darling, Governor	Bathurst, Earl	20 Oct.	No. 82	Ship Regalia	652	Goderich, Viscount	2 June
Hay, Under Secretary	Darling, Governor	21 Oct.	Separate	Ship Guilford	653	Darling, Governor	1 Aug.
Darling, Governor	Bathurst, Earl	21 Oct.	No. 83	Ship Regalia	653	Goderich, Viscount	12 June
Do	do	22 Oct.	Separate	Ship Guilford	655	Darling, Governor	2 Aug.
Darling, Governor	Bathurst, Earl	23 Oct.	No. 84	do	656	do	2 Aug.
Do	do	24 Oct.	No. 84	Ship Regalia	658	Goderich, Viscount	1 June
Do	do	25 Oct.	No. 85	do	659	do	1 June
Do	do	25 Oct.	No. 85	do	659	do	1 June
Do	do	26 Oct.	No. 86	do	659	do	1 June
Do	do	27 Oct.	No. 87	do	660	do	1 June
Do	do	27 Oct.	Separate	do	660	do	13 June
Hay, Under Secretary	Darling, Governor	31 Oct.	Separate	Ship Guilford	667	Darling, Governor	2 Aug.
Do	do	1 Nov.	Separate	do	667	do	2 Aug.
Darling, Governor	Bathurst, Earl	1 Nov.	No. 91	Ship Regalia	667	Goderich, Viscount	14 June
Bathurst, Earl	Darling, Governor	2 Nov.	No. 91	Ship Guilford	673	Darling, Governor	2 Aug.
Hay, Under Secretary	do	3 Nov.	do	do	673	do	2 Aug.
Do	do	8 Nov.	do	Ship Guilford	674	Darling, Governor	10 July.
Bathurst, Earl	do	12 Nov.	No. 92	do	674	do	1828.
Hay, Under Secretary	do	13 Nov.	No. 88	do	676	do	20 March.
Darling, Governor	Bathurst, Earl	14 Nov.	No. 93	Ship Regalia	676	do	1827.
Bathurst, Earl	Darling, Governor	15 Nov.	No. 93	Ship Guilford	677	do	3 Nov.
Darling, Governor	Bathurst, Earl	15 Nov.	No. 89	Ship Regalia	678	Darling, Governor	2 Aug.
Bathurst, Earl	Darling, Governor	16 Nov.	No. 94	Ship Guilford	688	Goderich, Viscount	15 June
Darling, Governor	Bathurst, Earl	16 Nov.	No. 90	Ship Regalia	691	Darling, Governor	2 Aug.
Do	do	17 Nov.	No. 91	do	692	Goderich, Viscount	16 June
Do	do	18 Nov.	No. 92	do	693	do	17 June
Do	do	19 Nov.	No. 93	do	693	do	18 June
Do	do	19 Nov.	No. 93	do	693	do	19 June
Do	do	20 Nov.	No. 94	do	697	do	20 June
Do	Commissioners of Navy	23 Nov.	do	do	699	do	do
Do	Bathurst, Earl	24 Nov.	No. 95	do	699	Goderich, Viscount	1 June
Do	do	24 Nov.	do	do	700	do	1 June
Bathurst, Earl	Hay, Under Secretary	24 Nov.	No. 95	do	702	do	do
Do	Darling, Governor	1 Dec.	No. 95	Ship Guilford	702	Darling, Governor	24 Sept.
Do	do	1 Dec.	No. 96	do	705	do	2 Aug.
Hay, Under Secretary	do	1 Dec.	No. 97	do	709	do	22 Dec.
Bathurst, Earl	do	2 Dec.	No. 97	do	711	do	2 Aug.
Do	do	3 Dec.	No. 98	do	712	do	2 Aug.

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Bathurst, Earl	Darling, Governor	1826. 3 Dec.	No. 99	Ship Guiltford	713	Darling, Governor	1827. 2 Aug.
Do	do	4 Dec.	No. 100	do	715	do	23 Dec.
Darling, Governor	Bathurst, Earl	4 Dec.	Secret	Ship Regalia	715	Goderich, Viscount	11 July.
Do	do	4 Dec.	Separate	do	716	do	11 July.
Do	Hay, Under Secretary	4 Dec.	Private	Ship Corsair	725	.....	.....
Do	do	4 Dec.	Private	do	729	.....	.....
Do	do	4 Dec.	Private	Ship Regalia	730	.....	.....
Do	Bathurst, Earl	7 Dec.	Separate	do	731	Goderich, Viscount	21 June.
Do	Hay, Under Secretary	7 Dec.	.....	do	734	.....	.....
Bathurst, Earl	Darling, Governor	10 Dec.	No. 101	Ship Guiltford	735	Darling, Governor	20 Sept.
Hay, Under Secretary	do	10 Dec.	.....	do	736	do	2 Aug.
Bathurst, Earl	do	11 Dec.	No. 102	do	738	do	2 Aug.
Do	do	12 Dec.	No. 103	do	740	do	22 Dec.
Darling, Governor	Bathurst, Earl	12 Dec.	Separate	Ship Regalia	741	Goderich, Viscount	11 July.
Hay, Under Secretary	Darling, Governor	14 Dec.	.....	Ship Guiltford	749	Darling, Governor	2 Aug.
Darling, Governor	Bathurst, Earl	15 Dec.	Secret	Ship Regalia	749	Goderich, Viscount	11 July.
Do	Horton, Under Secretary	15 Dec.	Secret	do	761	.....	.....
Do	Hay, Under Secretary	16 Dec.	Private	do	765	.....	.....
Do	do	16 Dec.	.....	do	766	Hay, Under Secretary	11 June.
Do	do	16 Dec.	.....	do	770	.....	.....
Do	do	16 Dec.	Private	do	773	.....	.....
Do	Bathurst, Earl	18 Dec.	No. 96	do	780	Goderich, Viscount	1 June.
Do	Hay, Under Secretary	18 Dec.	.....	do	780	.....	.....
Do	Taylor, Sir Herbert	18 Dec.	No. 26	do	782	.....	.....
Do	Darling, Governor	19 Dec.	.....	Ship Medway	782	.....	.....
Do	Bathurst, Earl	19 Dec.	No. 97	Ship Regalia	783	Goderich, Viscount	10 July.
Do	do	19 Dec.	No. 98	do	787	do	1 June.
Do	do	18 Dec.	Separate	do	788	.....	.....
Bathurst, Earl	Darling, Governor	20 Dec.	No. 104	Ship Guiltford	790	Darling, Governor	2 Aug.
Darling, Governor	Hay, Under Secretary	20 Dec.	.....	Ship Marquis of Huntly	790	Hay, Under Secretary	5 July.
Hay, Under Secretary	Darling, Governor	21 Dec.	No. 99	Ship Guiltford	792	Goderich, Viscount	5 July.
Darling, Governor	Bathurst, Earl	21 Dec.	.....	Ship Marquis of Huntly	794	Darling, Governor	2 Aug.
Hay, Under Secretary	Darling, Governor	22 Dec.	.....	Ship Guiltford	795	Goderich, Viscount	6 July.
Darling, Governor	Bathurst, Earl	22 Dec.	No. 100	Ship Marquis of Huntly	797	Darling, Governor	2 Aug.
Do	Darling, Governor	23 Dec.	.....	Ship Guiltford	798	do	2 Aug.
Do	do	24 Dec.	.....	do	799	Hay, Under Secretary	6 July.
Darling, Governor	Hay, Under Secretary	25 Dec.	Ship Marquis of Huntly	802
Do	Secretary of State	30 Dec.	Ship Portland

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